



YOU & YOUR DIVORCE LAWYER

gevurtz menashe

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FAMILY LAW & ESTATE PLANNING



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PREFACE

This original pamphlet was written by Ron Gevurtz and published in 2000. It has been revised to expand on the original core ideas and to reflect the nature of today's family law practice.

ABOUT THE AUTHOR:

Ron Gevurtz retired in 2002 after 40 years of practicing law. As one of the founding partners of Gevurtz Menashe, we are fortunate to have learned a great deal from him through his wisdom, professionalism and sense of humor. His legacy to this firm and the practice of family law inspires us to remain deeply committed to the needs of our clients with compassion, patience, and understanding.

"At the request of the lawyers in our firm, I have prepared this pamphlet, which is a collection of my thoughts about divorce, divorce clients and their lawyers over my 40 years of practicing in family law. Although there are numerous other family law issues, this brochure deals only with divorce."

— Ron Gevurtz

For 40 years, we have built a practice around the core belief that quality care for our clients produces the best outcome when paired with our expertise in the law. We believe just walking through our doors is an act of courage, and sometimes the



hardest thing to do is make a positive step toward change. The first step is hard when you are unsure, but whatever situation you find yourself in, we believe it's better for you to fully understand how the law applies to you, how we can help, and then go from there.

In addition to divorce, we are fortunate to have lawyers who practice expertly in all of the following areas of law:

Juvenile Law

Collaborative Law

Adoption & Family Planning

Custody and Parenting Time

Spousal and Child Support

Appeals

Post-Judgment Modification

Relocation with Children

Paternity Issues

Domestic Partnerships

International Family Law Issues

Military Divorce

Same-Sex Marriage Issues

Premarital Agreements

Child Guardianship

Grandparent Rights



SELECTING YOUR LAWYER

FINDING THE RIGHT FIT

Ask other lawyers you know. They'll know lawyers who practice in this area of law, and probably give you several names of prominent domestic relations firms. Ask friends or relatives for lawyers they have used in a domestic relations case with whom they have been satisfied.

Talk to business acquaintances, house counsel or other professionals, such as CPAs, financial advisors, psychologists, or your doctor.

Look at lawyer websites. They should share information about the expertise of the firm and will usually include biographies of individual lawyers. Additionally, third-party websites such as Google, Facebook and Avvo.com provide client testimonials for the firm or individual

lawyer. It's good to select a firm that has more than one lawyer doing family law work.

The laws pertaining to issues in a family law case call for professional judgment. They're not exact. Having a number of experienced family law practitioners in the same firm gives your lawyer an opportunity to share ideas with knowledgeable colleagues.

The prominent family law firms are not necessarily the most expensive. Many times you will hear that a firm is good, but very expensive. If you inquire further, you may find that the law firm has many good divorce lawyers at different hourly rates.

Lawyers generally charge by the hour based on their years of experience and sophistication. Depending on the facts in your case, you may not always need the senior partner in a firm, so why pay his or her rate?

When you call to make an appointment, ask if there is a charge for the first consultation. If the lawyer doesn't charge for their time and counsel, you might consider that a red flag. You should receive more information at that first meeting than you will again through-out the case. The lawyer should listen to you and explain your rights and responsibilities. He or she should explain the procedure and you should leave

the office knowing generally where you stand. Whether you come to the office wanting to take legal action, or simply to learn your rights, the lawyer should charge for this important meeting.

PREPARING FOR THE INITIAL CONSULTATION

You have now made the appointment. The Client Services Coordinator who scheduled the appointment may have suggested information for you to bring to the office. For example, it could be very helpful to the lawyer to see your tax returns for the last three years or a financial statement you may have prepared to take out a loan or refinance a house.

Make a list of questions you want answered. Some of the questions will be answered in the natural course of your conversation with the lawyer. You should bring the list with you to remind you to ask all of your questions while you are there.

If at all possible, do not bring children with you. If you must do so, bring someone who can watch them during your visit with the lawyer. The information you will receive is very important and the presence of children can be distracting for you and for the lawyer.



