THE HANDLING OF YOUR DISSOLUTION

We want to thank you for giving us the opportunity to serve you in connection with the dissolution of your marriage. We are committed to providing the highest quality legal service to all of my clients. One of our first functions is to educate you about the dissolution process and the approach I will take in representing you.

This introductory material is designed to provide you with some basic information about obtaining a divorce and how your case will be handled. You should maintain with copies which I will provided to you of all of the pleadings and correspondence generated by your case. You should keep this letter in your records for quick reference as we proceed with your dissolution of marriage.

The information presented herein is generalized. Each case is different, but this "road map" can at least educate you about what you may expect, and when you may expect it. Most of what is discussed here will also be addressed at our initial conference. However, if you have any questions about anything discussed in our initial conference, you may phone me within a day after our meeting to discuss your questions, and you will not be billed for the time.

1. First, a word about my professional philosophy: I believe a dissolution needs to be aggressively managed by the lawyer. Generally I find that the best results are obtained by setting and controlling the tempo of the litigation. In a word, my approach is to zealously represent the interests of my client. This does not mean that I am insensitive to the delicate dynamics sometimes found in cases; in these instances a more subtle approach may produce a quicker and more favorable resolution of the client's case. When all is said and done, results are what count.

2. **Grounds**. Like most states, Washington follows what is known as "No Fault" divorce, which means any party can get divorced for any reason. The only requirement is that the marriage be "irretrievably broken." The fact that a party has been a poor husband or wife has no bearing on how the court decides issues in the case. This concept arises most clearly when one of the parties has been unfaithful. I recognize that this may be very significant to the party who was betrayed, and a source of great pain. It is of no significance to the court, except perhaps if there are minor children who are being adversely effected by a parent's new partner. Even these situations are unlikely and can usually be addressed with some simple common-sense ground rules about how and when significant other adults are introduced into the lives of the children. It is important that you not let emotional hurts effect your divorce. There is certainly a legitimate need to address your issues in this regard, but the legal system is not the proper forum.

3. **Commencing the Action**. A divorce action begins with the filing of the Summons and Petition for Dissolution of Marriage. The petition is a document which requests that the community property and community debts be allocated in a certain manner, and, if there are children, that a particular residential schedule for the minor children be adopted.

If you are on the serving end of a Summons and Petition, do not be alarmed by what is contained therein. The petition is actually a "wish list" of the petitioner. Merely filing the petition does not ensure the petitioner will receive what he or she is requesting. Incidentally, there is no tactical advantage to filing first in a dissolution action.

At some point, a copy of the summons and petition is served on the respondent (opposing spouse). The respondent then has twenty days to file a response to the petition. If no response is made, the petitioner will be able to obtain a default against the respondent, and ultimately will be able to get a Decree of Dissolution granting the relief requested in the petition. Clearly, if you are served with a summons and petition, you should contact an attorney immediately in order to avoid a default situation.

The respondent files what is called a Response. The response will admit or deny each particular allegation contained in the petition. The purpose of the response it to identify the disputed issues in the case.

4. **Temporary Orders**. After the initial pleadings are filed, it may be necessary to go to court to obtain some temporary orders about such issues as who will reside in the family home, who will have the residential care of the parties' minor children, and how much child support the non-residential parent will be required to pay. Sometimes temporary restraining orders prohibiting both parties from selling, destroying, or encumbering assets are also desirable. You should be advised that such temporary motions are costly and will quickly generate substantial attorneys fees. Therefore, frivolous or unnecessary motions should not be raised. You should also keep in mind that such orders are temporary in nature. What the court decides to do on a temporary basis may or may not be what a court decides to do after a full trial on the matter. However, temporary orders should signify to the parties what the court's inclinations are on a particular issue.

Hearings to determine temporary issues of custody, child support, etc. are decided based on written sworn statements and other documentary evidence, not on live testimony. The party filing the motion submits their material in support of their requests, and the responding party submits his response. The moving party then submits reply material in responding to a new issue raised in the response. The court will hear oral argument based on what is in the written record (not facts outside the record) and renders its decision. Please understand these rules and don't try to hand me documents the morning of a hearing. Any information you want the court to rely on has to be filed and served on the other attorney, usually several days before the hearing.

