

Divorce awareness week 24-28 July 2023



DIVORCE AWARENESS

Consequences of divorce,
divorce process & common
mistakes, opposed vs
unopposed divorces



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Webinar overview



- Is cheating a ground for divorce in SA?
- Consequences of Divorce
- The divorce process in South Africa
- Common mistakes to avoid in the divorce process
- Contested vs uncontested divorce
- Fast and cost-effective divorce: unopposed divorces
- The costs of a divorce in South Africa
- How to prepare a divorce summons yourself



What to expect

Structure of our Lunch and Learn webinars

Pre-reading
material

Webinar

Resources &
Templates



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Consequences of divorce, opposed- and unopposed divorce

Is cheating a ground for divorce in SA?



- breakdown of that marriage relationship
- the trust is completely gone
- gather as much information as you can about this person's extra marital affair
 - be aware of laws in South Africa regarding protection of personal information, POPI Act

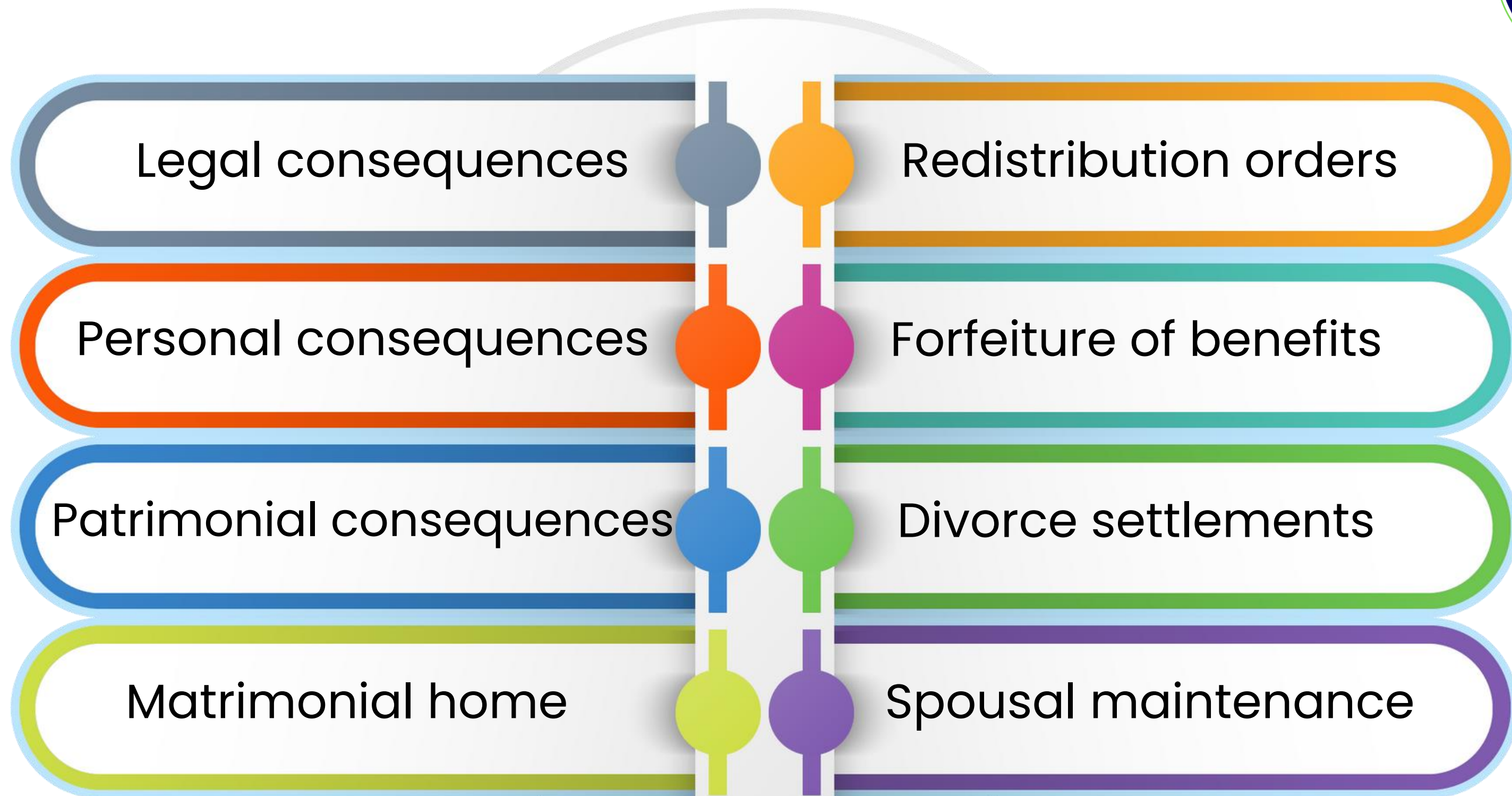


No-fault system

Forfeiture §9(1)

