

NOVEMBER 2015 NEWSLETTER

POZZUOLO RODDEN, P.C.
COUNSELORS AT LAW
THE BYE-BENSON HOUSE
2033 WALNUT STREET, PHILADELPHIA, PA 19103
215-977-8200
www.pozzuolo.com



MISTAKES TO AVOID WHEN GOING THROUGH A DIVORCE

FIRM ANNOUNCEMENTS:

A. BLOGS

1. The following are a few of the business, tax and estate planning blogs posted on our main website www.pozzuolo.com during the past month:

- a. Three Reasons To Choose A Non-Family Trustee;
- b. Restrictive Covenant Did Not Bar Outright Ownership Of Competing Business;
- c. Petition To Modify Trust To Allow The Removal And Replacement Of A Corporate Trustee Without Seeking Orphan's Court Approval; and,
- d. Objections To Estate Accounting Denied To Laches, An Undue Delay In Seeking Relief

Please visit our website www.pozzuolo.com for more information on these and other relevant business, estates and employment topics.

2. The following are a few of the family law blogs posted on our family law website www.pozzuolofamilylaw.com during the past month:

- a. Depreciation Expenses Should Not Be Included In Father's Gross Income For Determining Child Support;
- b. Family Law- Adoption And Divorce;
- c. Equitable Distribution As The Gateway To No Alimony; and,
- d. Child Support Payments Suspended During Period Of Medical Disability

Please visit our website www.pozzuolofamilylaw.com for more information on these and other relevant family law topics.

**Please visit our Facebook page to read all of our past and future blogs:
Pozzuolo Rodden, PC**

B. EDUCATIONAL SEMINARS ON YOU TUBE:

Pozzuolo Rodden, P.C. is pleased to announce you can view the following seminars taught by Joseph R. Pozzuolo and/or Jeffrey S. Pozzuolo at "Pozzuolo Rodden, P.C.- You Tube"

*The Negotiation and Documentation of Commercial Real Estate Loan Documents

*The Fundamentals of Starting a Business

*How Middle Income Families Should Plan for Retirement

QUESTION OF THE MONTH

What Estate Planning Strategies Do I Need For My Blended Family?

Answer-See Page 5 of this Newsletter

MISTAKES TO AVOID WHEN GOING THROUGH A DIVORCE

The end of a marriage is an emotional and volatile time. Confusion, anger, and hurt feelings are common and can often cause people to make decisions that are short sighted, counter productive, and flat out expensive. Below is a list of the most common mistakes that people make when going through a divorce, and the reasons that they should be avoided.

Mistake #1: Not Hiring an Attorney

It is incredibly important to hire an experienced family law attorney to protect your rights and help guide you through your divorce. Your decision of which lawyer you choose to represent you will be one of the most important choices you make throughout the entire process of a divorce. Friends and colleagues who have been through a divorce may have recommendations for you, but its important you do

your own research- examine the attorney's web site to ensure they have experience handling divorce matters and are keeping up to date on current developments.

It is especially important that you retain an attorney before signing any legal agreements with your spouse. It is never a good idea to commit yourself legally before having a professional review the agreement and advise you of all of your obligations.

Once you have chosen your attorney, it is important to follow his advice. During a divorce, you will likely receive advice from nearly everyone you speak to, whether asked for or not. Keep in mind that your attorney is the only one involved in the divorce approaching the situation with fresh eyes, no previous biases, and who you can know for sure is trying to protect your interests.

Mistake #2: Failing to Prioritize

At the beginning of the divorce process, it is important to decide what is truly important to you. For some, it may be retaining control over a business, for others, custody of marital children may take priority. You will need to honestly assess what you value the most and what you truly need to get out of the divorce in order to be happy. Sharing this information with your attorney will allow him to plan accordingly and assist him in future negotiations. It will also give you a valuable sense of perspective when deciding what issues to fight over and which to just let go- is it really worth fighting for something you care little about if it will jeopardize the things which you hold truly important?

