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When individuals have family problems, family and service groups can often offer advice and help resolve problems. If separation or divorce is unavoidable, you should see an attorney for advice on how to protect your rights.

Areas to Discuss at Initial Interview

When you first meet with your attorney, you should discuss and ask questions regarding the following:

- Resolving marital problems
- Financial concerns involving child support, alimony, spousal support, pendente lite support and equitable distribution of property acquired during the marriage
- Determining child custody and visitation
- Grounds for divorce
- Domestic Violence Act and Restraining Order
- Legal Rights and procedures in court
- Retaining the attorney and payment for legal services

and costs

Emergency Decision By The Court

If necessary the Superior Court can make temporary decisions regarding:

- Restraints to keep a violent spouse from harassing and interfering with your life
- Occupancy of your house, apartment or condominium
- Temporary custody and visitation of minor child
- Temporary financial support for children and spouse
- Injunction against disposal of personal property, real estate and other assets
- Other temporary orders in the discretion of the Judge

Grounds For Divorce

Under NJ laws a divorce may be granted for any of the following causes:

-Adultery

-Willful and continued desertion for 12 or more months, either physical desertion or refusal to have sexual relations with the other spouse may establish this cause.

-Extreme cruelty, including any physical or mental cruelty that endangers your safety or health, or which makes continued living together improper or

unreasonable.

-Separation, if separate and different places of living have been maintained for a least 18 consecutive months or more and there is no reasonable prospect of reconciliation.

-"No-Fault" is the familiar term for a divorce based on the separation for at least 18 months. Neither side needs to set forth allegations of fault or abuse. Court appearances are still required.

-Voluntarily-induced addiction or habituation to a narcotic drug or habitual drunkenness for 12 or more consecutive months.

-Mental illness which resulted in the spouse being kept in an institution for 24 or more

consecutive months after the marriage was begun.

-Imprisonment of the spouse for 18 or more consecutive months after the marriage was begun. (This cause for divorce can be charged after the defendant's release from prison only if the husband and wife have not resumed living together after imprisonment of the spouse ended.)

What The Defendant Spouse Must Do

If served with a Complaint or demand letter from an attorney, you should immediately consult an attorney for advice. If you contest any of the statements in the complaint, you must have a formal pleading

called an "answer" filed on your behalf. You can contest alimony, custody, child support and/or equitable distribution of property. You can also file your own complaint called a "Counter-Claim." Even if you do not object to the divorce, you should speak with your attorney because other issues could effect you for many years in the future. If an answer is not filed, a default will be entered against you and a judge will make a decision without your opinion. Thereafter, you will bound by the decision of the judge. Failure to obey all portions of the court order can result in financial penalties and arrest.

Case Information Statement

If child support, alimony and equitable distribution are in issue, both spouses must fill out a Case Information Statement (CIS). This demands comprehensive information regarding your weekly, prior year and current assets, and liabilities. The court will use financial information contained in the CIS to make a determination as to the amount of child support.

Discovery

In addition to the CIS, in a contested matter, Court rules permit the attorneys to require the parties to supply written answers to interrogatories (questions), depositions, (verbal answers), produce documents or admit details.

Property Settlement Agreement

The parties may agree on signing a written agreement dividing marital property and setting forth support payments. A written agreement can be made prior to the complaint or pending trial. The agreement can provide for custody, visitation, alimony, medical expenses and insurance coverage.

After a husband and wife separate, and especially if they intend to divorce, it is desirable for them to enter into a written contract to provide for:

- division of real estate and personal property;
- support, if any, payable to the dependent spouse and children; responsibility for debts and legal fees;
- health and life insurance arrangements;
- custody and visitation of children.

Also included are many other items which set forth the mutual rights and duties of the two people. Such an agreement is a contract, but may be enforced as though it is an order of court, (except certain portions such as child custody, support and visitation, which may be modified by the Court), depending on its terms and contents. It is written by your attorneys and follows negotiations between you and your spouse and your attorneys.

Child Support

The judge will follow written guidelines when

determining child support. The judge will look at the income of both parties and make an order compelling child support within the guidelines. The judge could also order medical and dental insurance, the payment of day-care and baby-sitting, private school tuition, and life insurance on each parent's life with the child as the beneficiary. The court may also order payment of future college tuition.

Who is responsible for the support of the children?

The law imposes a duty on both parents to support their children. This obligation exist even if the parents are not married, and it continues after divorce. In determining the amount of child support to be paid by one parent to the other, the court will consider the respective incomes, earning capacities, assets and needs of both parents, and the needs of the children. The Judge has a "chart" in which he must follow to determine the amount of support that can be compelled.

What is the procedure for obtaining spouse and child support?

A person seeking spouse and/or child support may file a motion for support in the Family Court, in many cases and in all cases involving welfare, a conference will be held by a hearing officer at which both parties will be required to disclose their respective incomes and assets and prove their respective needs. An attempt will be made by the hearing officer to have the parties reach an agreement as to the amount of support. If an agreement cannot be reached, the usual

procedure is for the hearing officer to submit a recommendation to the court.

