

WEBINAR HANDOUT



SESSION 8: LETS TALK DIVORCE SETTLEMENT



Divorce awareness week 24-28 July 2023

DIVORCE AWARENESS

Let's talk divorce settlement. Negotiation tips.



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Divorce Awareness Week is proudly presented and sponsored by [Oppermans Inc Attorneys](http://www.oppermansinc.co.za), a legal firm specializing in family law. We have teamed up with the good guys from [Lunch and Learn](http://www.lunchandlearn.org.za) to create awareness about the difficulties and uncertainties when it comes to the sensitive topic of divorce. Oppermans Inc prides itself to take a holistic approach to divorce where you would be guided through the whole process with dignity and could assist with the following matters:

- Contested and uncontested divorces
- Divorce mediation
- Drafting of parenting plans
- Divorce coaching through the process
- Drafting settlement agreements
- Settlement mediation
- Assistance with child- and spousal maintenance
- Legal advice prior to divorce

Should you have any enquiries, drop us an email to eugene@oppermansinc.co.za or info@lunchandlearn.org.za

Regards

Eugene

EUGENE OPPERMAN (Family Law Practitioner • Mediator • Trainer • Public Speaker)
(LPC, FAMAC, ADR and L.E.A.D. accredited mediator)

This session will deal with topics which include the following:

SESSION 8: LETS TALK DIVORCE SETTLEMENT	1
1. Divorce settlement	3
2. Divorce settlement negotiation tips: How to navigate the process	4
3. Going to court for your divorce: What to expect on your court date?	5
4. The influence of social media on divorce proceedings	5
5. What does “divorce with dignity” entail?	6
6. Tips when communicating to your spouse that you want a divorce	7
7. Benefits of a dignified divorce	9

1. Divorce settlement

Let's talk divorce settlement

Let's talk divorce settlement



Step one: Prepare yourself. Be emotionally prepared for the conversations you will now have with your soon-to-be ex-spouse about these subjects. Find a quiet, neutral location for this conversation. The only people who should talk about it are you and your spouse. It is necessary to talk about the settlement, which include talking about issues like asset distribution and child custody and contact. Additionally, you must enter the settlement discussion prepared to make some concessions; it's a matter of giving and taking.

Step two: Approach an attorney. The attorney will be able to assist in drafting documents and obtaining information from your spouse. The Plaintiff can write a list of things of what they want and the Defendant will also write a list of things that they want. The attorneys will then compare the list and attempt to reach a compromise. This can be done via a roundtable discussion where both sets of attorneys and both clients are present.

Step three: Compromise becomes very important. You need to decide what is fair and what is reasonable. This means you are going to have to give a bit and take a bit. You should be open to ideas and discussions regarding settlement. Have open and honest conversations about expectations. Have calm conversations. Have an open mindset that you will bend on certain things.

Step four: Discuss the children, if any. Discuss topics relating to guardianship, care, contact and maintenance. This will be contained in a parenting plan (valid legal document).

2. Divorce settlement negotiation tips: How to navigate the process

Let's talk divorce settlement

Let's talk divorce settlement – what needs to be addressed



Maintenance
payments to be made
to a spouse or for
children

Guardianship,
custody and
access to children

The division of assets
including the home

Arrangements
regarding medical aid
and retirement plans
and other relevant
matters



There are three types of divorces in South Africa:

- Contested;
- Uncontested;
- Mediated.

If you and your husband are on good terms, an uncontested divorce is the quickest and least expensive alternative. Working together to reach an agreement on maintenance, asset division, child contact, and other crucial issues is the best course of action.

The terms of your divorce will be decided by the court if you and your spouse are unable to come to an agreement. This type of divorce is referred to be contested, and it can take a very long period and cost a lot of money. Try to engage a trained mediator to assist you in negotiating and reaching a settlement.

