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Divorce: Do It Yourself – Or – Hire Attorney?

1. **DIVISION OF PROPERTY:** – Many people do not understand what constitutes community property. If you don't understand, you could fail to receive a just portion of marital assets. A divorcing wife, for example, might not understand that her husband's retirement is community property, and she might be entitled to a portion. Or, a husband, might not understand that the portion of his retirement earned before marriage, does not belong to the community. Or, a spouse might think, erroneously, that if property is held in the other spouse's name – they are not entitled to a portion. Or, a divorcing couple might think that, in order to divide a property, such as a house, they must sell it – this is not true. An attorney assists a client in receiving a fair division of property of the marriage. This is extremely important because a division of property in a divorce is final and cannot be undone. Many times I have received telephone calls from a recently divorced person asking for help to undo what they innocently agreed to in a "DO IT YOURSELF" divorce.
2. **CHILDREN ISSUES:** If you have questions about where the children will live, or, whether your spouse is a fit person to have visitation with the children, this cannot be addressed in a "DO IT YOURSELF" divorce! You will need an attorney as this will need to be brought to the Court's attention.

Child Support: Traditionally, Texas has been very rigid on the amount of support and has based support on rigid guidelines contained in the Texas Family Code. It is important to have a full understanding of the guidelines and – how they work. You may miss out on support or you could overpay. Recently, the Courts have allowed some flexibility based on the amount of time the parents spend with the child, or other factors, too numerous to mention here. Also, offsets are allowed for health insurance premiums.

Best Interest of Children: Your order might not be accepted if the Court determines that it is not in the best interest of the children. This happens frequently when the parties agree to zero child support without a proper explanation in the order.

Enforceability: This is extremely important in any legal document. Your decree might say what the other party agrees to do regarding a property division. What if they don't? Is your order enforceable? If your decree is not properly worded, it is not enforceable, and you will be left "holding the bag". Sometimes, you can go back to Court to reform the decree – this is difficult and will cost more than doing it right the first time.

- 3. SPOUSAL MAINTENANCE (ALIMONY):** Texas has long been a “no alimony” state. Recently, our Legislature enacted a Spousal Maintenance law. A person requesting Spousal Maintenance under the Texas law must plead need for future support and that they do not possess assets or the ability to obtain employment which would provide for their basic needs. If you think you might be eligible – definitely consult an attorney.

In conclusion, it would be dishonest to say that every divorce needs a lawyer every very time. If you have been married a very short time, have no children, no property – you may not need a lawyer! Otherwise, it is wise to consult an attorney.

I have been in practice in the West Texas area for almost 35 years and still love my work. I handle all Family Law matters, including Divorce, Custody, Adoptions, Attorney General Child Support and Custody Modifications. I believe that we offer creative solutions to most family law problems. We maintain a close caring relationship with our clients and are proud of having represented several generations of our client families.