

DIVORCE 101

A workbook for BEFORE you hire a lawyer

Written by Michael R. Dunham, Esq.

Introduction

"How will I pay my bills?"

"what happens to the dog?"

"Do I have to pay her student loan?"

"can she take my kids away from me?"

"where will I live?"

"Do I have to give him part of my pension?"

"can I take the spare bed?"

"what am I gonna do???"

You have a thousand questions you want answered now, and a thousand more you don't even know to ask. You're about to go through the biggest change in your life, and no matter how "ready" you are or how "necessary" it is, it's still very scary.

This short little book will help you sort through the initial chaos. In the next few pages, we'll help you square the circle. Take a breath, and turn the page. You can do this. \bigcirc

The Big Picture

It might help to start with a framework in mind. The good news is, even though there are a lot of moving parts in any divorce case, no matter how complicated, you'll have no more than five issues to resolve:

- I. Any marital property must be divided. (Along the way, you may also need to sort out which property is your, or your spouse's, separate property, which can't be claimed by the other spouse.)
- 2. In some cases, spousal support (sometimes called "alimony") must be paid from one spouse to the other for a while after the divorce is over.
- 3. If you have minor children, you'll have child custody issues to resolve, which covers everything from where they will live to how decisions affecting them will be made.
- 4. Also if you have minor children, one parent will probably have to pay child support to the other.
- 5. Once the above issues are all resolved, the last issue is for the court to formally grant the divorce.

"Winning" and "Losing" in a Divorce case

Actually granting the divorce is generally a formality in most cases. Every state in the USA recognizes some form of "no fault" divorce, meaning neither party needs to prove a **fault issue** (the most common such issues include adultery, drug/alcohol abuse, physical or mental abuse, etc.) before the court will grant a divorce.

That means the cold reality is this: the court does not care about punishing your spouse's bad behavior nearly as much as you probably do.

This is not to say such issues are unimportant. The time may come when your lawyer will need to be able to argue fault to try and achieve an "equitable" result for you. For that reason, you should be prepared to tell your lawyer the whole story of your marriage, including details you might find embarrassing or that you are ashamed to admit. But trust me - we've heard it (and so much worse!) before, and we're not going to judge you.

what should I bring to my first meeting?

Your lawyer will likely have a comprehensive intake worksheet for you to fill out. Fill it out as completely as you can (it's okay if you don't know some of the answers - just make a note of it and keep going) and either send it to your lawyer or be prepared to bring it with you to your first meeting. A sample is included in this book if you'd like to know what to expect.

In addition, if possible, you should also gather documents that may be relevant to your case, if you can. I've included a comprehensive checklist with this book. It's okay if you can't bring all of these documents (some of which may not even exist) with you to the first meeting, but the more work you can do ahead of time, the easier getting started will be.

Money Matters

For your first meeting, many lawyers don't charge a fee for the initial consultation (I don't), but some lawyers do. Make sure you know if you'll be charged for your first consultation, and be prepared to pay that consultation fee.

Your lawyer will probably not want to quote the fees for your case until after or near the end of the initial consultation. So, you don't necessarily need to be prepared to pay a large retainer right then. But divorce lawyers are expensive, and good ones will require a retainer before they do any work on your case. If you don't think you'll be able to afford this on your own, you may want to talk with a family member or whomever else you think will be able to help you with this expense.

Speaking of which, don't be afraid to ask questions. Your lawyer knows more than you do - take advantage of that! Feel free to ask about the process, strategy, how quickly calls and emails are returned, how fees will be structured and billed, and anything else you can think of that you want to know. This is another area

where most lawyers have heard all of these questions before - you might even challenge yourself to ask a question that your lawyer has never heard before.

I also recommend you start working through a basic budget for yourself. In Georgia (where I practice), a "Domestic Relations Financial Affidavit" is required of every party to every divorce case. I've included a blank template in this book, and I think working through this form (even if you don't live in Georgia) is a good exercise as you try to figure out what you need out of your case to move on with the next phase of your life. Don't worry if you don't know all this information yet or if this is difficult for you to work all the way through – just do the best you can, as it will benefit you in the long run.

conclusion

I would be honored to discuss your case with you and see if we are a good fit to help you. Here's my contact information:

Michael R. Dunham, Esq. 770.628.7330 mdunham@dunhamlegalgroup.com www.EastCobbLegal.com

Dunham Legal 137 Johnson Ferry Road Suite 2135 Marietta, Georgia, 30068

In addition, whether you hire us for your divorce or not, I have written a book on the post-divorce process that you may want to check out. Some of the subjects I touch on in that book can help shape your plans and process during your divorce. You can see more information about that book here:

www.PostDivorceCompass.com

Thank you!