Although it is more expensive than an uncontested divorce, mediation is still less expensive than going to court. Your divorce will need to be negotiated. Your financial and emotional well-being

will be affected by your negotiations in the long run. Therefore, it is crucial to enter the discussions with composure, reason, and preparation. Although it may be difficult to maintain your composure, you previously had a romantic relationship and now you both deserve to end it gracefully. You will have a continuing relationship if you have kids.

Maintaining your dignity and honor while going through a divorce with as little turmoil as possible is known as "divorcing with your dignity intact." Few situations may cause you to go through a divorce alone, but if you try to keep things civil, you can save a lot of self-respect for yourself, your soon-to-be ex-spouse, and your immediate family.

3. Going to court for your divorce: What to expect on your court date?

As a point of departure, you can dress comfortably. It is not necessary to dress formal, as long as you look neat it is acceptable. You will meet your attorney outside who will guide you into the court room and show you where to sit down. The attorney will inform you what date and time to be in court. The attorney will show you where you need to stand.

The magistrate will ask whether you are comfortable and willing to take either the oath or the affirmation. The oath/affirmation confirms that you will not lie while in court, and that all statements made will be truthful. The magistrate will swear you in to take the oath/affirmation before any questions are asked.

The attorney will ask you various yes or no questions i.e., "Are you the Plaintiff in this matter?"; "How long have you and the Defendant been living separately?". . The attorney will then ask you to confirm if the settlement agreement has been signed by you and the Defendant personally. This is done by way of handing the document over to you to check the signature. You will have to confirm by saying "yes I confirm that is my signature". Keep in mind that you will not receive your divorce order immediately after the divorce is granted. It will take a few weeks for the order to be issued. Make plenty of certified copies of your divorce order as various institutions will require a copy thereof if and when you update your personal details.

4. The influence of social media on divorce proceedings

In divorce proceedings and during the divorce process, social media is an essential piece of evidence. The use of social media will be examined. You should take a few things into account when using social media during divorce procedures. Make sure not to post anything on social

media that could come back to haunt you in court, especially if it could have an impact on your settlement terms, parenting schedule, or property division.

Avoid posting anything online that you wouldn't want used against you in court or as evidence. While it may be tempting to utilize social media as a support system, it is crucial to be aware of and apply caution in relation to the material that is shared. If there are children involved, it is important to consider not only the spouse's social media accounts, but also the children's accounts, as any posts made by them could be used as evidence in legal proceedings, which would be unfortunate if innocent posts were misinterpreted. However, it's necessary to keep in mind that social media might work in your advantage because it can disclose important details about your spouse.

Let's talk divorce settlement

The influence of social media on divorce proceedings

Psychology Today

Some [divorcing](#) people take to social media to [vent or rage](#) and to seek support. Others go to social media when in pain. Then they see posts that make them believe that their spouse, and everyone else, is having a great time. (Your spouse probably does the same thing.) Don't assume that he or she is ecstatic in life based on their Facebook posts. Those "happy" posts can increase your [grief](#), [rage](#), or [jealousy](#). (Psychology Today 9-11-2021)



5. What does "divorce with dignity" entail?

Divorcing with your dignity intact means that you try to navigate your way throughout your divorce with as little drama as possible while maintaining your dignity and honour. In few circumstances will your divorce affect only yourself and by aiming to keep your divorce dignified you can save a lot of self-respect for yourself, your soon to be ex-spouse and your immediate family.

A divorce with dignity is one that is completed amicably and without the need of legal proceedings. You can save literally thousands of rands (and your own sanity) by doing this while maintaining your personal dignity and assisting your family in adjusting to their new lifestyle.

By truly speaking with your spouse and utilizing as many resources as you require to get through this process calmly, you can get a divorce with dignity. It implies that you won't be undertaking the task by yourself. However, you must ensure that anyone you add to your "divorce" team fully supports and believes in your decision to complete this process without resorting to litigation.