You need to understand and be prepared for continuances. A "continuance" is a postponement of a scheduled hearing to a later date, usually a week or two later. Please understand that hearing dates are continued regularly for many reasons. Often attorneys contact opposing counsel prior to a scheduled hearing and request additional time to prepare. Such requests are routinely granted as a matter of professional courtesy, except in a case of a bona fide emergency. I have frequently had to make such requests on behalf of clients, and I just as often have entertained such requests. If attorneys did not cooperate with such requests, judges would become perturbed, costs would increase significantly, frustrations would mount, and the whole system would not function well. So it is very common for counsel to agree to brief continuances for the sake of scheduling and preparedness. This does not mean we are helping the opposition; it just means that as officers of the court, attorneys employ professional courtesy and do their best to ensure that the system rums efficiently. In addition, there are some situations amounting to a bona fide emergency

and in these situations we will not agree to continuances. The court, as the ultimate umpire in these disputes, may still grant a motion to continue in the exercise of its discretion.

In addition, the court itself sets limits on the number of matters slated for argument and it is very common for cases to be administratively continued due to full calendars. Sometimes this happens repeatedly in the same case and the same motion. The point is continuances and rescheduling should be expected. Do not assume that any hearing date is written in stone. You will have to be flexible and understanding about these problems even at some personal inconvenience. We do our best to be efficient and timely but many things are just beyond our control and we have to function within a system that is imperfect, overloaded, and subject to very significant resource limitations. You will have to be patient.

Temporary motions are heard on Tuesdays and Thursday in the morning in Thurston County, Wednesday mornings in Mason County, and Friday mornings in Lewis County.

Most family law hearings are conducted by a court commissioner. A court commissioner is appointed by the judges to adjudicate certain types of cases. Although not technically a judge, a court commissioner functions exactly as a judge does and their orders are every bit as binding. When a court commissioner makes a decision in any case, the order is subject to revision by a Superior Court judge who can review the same evidence as the court commissioner and either revise or affirm the ruling. Every litigant has the right to revise an act of a court commissioner.

Some decisions may be problematic and I will suggest a revision motion to the client. Revisions are not done as a matter of course, but only when the decision is legally suspect or based on inadequate factual support. If you are very dissatisfied with a ruling from the court commissioner, then you should consult me regarding a motion to revise. If I have a problem with a ruling, then I would also bring up the possibility of such a motion.

Parties with attorneys do not need to appear at hearings, but I prefer that my clients attend all hearings where anything of importance is to be decided. It is much better for the client to be engaged and active at these critical junctures. If the case goes on a long time there may be hearings which involve minor matters where attendance is less critical. If you have a demanding job or boss or other commitments, then it may not be possible for you to attend hearings, but as a general rule, I like my clients in attendance. Please be advised that some procedures require appearances by the parties - most notably, settlement conferences and trials. In those matters, you must attend notwithstanding any personal inconvenience or cost.

Telling the Truth

Most cases of substance or controversy will end up on the motion calendar for some type of temporary litigation. Some important ground rules should be constantly kept in mind. First of all, any statements or declarations you submit to the court will be sworn statements in order to be admissible. This is important and you need to fully appreciate that when you sign any document under penalty of perjury it had better be 100% truthful or there will be very adverse consequences

such as sanctions, or even criminal prosecution. In the final analysis both your credibility and mine are on the line. We both need to make sure that we do nothing to compromise that credibility. Throughout the course of this case you will probably be reviewing and signing a number of declarations that I prepare for you after discussing the facts with you. Some of these will be prepared based on emails or other documents that you prepare. There are laws against perjury and false swearing which are violated if a party makes false statements in a judicial proceeding. The law also states that making two inconsistent statements in a single proceeding that cannot both be true exposes the signatory to criminal prosecution even if it cannot be proven which statement is indeed false. The point of all of this is to stress that you should be very careful before signing anything that my office prepares for you. Don't just sign it blindly on the presumption that your attorney drafted it and it must, therefore, be in your interests to endorse. **Do not sign any statement that we prepare if it contains any false information.** I will not go to jail for submitting a false statement. You will. So be very careful and just don't assume that everything I put in a statement is accurate or correct. One thing I will never do is prepare something I know or believe to be false for you to sign. But it is very plausible that my conception of the facts could be erroneous or that I mistook something you said. It is your duty to vigorously and independently examine the documents we prepare for your signature and only sign statements that are true. If there are errors, they need to be corrected or deleted even if the error is to your advantage or looks better than the actual truth.

