

Client Newsletter

Dibble & Miller, P.C.

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D&M^{P.C.}

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“Gray” Divorce

If you are wondering whether divorce has become categorized by color, the answer is “no.” “Gray” divorce is simply a term referring to the demographic trend of an increasing divorce rate for older couples in marriages of long duration. According to a study recently cited in The Wall Street Journal, among people ages 50 and older, the divorce rate has doubled over the last twenty years. A frequently cited example of “gray” divorce was the announcement in 2010 of the separation of former Vice President Al Gore and his wife, “Tipper” Gore, after 40 years of marriage.

Various commentators have attributed this increased divorce rate among couples over the age of 50 to a number of different factors including increased longevity, better health, so-called “baby boomer” values which are more focused on self-fulfillment, increased economic independence among women, and a “drifting apart” of couples after their children have grown and left home.

While all divorces present challenges (be they emotional, psychological or financial) to the parties going through them, divorce among older persons (and particularly women who may have been absent from the workforce for many years) can present certain unique challenges that younger persons do not have to face.

Two of the most important issues facing older divorcing couples are preparing to live on fixed incomes and medical insurance. Medical insurance is an especially important concern as an insurance company will no longer provide coverage to a spouse upon the entry of a judgment of divorce. Will the spouse who is left without coverage after a divorce be able to obtain replacement coverage (i.e., through his or her own employment) and at a reasonable cost?

Several other issues facing the divorcing couple over age 50 are the following:

1. When do you plan to retire? The closer you are to retirement age, the more important your accumulated retirement savings will become.
2. What will you do with your 401(k) or pension benefits? Will you be able to rebuild accounts divided pursuant to divorce prior to retirement age? In New York State, generally speaking, the courts will endeavor to divide retirement accounts fairly equally between the two spouses.

3. How long will you be paying or receiving spousal maintenance (formerly referred to as alimony)? This issue is frequently one of the most important issues in a “gray” divorce, particularly in marriages where one party has been absent from the workforce for an extended period of time or where one party has significant health issues which prevent him or her from re-entering the workforce.

4. Does retirement impact the obligation to pay spousal maintenance? That is, will maintenance end upon retirement or will it be modified to a lesser amount?

5. What is the impact on Social Security benefits? Although federal Social Security benefits are not divided in a divorce, anticipated or actual benefits can certainly impact how other assets are divided and/or how maintenance awards are fashioned by the courts.

6. What if a spouse is offered early retirement or a cash buyout instead of a pension?

7. Should you sell or keep your house?

8. Can you obtain a job? This is perhaps the single most important issue facing a divorcing party who has been absent from the workforce for many years in a long-term marriage. It should come as no surprise that finding employment after the age of 50 can be especially challenging to one who has been out of the workforce for many years.

Obviously, the answers to these tough questions cannot be set forth in this short article. No two cases are identical and the answers to these questions will depend on one’s own unique set of facts and circumstances. Notwithstanding, Dibble & Miller, P.C. has ample experience in successfully resolving matrimonial cases between spouses in marriages of long duration and can craft litigation plans and settlements appropriate to the circumstances of older clients which will minimize the negative impacts of divorce upon such clients.

Consult Dibble & Miller, P.C.

Dibble & Miller, P. C. is fortunate to have attorneys on its staff with extensive experience in matrimonial and family law who effectively guide clients in navigating the frequently complicated domestic relations laws which exist in our state. Having experienced and knowledgeable counsel on your side earlier rather than later can help assure that your interests concerning your future income and your financial assets are protected.

If you are contemplating marriage, or facing the dissolution of a marriage or a dispute over your child(ren) and/or their support, you owe it to yourself to seek professional advice early-on from experienced practitioners whose daily work involves all of these issues. In our ever-increasingly complex society, the law regarding families, their property, and finances is also increasingly complex. Attempting to handle these issues on one’s own can be overwhelming.

Dibble & Miller, P.C. represents all types of individuals with family law issues, from all types of backgrounds and circumstances. The one thing all of these individuals have in common is a need to have someone knowledgeable on his or her side who can competently and empathetically guide them through what can oftentimes be an unfamiliar, emotional, and intimidating experience.

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PLEASE REMEMBER THAT WE HAVE AN EXTENSIVE PRACTICE TO SERVE YOU:

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- **Business Formations** — *Start-Up Businesses and Partnerships, Business Purchase and Sale Agreements, and Formation of Corporations and LLC*
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 - *Resolution of Tax Levies, Liens and Income Executions*
 - *Responsible Person and TFRP Defense for Trust Funds, Sales, Use and Withholding Taxes Assessments and Collections*
 - *Preparation, Filing and Negotiation of Offers in Compromise*
 - *Negotiation of Tax Installment Agreements and Tax Payment Plans*
 - *Innocent & Injured Spouse Defense*

*** IF YOU NEED LEGAL ADVICE, PLEASE CONTACT US FOR A FREE CONSULTATION ***