Documents List

tax	returns and related documents			
	federal, state, and local			
	personal, as well as corporate for any business you and/or your spouse may own			
	K-1 and W-2 forms for both you and your spouse, if any			
	the most recently filed year, and ideally also the two years before that			
pay	y stubs, both yours and your spouse's			
	the most recent one should have year-to-date amounts in addition to current amounts			
	try to get the last one from each of the last two years, for the same reason			
the	e most recent statement for each financial account, including:			
	checking, savings, money market			
	401k/403b, IRA (traditional or Roth), pension			
	e most recent statement for each debt with your and/or your spouse's name on it, or it you and/or your spouse have been paying, including:			
	mortgages and other lines of credit			
	car loans and other secured debts			
	credit cards and other signature loans			
insurance policies of any kind (home, auto, life, disability, umbrella, etc.) insuring you and/or your spouse				
lea	se agreement (if you are renting your home)			
app	oraisals or valuations of any property you own, including:			
	real estate			
	vehicles			
	jewelry			
you	ur and/or your spouse's last will and testament and other estate planning documents			
pro	perty lists			
	marital property, with the items you want marked			
	property you intend to claim as your separate property, and/or that you know your spouse will claim as his/her separate property			
	documents you think may be relevant to the reasons for your divorce or that you uld like your lawyer to review, such as:			
	pre- or post-nuptial agreement, if you have one			
П	email or other written correspondence directly relevant to the issues			

Intake Form

Date of Initial Meeting: _____

In order to facilitate the handling of your case, please fill out this form as completely as you can. If you come across a question you can't answer, or are asked to gather a document to which you do not have access, that's okay – just do the best you can and fill out whatever information you can provide.					
to han	nore information you can provide, the more efficiently we will be able addle your case. Please take your time and be as complete as an. If you need to write on the back or attach extra pages, feel free so.				
A. Yo					
1.	Full name:				
2.	Maiden name, if applicable:				
3.	Phone numbers:				
.	Cell:				
	Home:				
4.	Work:				
5.	Email address:				
6.	Home address including county				
7.	Date of birth:				
8.	Is this your first marriage? If not, which is it?				
9.	Have you lived in Georgia for at least six months?				
B Vo	ur Spouse				
10.	Full name:				
10.	Maiden name, if applicable:				
11.	Phone numbers:				
	Cell:				
	Home:				
12.	Work:				
13.	Email address:				
14.	Home address including county				
15.	Date of birth:				
16.	Is this your spouse's first marriage? If not, which is it?				
17.	Has your spouse lived in Georgia for at least six months?				

C. Children

	Name	D/O/B	Lives with			
	With whom does this child live?	Whose child?**	*			
18.						
19.						
20.						
21.						
22.						
23.						
24.						
			•			
25.						
	*** Whose child? "mine", "spous	e's", or "ours"				
26.	Is the wife currently pregnant?	,				
27.	Are you aware of anyone other than you and your spouse who has					
a claim to custody of the children?						
D. Y	our Marriage					
28.	Date of Marriage:					
29.	Date of Separation:					
30.	If there is a divorce case pending,	bring a copy of a	iny documents			
	which were served on you.					
31.	Do you contend your spouse has o	committed adulter	γ?			
32.	Do you think your spouse will accu		-			
33.	, , , , , , , , , , , , , , , , , , , ,					
34.	Do you think your spouse will	-	abandonment or			
U	desertion?					
35.	Do you contend your spouse is ha	bitually intoxicate	d or addicted to			
55.	drugs?					
36.	Do you think your spouse will accuse you of being habitually intoxi-					
	cated or addicted to drugs?		in the second second			
37.	Do you contend your spouse has	willfully inflicted	pain (mental or			
- / •	physical) on you?					
38.	Do you think your spouse will acc	cuse vou of willfu	Ilv inflicting pain			
- - ·	(mental or physical) on him/her?	,	,			

E. Your Income

- 39. What is your occupation (or your last occupation if you are not presently employed)?
- 40. What is your gross monthly income (before withholding of taxes or other deductions)?
- 41. If you are not presently employed, how long have you been unemployed?
- 42. What benefits of employment (other than compensation) do you currently receive?
- 43. If you are not presently employed, please describe your efforts to obtain gainful employment, including all recent interviews.
- 44. Describe all job offers you've turned down in the last two years.
- 45. Describe your education beginning with the highest level of schooling you have (whether you finished or not).
- 46. Describe any specialized certifications and/or licenses you now hold or have ever held.
- 47. Describe other sources of income from any source, including tax refunds, gifts, inheritances, passive income from a business or trust, rental income, income from the sale or property, etc.
- 48. Describe all financial losses you have suffered in the last five years.
- 49. Describe any large or regular donations, charitable contributions, or financial assistance you have provided to third parties.
- 50. Describe any factor preventing you from realizing your full income potential or preventing you from working full-time, including but not limited to any medical issues.