5. **Negotiation or Litigation?** If you and your spouse can agree as to how to dispose of your property and debts, and how to raise your children, you will be very fortunate. Nobody knows your situation, your needs and objectives, or your desires better than you. If possible, I encourage all of my clients to talk to their spouse about settlement. A fair settlement reached early in the case will save you literally thousands of dollars, much time, and many headaches.

If you are unsure as to what a reasonable settlement might be in your case, then that is an issue we will discuss at length, considering all of the human and legal factors involved.

Thurston County requires that all contested divorce cases be assigned a settlement conference before a trial date is determined. The settlement conference is a time for the parties, their attorneys, and a Superior Court Judge to convene and discuss the areas of disagreement in an attempt to forge a mutually satisfactory resolution of the entire case. An effective Judge will suggest areas of compromise and let a party know if his or her position is unreasonable. If an agreement is reached, it is placed "on the record" in open court. Once the agreement is placed on the record, the settlement is binding on both parties, later misgivings notwithstanding. Paperwork reflecting the agreement is drafted, signed by the parties, approved by the judge and entered in the court file, thus legally dissolving the parties' marriage.

If no agreement can be reached at the settlement conference, then the matter is assigned a trial date, which will be several months after the settlement conference. My experience suggests that some settlement conferences are very productive, and others are little more than a waste of time and money. It depends upon the attitudes of the parties and the nature of the issues involved. At a minimum, each party is required to appear in person at the settlement conference. Ideally each party should show up with an open mind and a good faith desire to reach an accord on all contested

issues.

Mediation is also a very useful tool in most cases. This involves a discussion with a neutral third party who facilitates the discussion and encourages the parties to find common ground. Disputes over a parenting plan must go through mediation, although this seems to be sporadically enforced.

You should be aware that no dissolution can be finalized in Washington sooner than ninety (90) days after the date of the service of the summons and petition upon the respondent. Even if you and your spouse separated in agreement on all the issues, you must still wait ninety days before a judge can sign your Decree of Dissolution. Please understand that this does not mean your divorce will be final in 90 days. This is just a minimal waiting period, not a deadline.

In reality, dissolutions of any substance take much longer than ninety days to conclude. Statistically speaking, it is probable that your dissolution will take six to twenty four months to resolve. We operate within an imperfect legal system. You may have heard the axiom: The wheels of justice grind exceedingly slow, but also exceedingly fine. Our system is extremely slow and is fraught with what seems like agonizing delay. Please do not become impatient. Delay is inherent in the system. I will always do my best to expedite litigation, but many times judicial delay is beyond the attorney's control. Television programs about law give the impression that even the most complex legal situations can be resolved in a brief period of time. Our popular culture prizes instant gratification, but there is still no legal equivalent of fast food. In actuality, this is probably a good thing. In any event, be prepared to wait it out.

6. **Finalizing the Dissolution**. If the parties reach an agreement, the petitioner's attorney will draft what is called the final paperwork. This consists of a Decree of Dissolution, Findings of Fact and Conclusions of Law, and, if there are minor children, a Parenting Plan and Order of Child Support. The documents are reviewed and signed by each party and their counsel. Then a brief finalization hearing is scheduled where one of the parties, usually the petitioner, is placed under oath and gives short testimony about some of the jurisdictional facts of the marriage, such as when and where the parties were married, when they were separated, and a brief recitation of the agreement that has been reached.

If the matter goes to trial, the judge will simply decide all of the issues, and then final paperwork will be prepared which reflects the judge's decisions.

7. **A Word About Child Support**. The parent who has the child a majority of the time is entitled to child support. Child support is based on a formula contained in a statewide support schedule. It is based on the parties' combined net monthly incomes. The schedule will provide a presumptive level of child support which the court must utilize unless there are substantial reasons why the schedule should not be followed. I have self-published an article entitled "The ABC's Of Child Support" which is available free of charge upon your request.