As in all aspects of your divorce, try to keep emotion out of it when determining your top priorities. Having too much sentimental attachment to certain assets can result in a financially unbalanced and unfair settlement.

Mistake #3: Getting in Over Your Head Financially

Everyone knows that divorces are expensive. Child support, spousal support, alimony, and attorney's fees can add up quickly. However, many people fail to alter their spending habits or reevaluate the budget they kept with their spouse prior to the divorce. It is a harsh reality that a couple's income which was more than adequate to cover the expenses of a single household may come up short when stretched to cover two households. Consulting with an attorney about your legal obligations and expenses both during and after a divorce can help you adjust your budget and keep you from draining your bank account.

It is important to remember that the marital assets you receive through a divorce settlement may be taxable. Structure your budget based on the amount of assets you'll actually end up with, not just what's being split up.

Mistake #4: Trying to "Win" the Divorce

No one wants to come out of a divorce feeling as if they've been taken advantage of. However, some people take this feeling too far, and do everything in their power to make sure they walk away from a divorce a clear victor. This type of attitude can often lead to an expensive lengthening of the divorce process that leaves both you and your partner with less than you would have had approaching the divorce

with a willingness to compromise. Fighting over every single asset will often result in many of those assets ending up depleted or sold. The further you can distance your emotions from the process of the divorce, the more effectively and efficiently it will be resolved. The legal process is meant to separate assets, address debts, and ensure the support of children. It is not the time to score moral victories or seek retribution for the acts of your former spouse.

Mistake #5: Dragging Your Feet

Divorce can be a painful and upsetting procedure, but you are not doing yourself any favors by ignoring the issue or putting it off. Although you want to proceed carefully in a divorce, you also want to proceed quickly. Early in the divorce process is your best chance to divide property and other assets fairly with your spouse. Getting issues handled early on will make it less likely that you and your partner will become overwhelmed later or deadlock while trying to settle too many disputes at once.

Mistake #6: Treating the Divorce Like Part of the Relationship

As stated above, it is important to keep your own emotions in check as best you can during a divorce. It is equally important to not be overly concerned with your spouse's emotions. While you should certainly treat your spouse with respect and make an effort not to complicate the divorce with bitterness and anger, you should never exhaust your own resources trying to protect your spouse. A divorce is the beginning of a new life where your responsibilities include taking care of yourself and your children. Your spouse can do the same.

Sometimes a party who did not want the divorce will attempt to be especially kind and generous during the divorce process as a way to convince their spouse to give the relationship another try. This is a recipe for disaster. No amount of money will fix a broken marriage, and the only thing bending over backwards will accomplish is cheating yourself out of what you are rightly entitled to.

Mistake #7: Ignoring Court Orders

When divorcing parties feel like a decision or calculation made by the court is unfair, they sometimes choose to disregard them entirely. This is a big mistake that will only lead to delays and expenses and cause court officials to see you as unreasonable. Speak to your attorney about whether a decision by the court can be appealed or reconsidered- if not, the best thing you can do for yourself is to simply follow it.

One of the most important court orders you can receive as part of a divorce is an order to pay child support. It is important to make your payments on time and in full. The penalties from failing to pay child support can be a large and wholly unnecessary expense. If your financial circumstances have changed since the child support was calculated due to a lost job or other unforeseen circumstance, contact an attorney and find out what your rights are. It is possible you will be able to file a modification request to bring the support payments to a manageable level.

Mistake #8: Ignoring Mediation

Mediation is a valuable tool in a divorce. In mediation, you and your spouse will sit down with a

mediator who specializes in helping people come to an amenable agreement. They are experienced in conflict resolution, familiar with the law and likely outcomes of a litigated divorce, and well versed in coming up with creative solutions to seemingly intractable problems. Including a neutral facilitator in your divorce proceeding can help deflate an otherwise emotionally charged affair and allow you to resolve issues more quickly and inexpensively.