F. Your Spouse's Income

- 51. What is your spouse's occupation (or last occupation if your spouse is not presently employed)?
- 52. What is your spouse's gross monthly income (before withholding of taxes or other deductions)?
- 53. If your spouse is not presently employed, how long has he/she been unemployed?
- 54. What benefits of employment (other than compensation) does your spouse currently receive?
- 55. If your spouse is not presently employed, please describe his/her efforts to obtain gainful employment, including all recent interviews.
- 56. Describe all job offers your spouse has turned down in the last two years.
- 57. Describe your spouse's education beginning with the highest level of schooling he/she has (whether finished or not).
- 58. Describe any specialized certifications and/or licenses your spouse now holds or has ever held.

- 59. Describe other sources of income to your spouse from any source, including tax refunds, gifts, inheritances, passive income from a business or trust, rental income, income from the sale or property, etc.
- 60. Describe all financial losses your spouse has suffered in the last five years.
- 61. Describe any large or regular donations, charitable contributions, or financial assistance your spouse has provided to third parties.
- 62. Describe any factor preventing your spouse from realizing his/her full income potential or preventing him/her from working full-time, including but not limited to any medical issues.

G. Assets

- 63. Do you own or rent your home?
 - a. If you own your home:
 - i. Address including county:

- ii. How much do you think the property will appraise for? (If you have done an appraisal within the last year or so, please provide a copy if you can.)
- iii. Who is the current primary mortgage holder?
- iv. Are there additional debts secured by this property (second mortgage, HELOC, etc.)?
- v. What is the approximate current balance of EACH debt secured by this property?
- vi. When were the debts currently secured by this property incurred or taken out?
- vii. Do you know if the primary mortgage is a Fannie Mae, Freddie Mac, or FHA insured loan?
- viii. What is your TOTAL monthly payment for the mortgage and any other debts secured by this property?
- ix. Does your payment include taxes and/or insurance?
- x. What is the cost of your annual property taxes, and are you current on them?
- xi. What is the cost of your annual homeowner's insurance?
- xii. How much are your annual homeowner's association dues and fees, and are you current on them?
- xiii. Do you intend to keep the property, for your spouse to keep the property, or to sell or otherwise dispose of it?

- b. If you rent your home:
 - i. Address including county:

ii. How much is your rent?

- iii. What utilities, if any, are included in your rent?
- iv. Please provide a copy of your lease.
- c. Is your current home the former marital residence?
- 64. If you own an interest in any real property (rental, investment, vacation, etc.) other than your current home, including the marital residence if you do not currently live in the marital residence, please provide the same information requested in the previous question for each other property interest you own.
- 65. For every vehicle in which you or your spouse own an interest (including cars driven by other family members, motorcycles, boats, planes, etc.):
 - a. Provide the year, make, and model.
 - b. State whether the vehicle is paid for.
 - c. Who is the primary driver on this vehicle?
 - d. If the vehicle is not paid for, identify the creditor, state the balance due and the monthly payment, and state approximately when the vehicle was purchased/acquired.
 - e. If the vehicle is leased, identify the lessor, state the monthly payment, and state the date the lease is scheduled to end.
 - f. Describe the insurance coverage on this vehicle.
- 66. Describe all financial assets in which either you or your spouse have an interest, including cash, bank accounts (including custodial accounts), retirement accounts (401(k)'s, 403(b)'s, IRA's, Roth IRA's, pensions, etc.), stocks, bonds, options, mutual funds, CDs, college savings plans/accounts, life insurance policies with accumulated cash value, etc.
- 67. Are you or your spouse the trustee or executor of any trust or estate?
- 68. Are you or your spouse the beneficiary of any trust or estate? If so, describe those benefits in as much detail as you can, and state how long or how often you expect those benefits will be provided.
- 69. Describe any property you have with significant monetary value, e.g., jewelry, collectibles, etc.
- 70. Describe anything special about any of your furniture or other belongings without regard to extrinsic monetary value, e.g., antiques, family heirlooms, special sentimental value, etc.