If you have questions or concerns about how much child support you will receive, or how much you will pay, I will fully discuss the issue with you at our initial conference or any other appropriate time. If child support is going to be an issue in your dissolution you must provide me with the following financial information at our initial conference:

1. Copies of your last three years tax returns with W-2 forms;
2. Copies of your last 6 paystubs;
3. A completed financial declaration.

8. **Children**

If you have children, you are required to attend a parenting seminar called "Consider the Children." You must attend this seminar or the court will not grant your divorce, and will perhaps administer other sanctions. You can schedule the next or most convenient seminar by calling 360-754-7629. To ensure that your case proceeds smoothly and is finalized at the soonest possible date **please sign up for the parenting seminar immediately and forward my office a copy of your certificate of completion, keeping a copy for your own records as well.**

The seminar offers valuable information which you will find useful and it is better to take it as early in the process as possible. If you are so inclined I would welcome any feedback about the course as it may assist me in counseling future clients as well. In any event, the program is required and it is simply the best practice to take the course as soon as possible.

In addition, if primary placement or visitation is disputed in your case, you should also immediately sign up for a **parenting class**. This should also be done as early in the process as possible. I have attached two fliers from a couple of programs I recommend. The Family Court Case Coordinator maintains a more comprehensive list of programs offered which can also be consulted. She can be reached at 709-3202. Whatever parenting class you elect to take should be a minimum of 12 weeks in duration, which is considered standard, and the course curriculum should fit your particular situation. In other words, don't take a class on caring for infants if you have teenagers. Do not take an on-line or "virtual" parenting class, as tempting as it seems. It should consist of actual live, in-the-flesh instruction. Nobody is going to put any credence in an on-line parenting class.

Many times cases involve allegations of alcohol or substance abuse or domestic violence. If you are accused of either, you should promptly obtain the appropriate type of evaluation, and you should also download or ask for my article on **"Domestic Violence in Family Law."** Discuss this with me right away if you believe it will play a role in your case.

Finally, be careful about everything you say which might be detrimental to you in any subsequent litigation regarding children. It has been my experience that parties in a divorce will often

take to social media like Facebook or Twitter to either bad-mouth the other party or reveal personal unflattering information about themselves or their habits or lifestyle which may arguably be incompatible with the best interests of children. We live in a digital age and confessing personal shortcomings or advertising particular habits seems to be rampant among certain demographics. When involved in litigation a little modesty and conservatism is recommended. Also, show respect towards the other parent. Don't badmouth them in public forums and even in private communications demonstrate courtesy and respect, and assume that everything you write will find its way to the court file. Angry litigants who are demanding, disrespectful or belittling towards their spouse or partner are really only betraying their own character vices. Show some class. Be decent. It is not only good etiquette but it is good litigation strategy.

9. **Things We Will Need**. It is essential that I have complete information about your situation. In addition to paystubs and tax returns, the following documentation needs to be provided as soon as possible:

***Real estate legal description.** If you or your spouse has an interest in any real estate, list the address of each such parcel and secure a copy of the legal description and tax parcel number for each piece of real estate.

***Real estate appraisal**. You should provide me a copy of the most recent appraisal done on any real estate you or your spouse own. Please note that this is different than the county tax assessment. For example, if you have recently refinanced or applied for a home equity loan, it is probable that you had to obtain an appraisal. If you do not have an appraisal, then you must get at least two realtors to give you a written opinion on the value of the family home. Provide them to me as soon as possible. If you and your spouse agree on the home's fair market value, or if you agree to sell the home, such appraisals or opinions are not necessary. Do not ignore this issue. Chances are your home is one of the biggest assets in the case and we need to know its value.

***Recent Mortgage Statement.** We need documentation showing the current mortgage balance along with any lines of credit or second mortgages encumbering the home.

***Real estate tax assessment.** Please provide a copy of the most recent property tax assessment for any real property you or your spouse own.

***Retirement plan or similar accounts.** If you are a participant in any profit sharing, pension, keogh, annuity or retirement plan, please contact the bookkeeper, plan administrator, or person responsible for the maintenance of such program and request a copy of the summary plan description, a statement as to your current interest in the plan, and its monetary value. If you or your spouse are the owners of any individual retirement accounts (IRA), or Certificates of Deposit, or the like, please provide a current statement indicating the balance of account. If you are a state employee, go to the Department of Retirement Systems and explain you are going through a divorce and need an appropriate work up regarding the marital interest in your retirement plan.