THE CONSULTATION

Please try to arrive on time. The lawyer has generally reserved one hour for you. He or she may have another appointment scheduled to follow yours, and you shouldn't have to hurry through your visit. Your time is valuable too. If you're kept waiting, call this to the lawyer's attention.

The receptionist and staff should be cordial. They are there to make you feel as comfortable as possible in a stressful situation. The lawyer or their legal assistant should come out to greet you and escort you to a private office or conference room.

SUBJECTS FOR DISCUSSION

The lawyer may start by asking you for some factual information. This gives the lawyer an

opportunity to do some fact-finding first. The information will also be useful if you decide to proceed with your case. When we file papers with the court, the court requires information such as social security numbers, driver's license numbers and prior marriages. The court does, however, seal some of your personal information from public view.

The lawyer will want to know the reason for your visit. This is your opportunity to tell your story, voice your concerns and ask your questions.

The lawyer may also ask questions about your children, finances, real and personal property, debts and your spouse. Be as open and honest as possible. You may not know all of the answers at the time of the consultation, but don't worry about that. The information can be obtained by you or the lawyer at a later time.

Expect the lawyer to explain your rights and responsibilities in various areas of family law that apply to your situation such as:

Custody of children

Parenting time

Child Support

Tax exemptions for children

Health insurance for children

Deductible or uninsured medical and dental

- expenses for children
- Life insurance to protect child support
- College expenses
- Spousal support – how much and for how long
- Health insurance for the uninsured spouse
- Life insurance to secure spousal support
- Property distribution
- Premarital assets and liabilities
- Inherited & gifted assets
- Debts
- Lawyer fees & costs

HOW LONG WILL IT TAKE?

You may wonder how long the divorce will take. The answer to that question is largely in the hands of you and your spouse. A divorce can take as little as a few days or longer than a year. The degree to which the parties are cooperative and assist the lawyers and each other, may well determine the time and the cost of the divorce.



HOW MUCH WILL IT COST

It is very difficult to predict the cost of a divorce. Lawyer fees range broadly and the cost of your divorce will depend on numerous factors, such as where you live, whom you hire, whether your spouse is combative or cooperative, how many issues you'll need to resolve, the complexity of your assets and debts, whether or not you have children involved — and more.

Most lawyers will require you to pay a retainer. This is a deposit that is made to the lawyer's trust account. It doesn't earn interest for you or the lawyers, and will only withdraw funds as he or she completes work for you. You should require the lawyer to send you a statement each month showing the work performed that month, the amount withdrawn, and the balance that remains in trust.

How does your lawyer determine the amount of

the retainer? If he or she is experienced in family law, they'll have some idea by the facts and issues you have presented. The lawyer should set an amount, not on the basis that everything will go totally smoothly, not on the basis that the case will become a war, but rather somewhere in between. If the case settles more easily than expected, a portion of your retainer may be returned to you.

At Gevurtz Menashe, we're committed to great customer service and client care. Should you ever have any questions or concerns about your bill, the fee agreement, expert costs, or the overall billing process, you can contact the Accounting Services Team, our Client Service Coordinator, or the Managing Partner. We're all committed to making sure our clients needs are taken care of and questions answered efficiently and promptly. Finally, anytime you speak with someone at Gevurtz Menashe about a billing matter, you will never be charged for that time. This also includes the team working on your case—the lawyer, legal assistant or paralegal.

One often-asked question is “Can't we make my husband/wife pay for this?” In a way, you already are. Assets are mostly looked upon as jointly held and, to the extent the funds come from a bank account or a credit card, each of the parties is essentially paying half. In a given case, property may be divided unequally so that one party will receive a larger portion, but almost always each

party will be required to pay his or her own lawyer fees.

DOCUMENTS TO REVIEW

Make sure to have a written fee agreement with your lawyer. This agreement is a contract between you and the lawyer or firm and defines the responsibilities of the lawyer and the client.

You should take the proposed agreement home with you and take the time to read it before returning it with the retainer. If you have any questions about the terms, ask and get them answered to your satisfaction before signing the agreement.