Consequences of divorce, opposed- and unopposed divorce

Consequences of Divorce



Consequences of divorce, opposed- and unopposed divorce

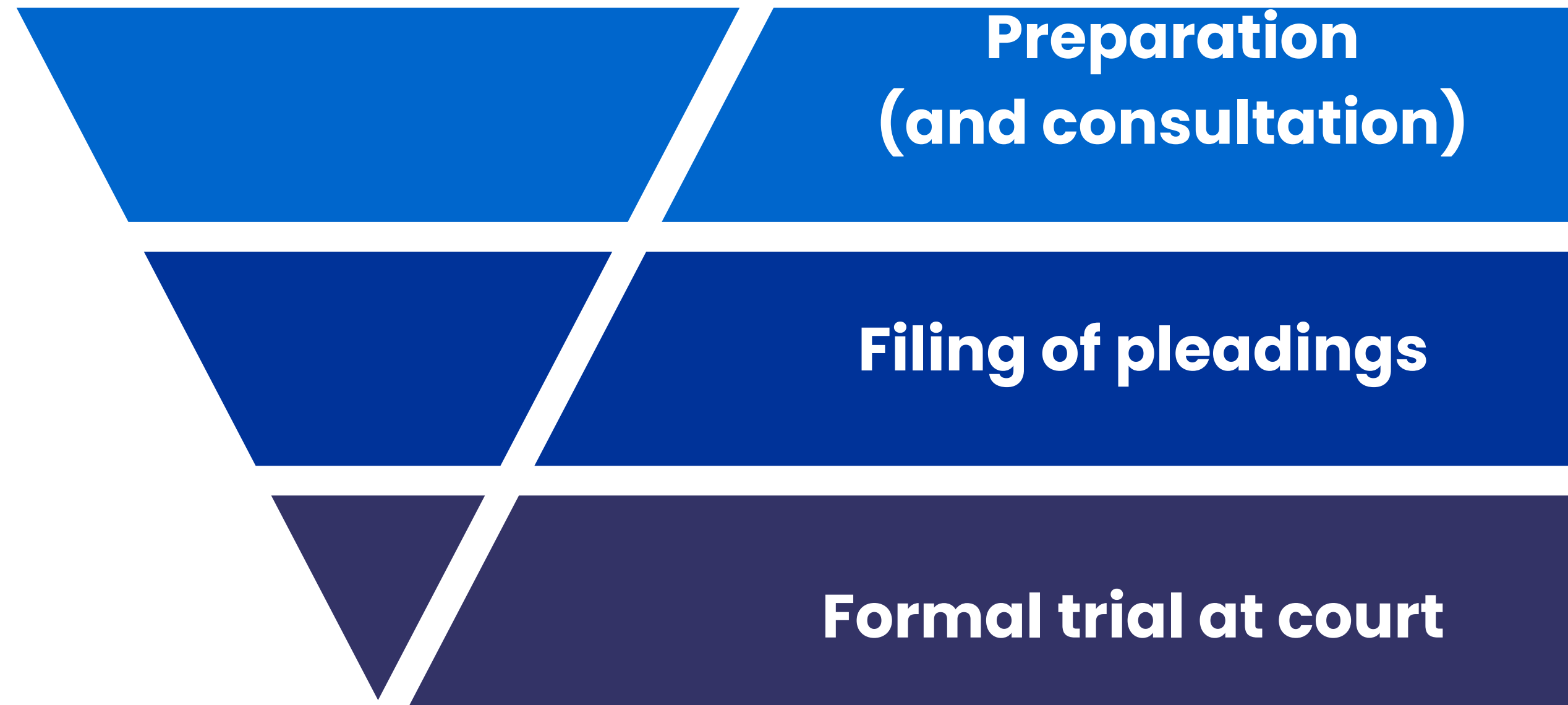
Consequences of Divorce



- termination of a marital union
- legal duties and responsibilities of the marriage are dissolved
- consequences of a divorce are primarily legal and financial
- emotional challenges
- divide their assets and debts depending on their matrimonial property regime
- Section 3(1) of the Matrimonial Property Act = accrual
- redistribution order (marriages before 1 Nov 1984)
- Section 9(1) of the Divorce Act 70 of 1979 = forfeiture of benefits
- Settlement agreements
- Matrimonial home
- Maintenance (spousal and children)