***Bank accounts.** If you or your spouse had substantial cash accumulations in the bank at the time of your separation, please provide copies of the statements for each account for the past three months including the month you separated.

***Securities.** If you or your spouse own any securities, please provide a list of the stocks and bonds owned, the date of purchase, the purchase price, and the current value of the stocks.

***Agreements.** If you or your spouse have entered into any prenuptial agreement, community property agreement, or any other agreement impacting the outcome of your divorce, provide us with a copy. All of these things should be provided to me with identifying cover sheets so that I know what I am receiving. Be aware that a divorce in and of itself does not revoke or terminate any Power of Attorney that may have been signed during the marriage.

*** Credit Report.** By now, everyone in the world has heard of freecreditreport.com. It's a good idea to go ahead and order a credit report on both you and your spouse so we have a comprehensive picture of any and all liabilities.

*** Credit Card Statements.** It is imperative that we get statements as of the separation date for all known debts.

*** Preliminary Title Report.** If you own real estate, it would be very wise to order a preliminary title report from a local title company. This will alert us to any unknown encumbrances against the property and avoid nasty surprises later on after you may be awarded this asset.

It's very important that you attempt to collect all of this information as soon as possible. Identify each item so I know what it is, even those that are self-evident. Your failure to gather these documents will effect the quality and timeliness of the handling of the case.

10. **Communication**. Communication is very important in the attorney/client relationship. I spend a good deal of my time on the phone, composing letters, or forwarding emails. I always return phone calls, usually within a day. I will get back to you. We use both a voice mail and paper phone message system. If you have not heard back from me by 48 hours, then I did not receive your message and you should call again.

Email is fine, but use it cautiously and don't rely on it in an emergency. I get lots of emails and other communications, and sometimes a direction or question in an email may get overlooked in a way that doesn't happen with phone conversations. Don't send me time sensitive or urgent directions via email. To ensure that communication is transmitted and understood, it is best to use the phone for these types of communications.

12. **Authority of Attorney.** By statute, attorneys have the legal power to bind their

clients. As a general rule, I will always seek the client's explicit authority before making any *substantive decisions* which affect the client. Sometimes the authority is based on a specific query to the client; sometimes the authority is discussed and conferred in advance. There are some decisions, however, about which the client may not be consulted in advance and these issues generally concern the administrative aspects of the case, such as the scheduling of hearings and trials, continuances, and related proceedings. Continuances are very common in all types of litigation. The client will be advised of a particular hearing date and expects that it will take place as scheduled. But many times hearings conflict with some other participant's calendar and need to be rescheduled or "continued" in the parlance of the court. If there was no agreement regarding the continuance then the request for a continuance would be contested and the court would decide if the continuance would be granted. Almost without exception reasonable requests for continuances are granted by the court, and so the only thing that occurs by not agreeing to a request for a continuance is the rapid accumulation of fees and the ill-will of the other attorney and the court. In general, it is far wiser to just agree to reasonable continuances. Oftentimes I seek a continuance because I have a conflict or I just haven't had enough time to respond. Other times the other attorney will be in need of a continuance. Professional courtesy and the orderly administration of justice demand that continuances be readily worked out by agreement of counsel. I will routinely agree to continuances without seeking prior approval of the client and the client needs to understand this in advance. If we did not work out these types of matters by agreement the calendar would become unmanageable and everybody's frustration would increase. And there is the adage that "what goes around comes around". The fact is that every party or lawyer at some point in time is going to need a continuance, and it is prudent that they be liberally acceded to. Just be advised and aware that continuances are the norm and should be expected. It does not mean that any party can unduly prolong or complicate a matter by constantly continuing hearings. It merely means that reasonable accommodation must be made. In addition, if the matter involves a bona fide emergency then a continuance would not be agreed to and the court would have to decide whether it would be granted. Finally, as stated in my Fee Agreement the client during the course of the case can advise me that he or she wants to be consulted before any continuances are agreed to and thereafter I would only stipulate to continuances with your approval after consultation. If I believed the client's election in this regard impinges on my obligations under the Rules of Professional Conduct or the Washington State Bar Association's Creed of Professionalism my recourse would be to withdraw.