If support is an issue, the lawyer should give you a financial declaration form to take home with you to fill out. This document will be used by the lawyers and the domestic relations court to evaluate the need for support and the ability to pay support based upon the income and expenses of both parties.



ONCE THE CASE BEGINS

WHAT TO EXPECT

A shared understanding between you and your lawyer is always essential. You and your lawyer should be able to speak freely with each other. Throughout the process, you're entitled to your lawyer's honest opinions and his or her best professional advice. You should be honest and candid with your lawyer. With certain limited exceptions, your communications with your lawyer will be confidential.

Your lawyer should keep you informed concerning the status of your case, answer questions you may have, and respond to your communications. You should expect to receive a copy of every document that comes in or goes out. If a document arrives with a cover letter from your lawyer, the letter may explain the document or may ask you to act in some way other than the subject document would suggest.

If the document arrives without a cover letter, it is probably self-explanatory. If you ever have a question in this regard, you shouldn't hesitate to contact your lawyer in order to discuss this with him or her.

Expect your lawyer to do what's necessary or desirable to represent you in your legal matter. On some matters, especially those of court procedure or professional courtesy, he or she may act on your behalf without consulting you first. On other matters, your lawyer will ask for your input and invite discussion before committing to any course of action. On ultimate matters, such as the terms of your settlement, your lawyer can only advise; you decide.

Perhaps the most important work you can do, in order to keep your legal action moving forward, is to gather the documents which will show the existence of various assets owned by you and your spouse and what each one is worth. Expect this information to be shared with your spouse and with the court. The general rule with regard to property and finances is that both of you are entitled to know all of the relevant facts about the other's situation; and both of you owe a duty of full disclosure to the other. It will be to your advantage to disclose fully, to do so early, and to keep the other party updated with changes as they occur; you should do these things through your lawyer. When necessary, formal procedures,

such as depositions, subpoenas and appraisals are available to obtain the needed information.

In the course of your legal action, you and your spouse will likely reach agreement regarding the terms of an appropriate parenting plan for your children. Most people eventually compromise and settle such disputes. Lawyers can help you do this. Mediators, private and public, are available also to help you do this. You must sign up to attend any required parenting class through the county you filed in as soon as you are able. In some counties, attending the parenting class is required before you can take advantage of the court's mediation program. In the end, you'll want the children to be the final winners of any argument about custody.

Most family law cases settle. Settlement is best for most people. You'll exercise more control over the outcome, likely save time and money, and establish a healthier foundation for resolving future disputes that may arise between you. If you want to successfully settle this matter, be aware of your priorities and recognize those of your spouse; be willing to compromise; be fair, reasonable and even generous.



COLLABORATIVE DIVORCE

IS COLLABORATIVE DIVORCE RIGHT FOR YOU?

Collaborative law is a relatively new and innovative method of dispute resolution in which the lawyers and parties work collaboratively to achieve an outcome that is fair and acceptable to both parties. The parties identify their true goals, interests and priorities and use them as a basis for settlement. Unlike traditional litigation, parties agree to work collaboratively to control the process and make final decisions together, without litigation. Although collaborative law is not for all cases, we have several lawyers who are trained and qualified in collaborative law for those clients who are looking to for an alternative to the traditional litigation model.

OUR APPROACH

In collaborative family law, two lawyers work with each respective party, as a team, to generate options for a mutually beneficial and acceptable settlement. If necessary, the team can include coaches, child specialists and financial professionals to help the parties reach resolution. Ultimately, both clients are agreeing to work together to drive the decisions of their case, rather than turning it over to a judge through traditional litigation. Throughout the process, our collaborative family law lawyers provide information and guidance, helping you and your spouse make informed, mutually beneficial solutions.