- 71. If you or your spouse have life insurance, identify the insurer, the type of insurance (term, whole life, universal, return-of-premium, etc.), the benefit amount, and the names and relationships to the insured of any beneficiaries.
- 72. If anyone owes you and/or your spouse money, state who, how much, why, how long you have been owed, and when you anticipate payment.
- 73. If you currently have a will, please provide a copy.
- 74. Have you and/or your spouse inherited any money or property at any time during the marriage? If so, describe when and how much, in as much detail as you can, and state where such money or property is held.

H. Liabilities

- 75. To the extent you haven't already provided this information in answering other questions above, describe every debt you and/or your spouse currently has, including credit cards, lines of credit, mortgages, leases (residential, auto, or equipment), auto loans, money owed to family members or other third parties, school loans, etc.
- 76. Describe all utility and other payments which are due on a monthly or other regular cycle, and state whether you are behind on any of these payments.
- 77. If you owe back taxes, state how much, which governmental entity(ies) you owe, and for which tax year(s).
- 78. Have you or your spouse ever filed for bankruptcy protection? If so, state when; identify the court/jurisdiction and the case number; state the disposition of the bankruptcy (or whether the case is still pending); and provide the names and contact information of any attorneys or other persons who assisted you.

I. Potential Issues

- 79. If there are children involved in this case:
 - a. State whether you think you or your spouse should have primary custody, and whether you think this issue will be disputed.
 - b. Describe your thoughts on what a visitation schedule should look like, and whether you think this issue will be contested.
 - c. Describe how effectively you think you and your spouse will be able to effectively co-parent once you are separated/divorced.
 - d. Describe any special circumstances (economic or otherwise) affecting the children and custody/visitation.
 - e. Describe any special circumstances affecting child support payment.

- 80. If you believe you should receive alimony, state your reasons, the amount(s) you believe you should receive, and for how long, and state whether you think your spouse will be willing to pay alimony in some amount (even if you think he/she will disagree as to the amount or terms).
- 81. If you think your spouse will claim alimony, state his/her reasons if you know them, the amount(s) you believe he/she will claim, and for how long, and state whether you are willing to pay your spouse alimony in some amount (and if so, describe what you think you should pay).
- 82. Be prepared to discuss how you think the assets and liabilities of the marriage should be divided. If you think there will be disputes about particular aspects of property division, describe those in advance as best as you can.

J. Additional Information

- 83. Do you or your spouse have religious or other convictions preventing you from filing for divorce?
- 84. Do you or your spouse have medical issues making it difficult or impossible for you to obtain health insurance coverage if current coverage is lost?
- 85. Have you and your spouse attempted marriage counseling? If so, state when, how often, the name and contact information of the counselor(s), and whether you believe counseling has been beneficial.
- 86. Do you currently see a therapist, psychologist, psychiatrist, or other counselor for your personal needs? If so, state when, how often, the name and contact information of your counselor(s), and how long you have had a relationship with your current counselor.
- 87. How would you describe your health (excellent, good, fair, poor)?
- 88. How would you describe your weight (healthy, overweight, obese)?
- 89. Do you smoke? If not, have you ever smoked (and if so, when did you quit)?
- 90. How would you describe your spouse's health (excellent, good, fair, poor)?
- 91. How would you describe your spouse's weight (healthy, overweight, obese)?
- 92. Does your spouse smoke? If not, has he/she ever smoked (and if so, when did you quit)?

	In the Superior Court of	Coun	ity, Georgia				
vs.) , Plaintiff))) , Defendant)	Civil Action No					
	DOMESTIC RELATION	NS FINANCIAL AFF	DAVIT				
1. AFFIANT'S NA	ME:		Age				
Spouse's Nam	e:		Age				
Date of Marria	ate of Marriage: Date of Separation						
Names and bir	Names and birth dates of children for whom support is to be determined in this action:						
Name	Date o	f Birth	Resides with				
Names and bir	th dates of affiant's other childr	en.					
Name	Date o		Resides with				
2. SUMMARY OF	F AFFIANT'S INCOME AND NE	EDS					
(a) Gross mor	nthly income (from item 3A)		\$				
(b) Net monthly	y income (from item 3C)						
(c) Average mo	onthly expenses (item 5A)		\$				
Moi	nthly payments to creditors		+				
	al monthly expenses and paym reditors (item 5C)	ents					

(subsections (d) & (e) deleted)

3. A. AFFIANT'S GROSS MONTHLY INCOME (complete this section or attach Child Support Schedule A) (All income must be entered based on monthly average regardless of date of receipt.)