11. **Debts**. The court will assign responsibility for indebtedness incurred during the marriage. Generally, debts incurred before marriage and after separation will be assigned to the party incurring them. With respect to debts incurred during marriage, the tendency is to divide them if the parties' incomes are relatively equal. If the incomes are disparate, then the court may award a higher percentage of debt to the party with the greater income. You should be aware that a court order assigning responsibility for debt to your spouse does not get you off the hook with that particular creditor. Any debts incurred during marriage are joint debts and the creditor may look to either party for payment regardless of the court order. The creditor extended credit to the marital community and can seek payment from either party. The divorce court can allocate debts between the parties, but it cannot affect the contractual rights of the creditor to seek payment from a party.

So, if Mary is ordered to pay a $500 Visa bill, Visa can still seek recovery from John. If Mary fails to pay the bill, Visa will come after John. If John ends up paying the bill, he is entitled to a judgment against Mary for any amounts he ended up paying.

So, beware of this potential pitfall. After your divorce, you may get calls from creditors seeking payment from you for bills your spouse was ordered to pay. Remember this reality as you consider appropriate settlement options in your case.

Finally, you should be advised that any person has the right to file bankruptcy. Sometimes a party files bankruptcy after being ordered to assume certain debts in the divorce. In other words, you may base a settlement on the assumption that certain debts will be paid by your ex-spouse, and then after the divorce, your ex-spouse may mess it all up by filing bankruptcy. This means that all of the creditors will look to you for payment. You would be on the hook for these debts even though you may have given up valuable property rights in the divorce in exchange for your spouse taking debts they have now discharged in bankruptcy. If that happens:

1. You may file bankruptcy as well;
2. You may pay the debts and seek judgment against your former spouse; or
3. You may seek to have the divorce settlement set aside and begin that portion all over, which would be unlikely.

Sometimes I get calls from clients after they are divorced because they have just been turned down for a loan. Sometimes it is bad credit based on a former spouse's failure to pay debt assigned to him in a dissolution. Sometimes the problem stems from a mortgage still in the name of the party who was not awarded the home. That party attempts to buy a home after the divorce, and is turned down because of the red flag raised by the prior mortgage for which they remain on the hook.

In both of these instances, the remedy is communication with the lender. Explain the situation and provide a copy of the divorce decree. Usually these problems can be overcome. The second problem can be avoided entirely by including a provision in the decree which requires the party receiving the home to refinance the mortgage in that party's name alone. In most cases, such a provision is feasible, but not automatic. You must ask for it.

12. **Client Conduct and Some Do's and Don’t's**

Forget everything your friends or co-workers have ever told you about divorce and how to get a leg up on the opposing party. There are no magic formulas or silver bullets to avoid the pain and difficulty of the divorce process. If you are interested in conserving your estate and saving your assets the best thing you can do is conduct yourself in an honest and business-like manner and get the case settled. There will be plenty of temptations along the way and you should definitely avoid any actions that will hurt your credibility and otherwise make you look bad.

Opening your spouse's mail-- RCW 9.73.020 makes it a misdemeanor for a person to open mail intended for another person without their authority. Don't snoop through your spouse's mail, especially any correspondence from his attorney. If you happen upon juicy information obtained in illicit or unethical ways, I don't want to hear or know anything about it, and it will not be used in the litigation.

Recording private conservations--Do not record any phone conversations or any other private communications without the consent of all parties. It is a misdemeanor under RCW 9.73.030. There are exemptions for situations involving threats or extortion but you should still not record anything until and unless we have discussed it and I have given you my legal opinion that it is ok to do so.

Logging into your spouse's Email or bank account--Even if you had access during the marriage gaining access to your husband's email or bank account after separation may constitute the crime of computer trespass. There are plenty of ways to get needed information without putting yourself in legal jeopardy.