THE PROCESS

The process typically begins with each client meeting with his or her respective lawyer. From there, the two qualified collaborative family law lawyers meet to lay out the ground work for the case and ongoing meetings between the two parties. At the first meeting, clients and lawyers sign the Collaborative Participation Agreement, which is an enforceable binding contract. The lawyers and parties will decide if additional team members need to be added depending on the circumstances of the case. The parties

continue to work with specific team members and will continue to meet until full resolution has been reached on all issues. Once a plan is in place, a final agreement is drafted and filed with the court. Although collaborative law is most popular for divorce matters, it can also be applied to many other family legal matters such as custody and parenting time issues, child support, domestic partnership or prenuptial agreements, grandparent rights, same-sex marriage issues and more.

BENEFITS TO YOU

Clients who opt for collaborative law find they are able to address their particular needs. After all, no one understands the situation better than those directly involved. Here are a few of the benefits:

- Keeps control of the process and timeline involved

- Promotes open communication between parties & encourages mutual respect

- Emphasizes the needs of children (focus on co-parenting and communication)

- Protects privacy

- Prevents court battles and presents a more cost effective approach to litigation

- Parties more likely to resolve future issues after completion of their case without litigation.



MANAGING YOUR CASE

AVOIDING THE COMMON PITFALLS

Dissolving a marriage is an end; however, it can also be a stepping stone for a new beginning. This is an opportunity for you to plan a new future and make a fresh start. Your practical plans for an independent future will help to determine the results of this legal action. Where will you live? What will the children's schedule be with you? What work will you do? What training or education will you require in order to do that work? What property and support will you need in order to make your way forward? What division of liquid and long-term assets is best for your situation? Giving thought to these matters now is an investment that is likely to yield benefits for years to come.



DUAL AGENDAS

The way in which the lawyer and client approach the case can have far reaching effects. There are two agendas at work in almost every case. The first is the financial agenda, such as support, property distribution, etc. The lawyer can advise you with respect to these kinds of problems. The second agenda is the emotional agenda, which may include feelings of anger, fear, grieving and betrayal. These issues are separate from the financial agenda. Your lawyer should be able to recommend a counselor to help you with these problems. The divorce process will not help them. The extent that a client allows either agenda to influence the other in a case only results in more work for the lawyers, at greater cost to you.

In a divorce case there is generally no reward for the “good” person and no punishment for the “bad” person. Courts dissolve marriages, divide property, award support, and provide for

children, all without considering whose fault it was. You need to prove only irreconcilable differences to legally dissolve your marriage.

BURNING BRIDGES

When there are children present, the parties often need to continue a manageable relationship with each other. They'll spend the next 20 to 30 years having to communicate in some way. There will be graduations, marriages, grandchildren, etc. Don't let the emotional agenda and the desire to "get back at each other make all these celebratory occasions' uncomfortable events. You and your spouse may be getting divorced, but the family should remain intact.

You can also view this more pragmatically. Your lawyer is charging you by the hour, therefore the more time spent on issues that do not bring the parties closer to a resolution; the more of your money will be spent.

VIEW YOUR DIVORCE LIKE A FUNNEL: LARGE AT THE TOP AND SMALL AT THE BOTTOM. THE CASES THAT RESOLVE MOST QUICKLY AND ECONOMICALLY ARE THOSE THAT MOVE FROM CIRCULATING AROUND THE TOP TO THE BOTTOM OF THE FUNNEL IN THE QUICKEST WAY. WHEN THE CASE CONTINUES TO CIRCULATE AT THE TOP OVER MINOR ISSUES, THE FEES GO UP AND THE MATTER IS NO CLOSER TO CONCLUSION.

LAWYER ATTITUDE

Frequently, how a case begins will dictate both the emotional and financial costs of the case. The lawyer's job is to be your advocate within the parameters of the law—not to make life difficult for your spouse and their lawyer. There are many family law lawyers, unfortunately, who confuse advocacy and aggressiveness. We believe good lawyers don't have to pound on tables or send nasty letters to be heard. They let their results speak for themselves. Good lawyers are not handmaids for angry clients; instead, they realize that no good purpose is served for the client by pandering to their anger and then charging for it. Being a good advocate does not mean always agreeing with the client. Remember, you're paying for an advocate and a knowledgeable expert of the law who may not always tell you things you want to hear.

