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## Investments and Retirement Planning Post- and Pre-Divorce

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*Special to the Legal*

Parties going through a divorce often have many decisions they need to make. Often those decisions will affect their financial future. Many financially dependent spouses are not prepared to understand their future financial needs. As a family law attorney we utilize many resources such as financial investors, forensic accountants and tax experts to help the financially dependent spouse navigate the divorce process.

While a financially dependent spouse is going through a divorce we will ask them what their goals will be over the next five to ten years. Such goals may include employment, retirement, college expenses, retaining or selling the marital house and alimony. All of these goals are discussed with the client before resolving their case so that the client understands the expectations and documents necessary for them to obtain their



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goals. Identifying income sources often involves several steps.

A financially dependent spouse may need to think about retaining the house post-divorce. They may need to think about whether they will have to pay for college. They may also need to rely on what they will receive in the divorce by way of investments or retirement. Without first meeting with their attorney to discuss their goals and then meeting with a financial adviser who can identify additional sources of income, including Social Security, it is almost impossible to come to a complete resolution of all issues.

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One of the first directives we may give a client is to require them to calculate their monthly expenses. Often a spouse is unaware of how much they need each month and by forcing them to put on paper exactly what they are spending gives the client a clear picture of what they might need going forward. Once, we have the monthly expenses we need to know whether they have sufficient income to support themselves in the future. Items we will consider are employment income, investment income and whether they will be entitled to alimony post-divorce.

In considering employment income, the dependent spouse may have little to no employment history because they relied on their spouse for support. If the dependent spouse is not employed we may use a vocational expert to identify their skill set. Often a vocational expert can identify an area of work the spouse may not have considered. We may then have the client rework their resume, receive some training or education and develop their professional profile online. We may also send them to a recruiter to help them begin building their network.

The next step may be to consider their investment income. It is important for a financially dependent spouse not to invest based on emotion. David A. Simon, an investment officer with a national bank stated in a recent presentation that you shouldn't buy a stock based on what someone may have mentioned casually in a conversation or as an impulsive response to a positive market. It is particularly important to speak to a financial adviser during a divorce when the client may be emotionally strained or vulnerable. Investors should meet with professionals to discuss their future goals and understand the risks they are taking. In determining the investment goals of the dependent spouse age, needs, and goals are all important considerations. Additional information such as whether a dependent spouse will receive cash, retirement or property in their settlement will help the financial advisor

understand what will be available for investment post-divorce.

Alimony may also be an additional source of income for the financially dependent spouse. In calculating alimony it is important to understand the financially independent spouse's income. This is not always an easy task. Our firm may utilize the skills of a forensic expert to evaluate an executive level professional, business owner or spouse who has income from many sources. Calculating income in complex support cases may involve reviewing employment contracts, perquisites, bank statements and tax returns. A forensic accountant will review documents efficiently and identify net income available for support.

Pursuant to the Tax Cuts and Jobs Act which was just signed into law by President Donald Trump, alimony will no longer be deductible beginning with any divorce agreements executed after Dec. 31, 2018. Likewise, the spouse receiving alimony will no longer need to include alimony as part of their income. With this new tax law, there may be an increase in divorce resolutions before the end of 2018 so that the payor spouse will be able to benefit from the deduction. It is unclear if beginning in 2019 parties will negotiate additional monies in the divorce settlement as an offset for alimony which would have been paid as alimony under the prior law. Another reason a financial advisor will benefit the dependent spouse in negotiating the terms of their divorce settlement.

Retirement selections are also a significant part of the divorce negotiation. Depending on the age of the recipient, retirement income may be many years in the future or within a few years of being divorced. This extra stream of income can be a valuable resource for a financially dependent spouse. Tax implications should be discussed with the dependent spouse and be part of the overall calculations in determining whether the spouse's monthly expenses will be covered by the retirement income or additional income streams will be necessary.

Obtaining a divorce and negotiating a financial settlement is a multistep process which begins months in advance of the final divorce agreement or court order. It is extremely important to utilize the services of experts in the divorce process including forensic accountants, tax preparers, and financial advisers. Identification of goals and needs of the client as well as discussions on how to obtain the desired result must be considered before finalizing a divorce. ●