13. **Attorneys Fees and Costs**. Abe Lincoln is credited with saying "A lawyer's time and advice are his stock and trade." Lawyers are compensated for the time they spend on a case. It's that simple. We will discuss the issue of attorney's fees and costs in our initial conference. If at any time you have questions about my fees or your billing, you may inquire without charge. At the conclusion of our initial conference, we will review and sign a Fee Agreement which sets forth your financial obligations to this office. You will be provided with a copy of the Fee Agreement.

Due to some recent changes in the Rules of Professional Conduct, attorneys have been forced to change their fee agreements in response to these changes. I now have two different types of fee structures. The most common type is the "retainer" method. This is for any case where the parties are not in agreement. The initial payment is between $2,500 and $3,500. This money is the client's money and is deposited into the attorney's trust account. This money is solely earned by the attorney as he performs legal services on the client's behalf. The attorney may withdraw these funds only as fees are earned or expenses incurred.

The second fee structure is the "flat fee" method. This is where the client pays a sum certain for specifically delineated legal services. My flat fee schedule is $2,000 and covers the following services:

1. Preparation of summons and petition, along with any related documents or a response to petition, along with any related documents;

2. Two office conferences with CLIENT – the initial intake consultation and a second consultation, neither of which shall exceed 1.5 hours;

3. Preparation of final documents or orders to complete the case, together with court appearance to present order to the court;

This Flat Fee Agreement does not cover expenses, nor does it cover telephone calls, additional office conferences with client, contested hearing, trial, the preparation therefore, or correspondence unrelated to the services covered by the Flat Fee Agreement. Services not covered by the Flat Fee Agreement shall be performed by ATTORNEY and the ATTORNEY shall bill CLIENT at ATTORNEY'S hourly rate for these services.

Under the flat fee option, the money received becomes the property of the ATTORNEY and the funds shall not be placed in trust. The fact that CLIENT has paid his fees in advance does not affect CLIENT'S right to terminate the ATTORNEY/CLIENT relationship at any time, nor does it affect the ATTORNEY'S right to do the same. If the ATTORNEY/CLIENT relationship is terminated before the agreed-upon legal services have been completed, CLIENT may have a right to a refund or partial refund of the fee, less what the client might owe, if anything, for uncovered services that were provided.

If there is any dispute relating to fees, ATTORNEY promises to take prompt and reasonable action to resolve the same. ***This flat fee option should really only be selected in a simple case with no children, where there is an agreement or likely will be an agreement.***

You will be incurring expenses which fall generally into two categories. The first of these is actual attorney's fees. These are the fees charged for my services. The second is referred to as costs. Costs are expenses related to the case, other than attorney's fees. Costs may include filing fees, the cost of serving legal papers, photocopies, facsimiles, and long distance phone calls. Some cases require the services of appraisers, actuaries, or psychologists. The fees charged by these individuals are the client's responsibility. All cases will result in the filing fee and service fee. The filing fee for a dissolution is $314, and for a modification is $56. A typical service fee will run from $30 to $80, depending upon the distance traveled by the process server and the difficulties involved in effectuating the service.

Attorney's fees will comprise the bulk of your expenses in your dissolution. Attorney's fees are the firm's charges for the services rendered. Generally, time is the most important component in determining the attorney fee. However, other factors are also included in setting fees. These factors include the difficulty of the issues involved, and the time limitations imposed by the client or the circumstances. My fee agreement form lists the charges for some commonly performed legal services.

My representation does not commence until the retainer is paid in full and the Fee Agreement is signed. Some cases, due to their nature (custody, for example), may require a greater retainer. It is important to keep in mind that the initial payment is really only going to cover the fees for the early, labor-intensive part of the case: The initial conference, preparing initial pleadings, and filing of

any temporary motions.

My hourly rate is $350 per hour. Trial time is billed at $2,000 per day. Appearances for arguments on the motion calendar are billed at a minimum of 1.5 hours.

You will receive a monthly billing statement which lists the services rendered and provides a statement of the balance due. It is absolutely imperative that you make monthly payments on your bill in the amount we agree on at your initial conference. A client who pays his monthly installments is taking responsibility for the costs of his litigation. A client who does not make his payments is requiring this office to finance his litigation, and that cannot be tolerated. If you do not make your monthly installments, I will promptly withdraw from your case unless you contact me and make other arrangements. I try to do this with the first missed payment. I'm not good at babysitting clients on this issue. If payments are not made, the client is expressing that he or she cannot afford or does not want my ongoing services. The minimum monthly payment is between $500 and $300 in accordance with the fee agreement. I do require that the client keep his account balance at $2,500 or less and may require more aggressive payments.

