WELCOME TO MVLS's FAMILY LAW UNIVERSITY

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Family Law is Law & Psychology

a. Set realistic expectations
b. Set boundaries
c. Empathy vs. Sympathy
d. Underpromise and adjust
e. Do not align yourself

Don’t Forget:

“Mother Teresa seldom marries Jack the Ripper.”

WHAT TOOLS DO YOU NEED?

- Maryland Rules
- Family Law Article (statute)
- Hornbook
- Internet
- Network of experienced FL attorneys

ISSUE SPOTTING!

What can be done for your client and for his case?

- Divorce (with or without custody)
- Custody
- Child Support
- Modifications
- Emergency, DV, Contempt/Enforcement

Half of family law is managing clients; the other half is pretending you didn’t just hear them suggest hiding assets in their dog’s name.

How to get the result you want?

1. **MUTUAL AGREEMENT; or**
2. **Court Order, or**
3. Unilateral Action (rare)

THE COURT PROCESS

You can settle at any time, but the case proceeds until and unless you settle or you have a merits trial.

- **Complaint, Service, Answer**
- **Scheduling Conference + Services**
- **Pendente Lite Hearing**
- **Settlement/PreTrial Conference**
- **Trial of the Merits**

FAMILY LAW CASE TYPES

1. Divorce
2. Alimony
3. Custody
4. Child Support
5. Contempt

GROUNDS FOR DIVORCE

MD Ann. Code Fam. Law 7-103

Mutual Consent

MUST have a signed Agreement on ALL issues

Separate Lives

Could be in the same home/under the same roof

Irreconciable Differences

The dynamic makes the relationship untenable

Annulment

Do NOT file this. Courts hate it.

ALIMONY

Md Ann. Code Fam. Law 11-101

Three Kinds of Alimony

1. **Pendente Lite Alimony**

Merits Alimony can be**:**

2. Rehabilitative, or

3. Indefinite

Alimony

How Much

x

How Long

PENDENTE LITE ALIMONY

Pendente Lite is meant to “settle the waters”

STATUS QUO

The purposes of PL Alimony is to maintain the ‘status quo’ of the parties so neither will suffer “economic hardship” pending the end of the litigation.

FACTORS

ONLY (1) The need of the dependent spouse versus (2) The ability of the other spouse to pay.

LONG FORM FINANCIAL STATEMENT

***MD Rule 9-203*: Both sides must file a long form financial statement**

“Final” Alimony

Rehabilitative Alimony

- Favored by the Court and non-modifiable
- Specific duration and amount
- To help spouse become self-supporting
- What is the plan?

Indefinite Alimony

- Long Marriage
- Will never be self-supporting
- UNconscionably disparate lifestyle
- NOT permanent … can come back to Court to Modify

DIVISION OF PROPERTY

Marital Property is *ALL* property acquired DURING THE MARRIAGE regardless of title.

Unless property is gifted/inherited, excluded by valid agreement, or DIRECTLY traceable to a non-marital source.

“Maryland Law recognizes the monetary and **NON-MONETARY** contributions of both spouses.”

THE CUSTODY BATTLE!

TYPES OF CUSTODY CASES

- **Best Interests/ Custody Factors**
- **Physical Custody -** primary vs. shared (effect on child support)
- **Legal Custody -** sole v. joint
- **Modifications:** MUST be a material change first, then the Court does the best interests analysis

PRO TIP: Answer the Court's question:

"Which parent loves their child more than they hate the other parent?"

~ CUSTODY ~

PHYSICAL

- ***Where do the kids lay their heads at night?***
- **Shared is <2 per week (7.66/mo.)**
- **What is an age-appropriate schedule?**
- **Bi-weekly rotation**
  Summer
  Holidays
- **Which factors are important in your case?**

LEGAL

- ***Who makes the BIG decisions?***
- **Medical**
  Education
  Religious
  Extra-Curricular
- **NOT day-to-day, emergencies, etc.**
- **What is tie-breaker authority?**
  See Santo, 448 Md. 620 (2016)

***Pro tip**: Always question and challenge your client as if you are the opposing counsel because your client will not voluntarily offer the adverse information about themselves.*

The fastest way to lose hope in humanity is to read the text messages clients bring as "evidence."

CARDINAL SINS OF CUSTODY CASES

THOU SHALL NOT:

1. **Put the kids in the middle**
2. **Hurt children or the other parent**
3. **Disparage the other parent**
4. **Discuss the case with the children**
5. **Withhold the child support**
6. **Interfere with Mother's/Father's Day**
7. **Introduce kids to new love interest**
8. **Withhold information**
9. **Relocate**
10. *See* **"Divorce Rules for Parents"**

CHILD SUPPORT

Family Law § 12-201 et seq.

- MD Child Support Guidelines - shared income model
  - What is included in the formula? Not much!
  - Monthly Gross not"net" income
- **Short** Form Financial Statement. *MD Rule 9-202*
  - Proof of Income (documents). Fam. Law § 12-203
- Obligor can be incarcerated.
- Modification – what is the change? Since when?

www.sasi-calc.com
www.dhr.state.md.us

CONTEMPT !

MD Rule 15-201 et seq.

and/or … Motion to Enforce

The Court prefers that you try to **work out your differences first** (before filing) even when there is already a court Order.

- **Prove: Is the language clear?**
- **Prove: Was their a “willful” violation?**
- **Any legitimate defenses?**
- **Purge. *Breona C.***
- **Sanctions**

ATTORNEY'S FEES!

American Rule = Everyone pays their own (presumption)

... UNLESS ...

Contractual Authority - Is there a signed agreement that allows for the payment of attorney's fees?

OR

Statutory Authority - What is the basis in law?

- **Equitable/Balancing Tests** in:
divorce (FL 7-107); property (FL 8-214); Child Access (9-105); Alimony (FL 11-110); custody/child support (FL 12-103(b)). These require proof of income/assets

- **Sanction** in: *Maryland Rules* 1-341(b) for bad faith; *Rule* 2-433 for discovery sanctions, and Fam Law 12-103(c) for child support. Finances do NOT matter.

Henriquez v. Henriquez, 413 Md. 287 (2010), holding pro bono attorneys can be compensated

GOOD LUCK!

THANK YOU for your commitment to *Pro Bono* and MVLS. Also, thank you for helping people who most need your help.

There is no greater honor than being someone's advocate and lawyer. *You got this!*

Thank you!

From MVLS and Jessica Zadjura