6. Tips when communicating to your spouse that you want a divorce¹

Tip number one: Make sure that you are certain. If you have any doubts in your head or heart that you may regret starting the divorce, now is not the time to make such a major decision. Instead, you may have a real chat with your spouse about where your relationship is heading and what isn't working for you. Consider couples counseling to help you get out of a possibly challenging phase. If you make this move before finalizing your marriage and it doesn't work, at least you'll know you've done everything you can to rescue and reorient your marriage.

Tip number two: Don't surprise your spouse. Even if your spouse is aware of your dissatisfaction, there is no guarantee he or she isn't planning a divorce. If your spouse has no idea you are intending to divorce them, they will be surprised when you inform them. Inform your spouse that you need to talk about something important and set up an appointment.

Tip number three: Pick a private place. Inform your spouse that you need to speak with him about anything and schedule a time and date. Go somewhere private where you can spend some time conversing together. Turn off your cell phones, get a babysitter, or do whatever you need to do to remain both undistracted and uninterrupted while speaking. Maybe you should talk to your spouse about divorce at home, in a park, or anywhere else private.

Tip number four: Be ready to face anger. There's no simple way to tell someone you've loved, married, and lived with for years that you're divorcing them. Be prepared for sobbing, anger, denial, blaming, and fights during this intense discussion. If you decide to divorce, don't put it off because it will be more difficult to accomplish later. Bring in a counselor, a trusted friend, or discuss in a public area if you need help.

¹ E Opperman "Things that you should know: Divorce with dignity" pages 7-9.

Tip number five: Prepare your response. Consider how you want to express yourself and be precise about your message. Begin with a brief overview of your dissatisfaction, ensure that he/she realizes the gravity of the situation, and then explain unequivocally that you no longer want to be married to him/her. Stop now and let your partner respond, but don't give them false hope.

Tip number six: Don't point the finger. You won't be able to agree on what happened if you criticize your spouse or quarrel about the past. Use "I" statements, use neutral language, express your sentiments, and be sensitive to his/her feelings. "I know it's terrible to hear, but our marriage is over, and I want a divorce." I don't think marital counseling will help our marriage, but we could benefit from consulting individual therapists."

Tip number seven: Calm down. When you inform your partner that you want a divorce, it's likely that they may become unhappy. They might get angry, wish to argue, or even threaten you. Avoid getting upset in return or engaging in conflict. As you take in their reasons, calmly reply that you recognize how painful and unpleasant it must be to hear them, but that you must accept that this is how you truly feel and that you have no control over it. Tell him/her that there is no chance we can save our marriage.

Tip number eight: Abstain from a trial separation. Tell your partner that you want a divorce, not a separation, and that your decision has already been taken if your spouse tries to negotiate a trial separation rather than a divorce. If not, you will only be delaying the issue.

Tip number nine: Keep your boundaries. You can feel guilty after giving your spouse the bad news and want to make them feel better by showing them attention. That is incorrect. You don't want to send your estranged spouse conflicting messages, so uphold your personal boundaries and preserve your distance. Make sure they understand your seriousness.

Tip number ten: Tell your spouse of your intention to go through the divorce with dignity. It is important to tell your spouse that you do not want to enter into an acrimonious legal divorce battle and that you intend to be part of the process of settling the divorce amicably without going to court. You might want to suggest that you take some time apart and later meet with a divorce mediator in order to discuss the way forward. In this regard it is advisable to consult with a mediator that is also a family law practitioner to offer guidance to stay within the scope of the law when it comes to having your divorce being settled and to draft the necessary paperwork to give

effect to a practical, fair and equitable division of assets, parenting plan (if there are minor children) and general settlements.

7. Benefits of a dignified divorce²

Need more justifications to get a divorce with respect? An amiable divorce has several benefits, both during and after the divorce process. Let's examine a few of these:

- You are in control and take charge of your situation

Instead of the courts and divorce attorneys, you and your spouse choose the schedule, choose the topics to be covered (and in what order), and decide how things will turn out. Instead of letting someone else decide how things will be done, the two of you will create decisions you can both live with.