If either party is not satisfied with the recommendation, he or she may demand a hearing before the court at which the order could be modified. If both parties are satisfied with the order entered by the court on the hearing officer's recommendation, it will be the final order.

Can a support order be changed?

Either spouse or parent may seek modification (increase or reduction) of a support order if he or she can demonstrate that a material and substantial change of circumstances has taken place since the order was entered. An increase or decrease in earnings or an increase in the needs of the children as they grow older are examples of material and substantial changes in circumstances. Once a child reaches age 18, and is out of school the parents generally are no longer required to support that child. A motion must be made in the Superior Court to reduce or end support. However, if the child is unable to support himself or herself because of some physical, mental or emotional disability, the duty of support continues beyond 18. Parents may also be required to pay support to a child who is attending college.

Custody And Visitation

The "best interest of the child" is the basis on how the judge awards custody of the child. The mother

is no longer automatically given custody of the children. The judge looks at the age and sex of the child, ability of the parent to care for the child, personal relationships and, if older, the wishes of the child. Visitation will also be ordered under most circumstances. An equal sharing of physical custody of children is also possible in appropriate cases.

As children get older, greater weight is given by the court to the child's preference as to which parent he or she wishes to reside. An important factor considered by the court is the continued residency of children in a familiar and stable home environment.

Courts are reluctant to disturbance existing arrangement if the children are doing well. The courts are also reluctant to split children between two parents because courts believe that it is in the best interest of brothers and sisters to remain together even though their parents have separated or are divorced.

Equitable Distribution

Most parties eventually reach an agreement to divide property. In New Jersey, each spouse is entitled to a share of the property acquired during the marriage. There is not an automatic 50/50 split. Rather, the judge will make an "equitable distribution" of property after hearing testimony. There is no magic formula. The judge has discretion.

Final Judgment

Upon agreement or after a trial, the judge will

enter a "Final Judgment of Divorce". This will declare that the marriage has ended. The judge will sign the Final Judgment of Divorce and it will be filed with the Superior Court in Trenton.

The Final Judgment will also set forth items agreed upon or ordered, such as custody, support, and equitable distribution. After the Divorce, to make a change in support, custody, visitation etc, a formal motion must be made to the Superior Court. In this motion you must demonstrate a change in circumstances.

Our hourly retainer rates are \$300 per hour in office and \$325 per hour outside office. Minimum fee in uncontested Divorce \$1,750 where the parties have no children and have a written property settlement agreement.

2. If not Enough Breath Supplied on Alcotest, Officer Must Read Additional Warnings. State v. Schmidt 414 NJ Super. 194 (App. Div. 2010) A-2237-08T4

In this opinion the court hold that (1) the police are required to comply with N.J.S.A. 39:4-50.2(e) by reading the standard language concerning the consequences of a refusal to take an Alcotest (part two of the Standard Statement) when a defendant unequivocally agrees to submit to an Alcotest but then fails without reasonable excuse to produce a valid sample and (2) the police have

the discretion to discontinue the Alcotest and charge the arrestee with refusal without affording the arrestee the maximum eleven attempts that the Alcotest machine permits.

3. Next Charity races. If you have a big car, give Ken V a ride since he cant drive due to leg surgery. You can run or attend to help out. Volunteers receive a free T shirt and thanks from the charity

10/17 Sunday East Brunswick 1pm 5k & 10k RVR well run event Road closed to traffic www.ebrr.org

10/24 Trick or Trot 4 mile run 4-mile Long Branch party at Celtic Cottage after run discount beer

11/7 Sunday RUN with the VIKINGS 5K 10:00 AM South Brunswick High School, South Brunswick, NJ Bob Tona's good event

11/13/2010 Colonial Park 5K Turkey Trot Colonial Park, Somerset 9:30

11/14 Hashathon 6.6 Mile Cheesequake challenging, dangerous trails, free beer, best post race party with band, 732-542-6090

4. Community events:

Middlesex County Democratic Organization 2010

Campaign Kick Off Dinner Rally Thursday, October
14 · 6:00pm - 9:30pm

The Pines Manor

2085 Route 27

Edison, NJ

Door Prize

Carnival Caribbean Trip for Two

6 PM Cash Bar

7 PM Dinner & Program

\$40 Ticket

To purchase a ticket please contact Everett at 732-906-
3680

or efalt@mcdonj.org

[http://www.facebook.com/event.php?eid=1283359605491
23&index=1](http://www.facebook.com/event.php?eid=128335960549123&index=1)

Friday, October 15 Opening night

Jackass 3D Movie starring Johnny Knoxville

[http://www.youtube.com/watch?v=cIsVDn-
bOaE](http://www.youtube.com/watch?v=cIsVDn-bOaE)

Join Ken V and some friends to watch movie & have a drink

Regal

Commerce Center 18. 2399

Route 1 South **North Brunswick**, NJ 08902

Must be over 21

See photo of Brendan Vercammen & Johnny Knoxville
at U of Miami

<http://www.facebook.com/kenneth.vercammen>