

FINANCIAL MYTHS OF DIVORCE

ACTIONS TO CONSIDER

If you, a member of your family, or a close friend are contemplating divorce, consider talking with a certified divorce financial analyst. The sobering aspects of the financial realities might stimulate reconsideration.

On the other hand, advanced planning may help the husband and wife arrive at a solution that minimizes taxation and offers long term financial security. Remember, divorce forces financial decisions that can affect the standard of living for all parties - for a long time.

Certified Divorce Financial Analysts have advanced training in the financial and tax issues of divorce and can help you and your attorney negotiate the best possible settlement. However a Certified Divorce Financial Analyst cannot and will not replace the services of your attorney.

Andrew Hoffman Certified Divorce Financial Analyst

Andrew Hoffman has practiced as a Certified Divorce Financial Analyst since 1999. His expertise in helping clients avoid the common financial mistakes made by many divorcing couples was featured in the *Investment Advisor* "The Ties that Unbind" (February 2001) and the *Wall Street Journal* "How to Plan the Perfect Divorce" (February 2003).



Andrew is a Regional Director of the Institute for Divorce Financial Analysts, and has been a member of the Institute of Certified Financial Planners since 1996 and a Chartered Accountant (English equivalent of a CPA) since 1978.

Andrew has presented at Conflict Resolution's 1999 & 2000 family law mediation seminars, the Institute of Divorce Financial Analysts Conventions in 2003 (Las Vegas, Atlanta & San Diego), 2004 (New Orleans & Phoenix) & 2005 (New Orleans & Las Vegas), the Austin Texas 2003 Financial Planning Convention, and the Baton Rouge, Slidell and 21st Judicial Bar Associations.

Andrew was trained in Collaborative Divorce™ in April 2004 (New Orleans), attended additional training in October 2004 (Phoenix) and June 2005 (Dallas). He trained other professionals in Interdisciplinary Collaborative Divorce™ in April 2005 (New Orleans). He is also Vice President (2005-2006) and a Charter and Board Member of the Collaborative Divorce Professionals Group of Southeast Louisiana, and was featured in *The Times-Picayune* "Law may clear way for kinder, gentler divorces" (February 2004).

More information can be found on Andrew's website www.lacdfa.com.

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Nearly half of all married American couples eventually divorce. Unfortunately, many of these couples are misinformed about the financial consequences of a breakup. Here are some common myths.

- **Everything is automatically split 50/50**

While Louisiana is a community property state, only marital assets are split equally and even this equal split can be “skewed” by reimbursement claims. Assets each party brought to the marriage, or received separate from the marriage, such as gifts and inheritances, may or may not be included as part of the marital property.

- **All assets are equal**

It's not as simple as “he gets to keep his pension, she gets the house.” When taxes, that must be paid upon liquidation, sales expenses, investment returns, and other factors are taken into account, not all assets are equal.

For example, a \$100,000 home and \$100,000 in a pension fund will not likely have the same value years from now, and the tax basis of each asset also could adversely affect the net value. The pension fund will grow tax free for years, while the house will require constant insurance, maintenance and payment of real estate taxes.

- **Divorced women are better off financially than they were**

According to one widely quoted study, women and children suffer an average 27 percent decline in their standard of living within

one year, while men increase their standard by 10 percent.

However, many divorced men dispute this “increase” statistic, claiming that it does not consider the expense of “two” households. Because women do not earn, on average, as much money as men, and generally have more limited work experience having been occupied raising children, their job opportunities are more limited. Even apparently, fair divorce settlements result in driving many women into financial desperation within one to five years.

- **Only divorce lawyers produce financial settlements**

Many divorce attorneys recognize that they are not qualified to evaluate all possible financial agreements for each party. One reason is the complexity of employee benefit plans, which may not be an area of expertise. Increasingly, divorcing parties are bringing in a certified divorce financial analyst either in the mediation process or in a judicial setting.

Certified divorce financial analysts are better equipped to examine the financial data and work out a financial settlement that takes into account present and future taxes, cash flow, inflation, investment returns, needs, and other factors. They can project what the settlement will mean financially not just now but years down the road. For example, who will pay for the children's college education years from now, how much that amounts to, and how can it be funded? What effects will inflation have on the various assets, expected pensions, or alimony payments?

- **The wife should automatically get the house**

This may sound like a good deal for the wife, especially if she has custody of any children. Unless the divorce settlement or the wife's income is sufficient, she may find that she cannot pay the mortgage, taxes and maintenance on a single income. Furthermore, if she

sells the house, the wife could face tax on the realized appreciation.

- **My spouse will support me**

Headlines to the contrary, most divorce settlements today do not provide for any spousal support. If alimony is awarded, it typically goes to an older woman who has been married for some time and who has not worked outside of the home.

Courts are increasingly reluctant to award meaningful amounts of long term alimony to former wives. If so, it is common to insert remarriage and co-habitation clauses which disqualify continued benefits.

- **My spouse will provide child support**

According to 1991 U.S. Census Bureau study, only half of all women awarded child support received the full amount. 25% received only partial payment, and 25% received none at all. Furthermore, the average monthly child support payment actually received in 1992 was less than \$250.

- **The husband is obligated for education expenses**

Most state courts have ruled that parents, including ex-husbands, have no legal obligation to provide higher education for their children. Unless an agreement is very specific with regard to the amount of education support, there is no assurance it will be forthcoming.