- More equitable

You may negotiate a divorce settlement that is equitable to both parties rather than taking the chance that it will be impacted by how aggressively one counsel is compared to the other or the judge's or magistrate's disposition.

- Flexible

There is no clear-cut recipe for a dignified divorce. Having said this, you can alter the terms of your divorce within the framework of the law to enable you to reach the best possible solution for yourself and your spouse.

- Less stressful

By navigating the conditions and terms of your divorce (your settlement agreement) you eliminate a lot of stress not only for yourself but for all your immediate family that will be affected by the divorce. If all affected family members know what to expect out of the divorce there will be little to no room for painful ongoing litigation. You can also eliminate a great deal of your stress if you can keep your divorce litigation to a minimum.

- Highlights the positive

² E Opperman "Things that you should know: Divorce with dignity" pages 4-6.

Rather than putting each other down in order to "win," the objective is to come up with a fair and practical solution.

- Privacy

If you litigated your divorce in court, the specifics of the case and your private financial data would become public record and open to public inspection. By choosing mediation, if you are not in agreement with your spouse with regards to the terms of your divorce you can act with more dignity as sensitive information will be left out of litigation. Or, if the terms of the settlement are acceptable to both of you, all you might need is assistance with the paperwork. You keep your anonymity in these non-litigation matters, which puts everyone at ease.

- Faster

Our courts are full to capacity and the truth is that your divorce matter will just be a number on their system. Court personnel are often overworked while dealing with backlogs. If you can keep the terms of your divorce simple and uncomplicated there will not be much room for delays due to the workload of the court personnel.

- The emotional toll of litigation is great

Due to the nature of the legal process, one may experience antagonism, self-doubt, anger, and resentment. Who needs that? Working together with your spouse for the benefit of the kids and yourself gives you a sense of competence, integrity, and doing the right thing. One strategy to prepare for a happy life after the divorce is to work toward a peaceful divorce. Non-litigated divorced couples are significantly more likely to go on to have cooperative relationships in the future. And you remain dignified.

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Divorce awareness week 24-28 July 2023

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24 July @ 12:45 - dissolution of marriage, grounds for divorce, importance to

know how you are married and the effects of your marital regime on divorce

24 July @ 14:00 - consequences of divorce and divorce process explained, is cheating grounds for a divorce, focus on uncontested divorces

25 July @ 12:45 - detailed explanation on how contested divorces work

25 July @ 14:00 - served with a summons, now what? Who gets the ring? Can I still date pending the divorce?

26 July @ 12:45 - divorce mediation, what it is and how does it work

26 July @ 14:00 - should you file for divorce first?, pro's and con's, working with lengthy divorces (Rule 43 / 58)

27 July @ 12:45 - protecting / hiding your assets during divorce, impacts of divorce on your pension, will and estate

27 July @ 14:00 - divorce settlements, what to look out for and what to negotiate

28 July @ 12:45 - married overseas or to a foreigner?, divorcing a missing spouse, dealing with a narcissistic and abusive ex

28 July @ 14:00 - unfair divorce tactics, child- and spousal maintenance

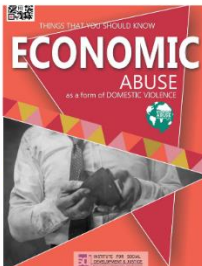
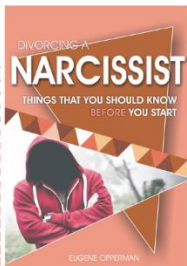
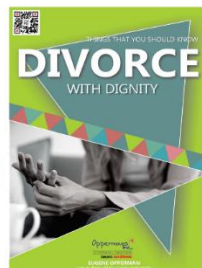
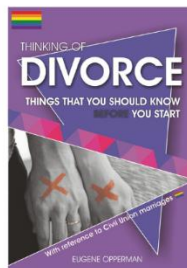
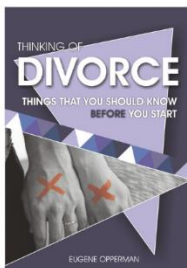


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