PRODUCE INFORMATION QUICKLY

Every experienced family law lawyer knows what the other side is going to need by way of information. Most lawyers use similar forms to request the "production of documents". One of the largest unnecessary expenses in a divorce can come when clients and their lawyers play games with discovery. For instance, they might receive a list of 30 items that are needed. These may

include items such as bank account information, retirement information, property information and investment account statements. Should either party delay this process or present limited information then begins an exchange of letters and phone calls for more information, all of which can lead to more time and expenses. Sometimes lawyers have to go so far as to file motions to force the production of discovery.

If you're the person with access to the information, get a copy of a standard "Request for Production" from your lawyer, start to gather the information immediately, and provide it quickly. The other lawyer will get it sooner or later anyway.

LIST YOUR QUESTIONS & DEVELOP GOALS

Since lawyers charge for their time, we always recommend making a list of your questions and concerns to compile into one email or phone conversation. You should also discuss with the lawyer your goals and objectives in terms of all of the issues related to the divorce. They'll change as more information is provided, but at least you'll have a good starting point. It's the lawyer's job to interpret the law and present realistic options and counsel for you to move forward.

CAREFULLY CONSIDER YOUR LAWYER'S ADVICE

Going through a divorce is a stressful time. A lawyer's job is to provide counsel to help guide you through the complex legal system. Using their experience (and perhaps the input of colleagues) they will help you determine what a court might decide on a particular issue, should a matter ever get that far. It's important to listen and consider their advice. It's the lawyer's job to understand your situation, and advocate for you to achieve favorable, but fair, results.



OTHER RESOURCES & PROFESSIONALS

YOUR LAWYER AND THEIR TEAM

As important as it is that you be able to reach your lawyer, it's even more crucial to the success of your mutual endeavor that he or she be able to reach you. Respond to calls, letters and emails. Let your lawyer know whenever your address, telephone number or job changes. Be sure your lawyer always has a way to reach you. Stay in communication. If your lawyer is unavailable, remember to be patient. Much of their day is spent in and out of trials, hearings and/or mediation—not necessarily work being done in the office. At Gevurtz Menashe, our legal assistants are always happy to schedule time for you to meet with your lawyer or help answer questions as best they can.

As we've covered in this booklet, family law encompasses a broad spectrum of issues—not just divorce, and we believe that our services, combined with our depth of experience, can

support any of life's big transitions. As Gevurtz Menashe has grown, we've discovered that providing the ultimate client care has required us to expand the scope of our services into all areas of family law and estate planning. Today, we are proud to meet the needs of all families whether they're planning or in transition. Our lawyers and staff have extensive backgrounds and training in collaborative law, business and real estate evaluation, high-asset divorce and estate planning, military issues, juvenile law, international jurisdiction, marriage agreements, tax and gift issues, adoption, IVF, surrogacy matters and more. We collaborate as a team—not just with lawyers, but with CPAs, financial planners, appraisers, therapists, and realtors as well. If it's a family matter, we can help.

GEVURTZ MENASHE P.C.

Gevurtz Menashe is dedicated to family law and estate planning in Oregon, Washington and Idaho. Since inception, our goal has remained the same—to be your family’s law firm; to deliver the highest level of service and best possible outcome. We pride ourselves in a reputation for attentive representation of families coping with crisis or preparing for change. We pair comprehensive services and superior expertise in the law with thoughtful care, patience and understanding. For 40 years, we have built a practice around the core belief that quality care for our clients produces the best outcome when paired with our expertise in the law. Today’s families are full of complexity, and we’re here to help guide you through it.

If you’re considering a divorce, family law or estate planning matter, we can help. Whether your case is large or small, simple or complex; we can help you protect what’s most important to you. If you’re interested in speaking with a divorce, family law or estate planning attorney in Oregon or Washington, please call our office today or visit us online at gevurtzmenashe.com



GEVURTZ MENASHE

115 NW FIRST AVE, STE 400
PORTLAND, OREGON 97209

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SINCE 1982