Salary or Wages	\$
ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS	
Commissions, Fees, Tips	\$
Income from self-employment, partnership, close corporations, and independent contracts (gross receipts minus ordinary	
and necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS	\$
Rental Income (gross receipts minus ordinary and	
necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS	\$
<u>Bonuses</u>	\$
Overtime Payments	\$
Severance Pay	\$
Recurring Income from Pensions or Retirement Plans	\$
Interest and Dividends	\$
<u>Trust Income</u>	\$
Income from Annuities	\$
Capital Gains	\$
Social Security Disability or Retirement Benefits	\$
Workers' Compensation Benefits	\$
Unemployment Benefits	\$
Judgments from Personal Injury or Other Civil Cases	\$
Gifts (cash or other gifts that can be converted to cash)	\$
Prizes/Lottery Winnings	\$
Alimony and maintenance from persons not in this case	\$
Assets which are used for support of family	\$
Fringe Benefits (if significantly reduce living expenses)	\$
Any other income (do NOT include means-tested	
Public assistance, such as TANF or food stamps)	\$
GROSS MONTHLY INCOME	\$

(prior section B deleted) B. Affiant's Net Monthly Income from employment (deducting only state and federal taxes and FICA) \$										
Affiant's pay period	Affiant's pay period (i.e., weekly, monthly, etc.)									
Number of exempt	Number of exemptions claimed									
4. ASSETS										
				n-marital portion under the gift, inheritance, source of						
Description	Value	Separate Asset of the Husband	Separate Asset of the Wife	Basis of the <u>Claim</u>						
Cash	\$									
Stocks, bonds	\$									
CD's/Money Market Accounts	\$									
Bank Accounts (list each account):										
	\$									
	\$									
	\$									
Retirement Pensions, 401K, IRA, or Profit Sharing	\$									
Money owed you:	\$									
Tax Refund owed you:	\$									
Real Estate:										
home:	\$									
debt owed:	\$									
other:	\$									
<u>debt owed:</u> Automobiles/Vehicles:	\$									

Vehicle 1:

\$_

debt owed:	\$					
Vehicle 2:						
debt owed:	\$					
Life Insurance (net cash value):	\$					
Furniture/furnishings:	\$					
Jewelry:	\$					
Collectibles:	\$					
Other Assets:	\$					
	\$					
	\$					
	\$					
Total Assets:	\$					
5. A. AVERAGE MON	THLY EXPEN	SES				
HOUSEHOLD Mortgage or rent paym	nents	\$	Cable	TV	\$	
Property taxes		\$	Misc. I Items	- 0 ,		
Homeowner/Renter Ins	surance	\$	Meals	Meals outside the home \$		
Electricity		\$	Other	Other \$		
Water		\$	AUTO	AUTOMOBILE Gasoline and oil \$		
Garbage and Sewer		\$		Repairs		
Telephone: residential line:		\$	•	ags and license	\$ \$	
cellular telephone:		\$	Insura	Insurance		
Gas		\$		OTHER VEHICLES (boats, trailers, RVs, etc.)		
Repairs and maintena	nce:	\$		Gasoline and oil \$		
Lawn Care		\$		Repairs \$		
Pest Control		\$		and license	\$	

CHILDREN'S EXPENSES AFFIANT'S OTHER EXPENSES Child care (total monthly cost) \$_____ Dry cleaning/laundry \$_____ School tuition Clothing Medical, dental, prescription **Tutoring** (out of pocket/uncovered expenses) Private lessons (e.g., music, dance) Affiant's gifts (special holidays) School supplies/expenses Entertainment Lunch Money Recreational Expenses (e.g., fitness) Other Educational Expenses (list) Vacations Travel Expenses for Visitation **Publications** Allowance Dues, clubs Religious and charities Clothing Diapers Pet expenses Medical, dental, prescription Alimony paid to former spouse (out of pocket/uncovered expenses) Child support paid for other Grooming, hygiene children Gifts from children to others Date of initial order: \$ ____ Entertainment Other (attach sheet) Activities (including extra-curricular, school, religious, cultural, etc.) **Summer Camps**

OTHER INSURANCE Health Child(ren)'s portion: Dental Child(ren)'s portion: Vision Child(ren)'s portion: Life Relationship of Beneficiary: Disability S Other(specify): \$ \$ Child(ren)'s portion: \$ Child(ren)'s portion

TOTAL ABOVE EXPENSES	\$
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B. PAYMENTS TO CREDITORS

				(please check one)	
To Whom:	Balance Due	Monthly Payment	Joint	Plaintiff	Defendant
		-			
TOTAL MONTHLY PAYMENTS TO	O CREDITORS	: \$		_	
C. TOTAL MONTHLY EXPENSES:			\$		
This day of		, 20	·		
Notary Public		ffiant			
riolary i ubiic	A	шап			