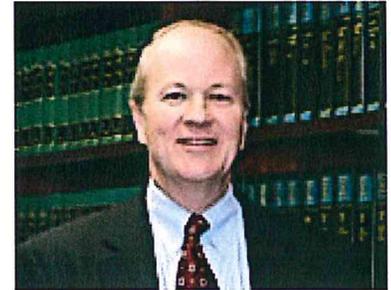




Troubled Marriage? What are Your Options?



Frequently the incoming phone call sounds something like this: “I want to file for divorce and I am looking for a lawyer to represent me”. The prospective client usually has a series of prepared questions regarding custody of children, child support, alimony, the house, division of assets, 401(k) retirement accounts, and the like; but the first question I always ask the caller is, “Have you and your spouse gone to marriage counseling?” It is surprising how often the answer is “no”. With the national divorce rate at 50%, too many people are quick to forget that portion of their marriage vow which stated “for better, or for worse”. Although I make a living representing people whose marriages have broken down, I would much rather see a couple seek counseling and resolve their differences, than to have them experience the emotional and financial drain of divorce. That being said, despite marriage counseling and reconciliation efforts, the parties have reached the conclusion that their marriage cannot be saved, and they need to go their separate ways. So then what do they do?

The dynamics and interpersonal relationships involved in marriages and families are unique and complex. No two families are the same, nor are the resolutions to their situations the same. Lawyers are sometimes referred to as “counselors at law”, and if ever a legal situation exists where providing good, competent “counsel” to a client is of utmost importance, it is in the area of divorce law. Deciding which legal path a case should proceed down is critical to reaching the most successful outcome for all involved, especially for the children.

Divorce cases are categorized by the Court as Uncontested, Limited Contested or Fully Contested. An Uncontested case is one in which the parties and their attorneys have reached an agreement on all issues involved in the case. A Limited Contested case is one in which there is an agreement with regards to custody and the Parenting Plan for the children, but there is not an agreement regarding the financial aspects of the case, i.e. child support, alimony, and/or division of assets. Clients are encouraged to remain respectful and civil towards their soon to be ex-spouse. When children are involved, the parties need to realize that they are going to have to deal with each other on a fairly frequent basis for years to come, and mutual respect and reasonableness will go a long way towards reducing conflict and emotional distress as they interact with each other. The parties must also recognize the detrimental impact that parental conflict has on their children. Children are much more perceptive than most of us realize.

Often times a case may start out being Fully Contested or Limited Contested, but through the involvement of knowledgeable lawyers and equitable negotiations, the case ends up going to Judgment as an Uncontested case, because an agreement has been reached. For those cases which remain either Limited or Fully Contested, they will be decided by a Judge at a trial, which will be adversarial, very stressful and expensive. Conducting trials is what experienced lawyers are trained to do. However, for the parties it is usually the first time they have experienced a trial, and in the case of divorce, it involves the most sensitive and emotional matters possible. A “counselor at law” serves his client best when he is sensitive to the emotional impact on the client, and will work as hard as possible to avoid a trial. Nevertheless, every case must be handled as if it is going to trial. A well prepared case facilitates settlements because the opposing side knows we are prepared to go to trial.

At Kahan, Kerensky & Capossela, LLP we pride ourselves on providing compassionate, knowledgeable and skilled legal counsel to help people who are dealing with some of the most emotionally charged and difficult situations they have ever had to deal with. If you are experiencing difficulty in your marriage and need sound legal advice and counsel, please contact us at Kahan, Kerensky & Capossela, LLP.

Attorney Manion is a partner at Kahan, Kerensky & Capossela, LLP. Attorney Manion has been practicing for over 30 years in the areas of Divorce and Family Law, Residential Real Estate, Criminal Defense, and Estate Planning. Attorney Manion serves as a Family Law Special Master for the Superior Court Tolland Judicial District. He is a graduate of the University of Notre Dame and Washburn University School of Law.

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