An experienced family law attorney should be consulted for all questions or concerns about an ongoing or upcoming divorce. Please feel free to contact this office and meet with one of our experienced attorneys about any such questions or concerns.

QUESTION OF THE MONTH:

What Estate Planning Strategies Do I Need For My Blended Family?

Estate Planning for blended families is usually required in one of three situations: 1) when one or both spouses to a marriage have children from a previous union; 2) when there are children from one spouse's previous union and the spouses in the current marriage also have children together; and, 3) when one of your children has a spouse who has a child from a previous marriage. In each of these situations, the estate planning goals of the two spouses may not align and extra care must be taken to ensure that assets do not inadvertently pass in a way you did not intend.

Blended families often require careful planning, both before the marriage in the form of a prenuptial agreement and after the marriage in an estate plan that provides for your loved ones in the way you intended. Before you enter into a marriage that will result in one of the blended family situations mentioned above, you and your future spouse need to have an open, frank discussion about how you plan to handle your assets during your marriage and how you would like your assets to be distributed after your death.

For example, one of the most common ways that assets can pass after death in an unintended way is by the titling of property. For instance, say you and your future spouse have agreed that the majority of your pre-marital assets will pass to your children from a previous union and your new spouse will receive a smaller sum in addition to the right to live in the family home you share for the rest of his or her life; this plan can easily be derailed by jointly titling the family home or your bank and/or investment accounts in the name of both you and your spouse. In that case those assets would pass to the surviving spouse by operation of law instead of according to the plan you created in your Last Will and Testament, Trust and/or Prenuptial Agreement.

In most states, a widow/er has the right to what is known as the elective share, which is approximately thirty percent of the deceased spouse's estate. If it is your intention to leave your entire or the majority of your estate to your children from a previous marriage, you and your future spouse should execute a prenuptial agreement wherein you each waive all rights to an elective share in each other's estate or come to an agreement about how you will limit your rights in each other's estate. In this situation, simple wills wherein the surviving spouse receive the entire estate and then divides the estate equally among all of your children will not adequately protect your children's interest. Your spouse may

become estranged from your children after your death and leave the entirety of his or her estate only to his or her own children, effectively disinheriting your children.

Additionally, if either of you have children from a previous marriage and plan to also have children together, you need to discuss how you want assets to pass upon the death of the first spouse. One option to consider is the creation of an irrevocable life insurance trust funded by a life insurance policy wherein the children from the previous marriage will be provided for in a way independent of the surviving spouse leaving the children from your prior marriage an inheritance.

Finally, if you have a child of your own who enters into marriage with a spouse who has children from a previous union, you may want to craft your estate plan to ensure that no portion of your estate which you leave to your child passes in such a way that the child or children of your child's spouse from a previous marriage will be entitled to any of your assets. For instance, you could leave the portion of your estate for that child in trust and after your child's death the distributions or beneficiary(ies) of the trust will be made only to your bloodline descendants.

As implied above, blended families present some of the most difficult, emotional and grueling estate planning issues. Unfortunately, with one of two marriages ending in divorce, with knowledge, insight and sensitivity, these issues must and can be addressed to avoid unintended, unforeseen, unplanned and inequitable results.

If you have questions about creating or updating your estate plan for your blended family, an experienced estate planning attorney should be consulted.

-
- If there are any legal questions you would like this office to answer in the future, please email the question to us at info@pozzuolo.com. Each month, the question with the most relevance to our privately held business clients, advisors, and friends will be answered in our monthly newsletter. The questions can relate to any of the areas practiced by this office including business planning and transactions, corporate law, commercial litigation, employment law and litigation, commercial real estate and development, construction law and litigation, estate planning, estate administration, tax and pension law, family law litigation.
-

PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

CORPORATE/TAX ARTICLES

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement

- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

ESTATE PLANNING ARTICLES

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled
- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.