If your case goes to trial, we will meet approximately sixty days in advance of the trial date to discuss a trial retainer. Preparing for trial is a major undertaking which will require a great deal of my time, and prevent me from servicing existing clients or taking on new clients. The trial retainer will usually consist of another lump sum, anywhere from $4,000 to $7,000, in addition to satisfying any outstanding balance. Again, this is to ensure that the client takes financial responsibility for the course of his litigation, and the amount depends on the case and the circumstances.

At the conclusion of your case, it will be necessary to make arrangements to pay off the bill in some acceptable way. At a minimum, you will be asked to sign a promissory note, preferably secured, to ensure payment of the bill. Frequently, we will file an attorney's claim of lien at the end of a case. This shows up on your credit history and provides some security when the client subsequently applies for a loan or other financing.

I encourage clients to pay off their balances as soon as possible. This law firm is not a bank, and it is not beneficial for either of us to have this office finance your case. Banks are in the business of loaning money, but attorneys are not. My clients may need to consider other sources to finance their cases, such as tax refunds, cash advances on credit cards, loans from family members or friends, or even bank loans.

I hope this brazen discussion of money does not offend you. Experience has taught me that fees need to be disclosed clearly and fully. If a $2,500 initial payment, a $350 per hour attorney, or monthly payments of $300 or more are beyond your means, you should shop around for other alternatives. Puget Sound Legal Assistance will provide pro bono counsel to indigent persons when custody of minor children is at issue. It is possible that some private attorneys may take on a dissolution with something less than a $1,750 retainer. With the help of mandatory forms, the

courthouse facilitator, or local paralegals, it is possible for people to represent themselves.

Finally, you probably want to know what the total cost of your divorce will be. That is impossible to predict until I evaluate the issues involved and get to know the dynamics of your case. I have done dissolutions which have cost $500, and I have done dissolutions which have exceeded $50,000. Here are some **very general** guidelines: If your case does go to trial it will cost $2,000 a day for the trial alone. Any case of substance culminating in a one or two day trial will involve fees of $20,000 and up. If your case settles prior to trial, but with intense negotiation and only after several court hearings, the fees will probably be in the $5,000 to $10,000 neighborhood. If the case settles with only a moderate amount of negotiation and one hearing or less, it should be $3,000 to $4,000. At our conference, I will try to give you a best guess estimate of what your total fees may be. This estimate does not constitute a promise or warranty; it is merely an intelligent guess.

You can mitigate fees by limiting phone calls, attempting to resolve simple issues directly with your spouse, requesting only those legal steps that are necessary, and avoiding costly Adrop in@ conferences with me.

13. **Conclusion**. We recognize that going through a dissolution can be a stressful and frightening situation. We want to help you through this mess in the best manner possible, but it is essential that we have open and productive communication. If you have questions or concerns about anything during the case, you should bring these matters to our attention right away. Don't stew about things. If you have concerns, let us know. I am busy, but I want to know if a client is in anyway dissatisfied with me. If the problem is something I can correct, I am happy to do it. I've established a successful practice over the past 21 years by caring about my clients, providing effective representation, and being fair with the people who entrust this part of their life to me. Problems are inevitable, and I try to fix them. My goal is to perform with excellence and keep you satisfied.

I strive to keep my clients fully informed as to the progress of their case. I will provide you with copies of all documents we receive from the opposition and copies of all documents we produce. You should maintain your own file or notebook. Organization is almost as important for you as it is for me, and it can eliminate a great deal of stress. I will return all phone calls usually within twenty-four hours. I will be as accessible as possible, but if I can't be reached, you can certainly communicate with my legal assistant who will ensure that any problems are brought to my attention. I will listen to your concerns and questions. I will devote energy and effort to your case.

The noble calling of the law aspires to serve people in the most effective and favorable manner possible. That is the goal I approach each and day with, and I look forward to the challenges and rewards that your case may bring.

Sincerely.

Forrest L. Wagner
Attorney at Law