Consequences of divorce, opposed- and unopposed divorce

The 3 basic steps in the divorce procedure

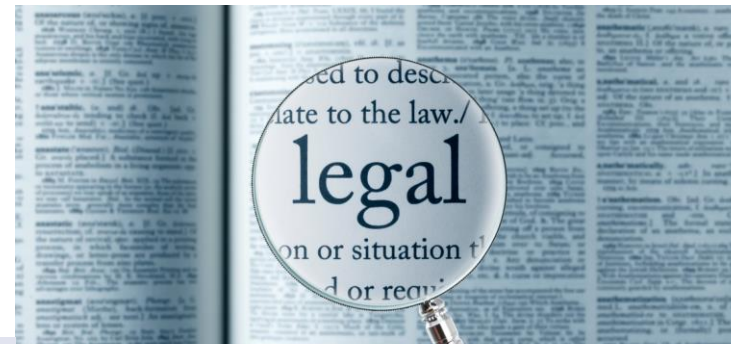


Consequences of divorce, opposed- and unopposed divorce

Common mistakes to avoid in the divorce process



Not getting proper legal advice



Making decisions based on emotions



Hiding assets

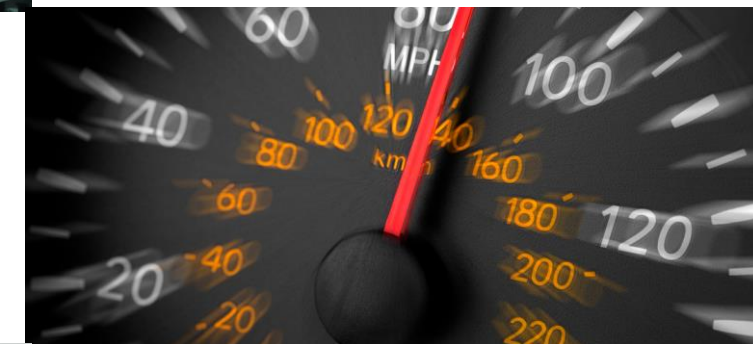


Not considering the tax implications

Failing to communicate effectively



Rushing the process



Ignoring the needs of the children



Being a victim rather than a survivor



Consequences of divorce, opposed- and unopposed divorce

Contested vs uncontested divorce



Contested (opposed) divorce

- ▶ don't agree on terms
- ▶ formal trial in court
- ▶ court procedures and formalities
- ▶ court makes final decision

Uncontested (unopposed) divorce

- ▶ simple and easy
- ▶ parties agree on everything
- ▶ settlement agreement
- ▶ incorporated in divorce decree

Consequences of divorce, opposed- and unopposed divorce

Fast and cost-effective divorce: unopposed divorces



Settlement agreement

- parties sign a settlement agreement
 - OFA (children) endorsement

Summons

- summons prepared and issues
- summons served on the defendant

Prep for hearing

- OFA report
- consultation
- index and paginate
- set down for hearing

Trail at court

- plaintiff questioned
- confirmation of settlement
- decree of divorce granted

Consequences of divorce, opposed- and unopposed divorce

The costs of a divorce in South Africa



Unopposed divorce

- cheaper
- faster / amicable
- settlement reached
 - less paperwork
- less court preparation
- no need for witnesses etc,

Opposed divorce

- more expensive
- prolonged litigation
- attorneys involved
- pleadings filed
- more court preparation
- need for witnesses etc,



Consequences of divorce, opposed- and unopposed divorce

How to prepare a divorce summons yourself



REPUBLIC OF SOUTH AFRICA

No. 2C – Combined Summons [Divorce Matters]

* For use only in the Regional Court

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF

HELD AT

CASE NO:

IN THE MATTER BETWEEN:

..... PLAINTIFF

Identity Nr:

AND

..... DEFENDANT

Identity Nr:

TO THE SHERIFF OR HIS/HER DEPUTY:

INFORM (Full names of the Defendant):

A MAJOR MALE/FEMALE BY OCCUPATION:

OF (Address):
(Hereinafter referred to as the Defendant)

THAT (Full names of the Plaintiff):

A MAJOR MALE/FEMALE BY OCCUPATION:

OF (Address):
(Hereinafter referred to as the Plaintiff)

HEREBY institutes action against him or her in which action the Plaintiff claims the relief and on the grounds set out in the particulars of claim annexed hereto;

INFORM the defendant further that if defendant disputes the claim and wishes to defend the action he/she shall within 10 (Ten) days of the service upon him or her of this summons file with the registrar of this court at

.....

(here set out the physical address and electronic mail address of the assistant registrar's office) notice of

Combined summons

Particulars of claim


Attach: marriage certificate
Attach: ANC (if applicable)

Consequences of divorce, opposed- and unopposed divorce

How to prepare a divorce summons yourself



- your details; your name, your ID number, your address and what is your occupation
- soon to be ex-spouse's details; their name, their ID number, their address and their occupation
- address jurisdiction
- details about the marriage
- deal with the minor children
- breakdown of the marriage
- pension funds must be addressed
- care and guardianship of minor children


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OF (Address):

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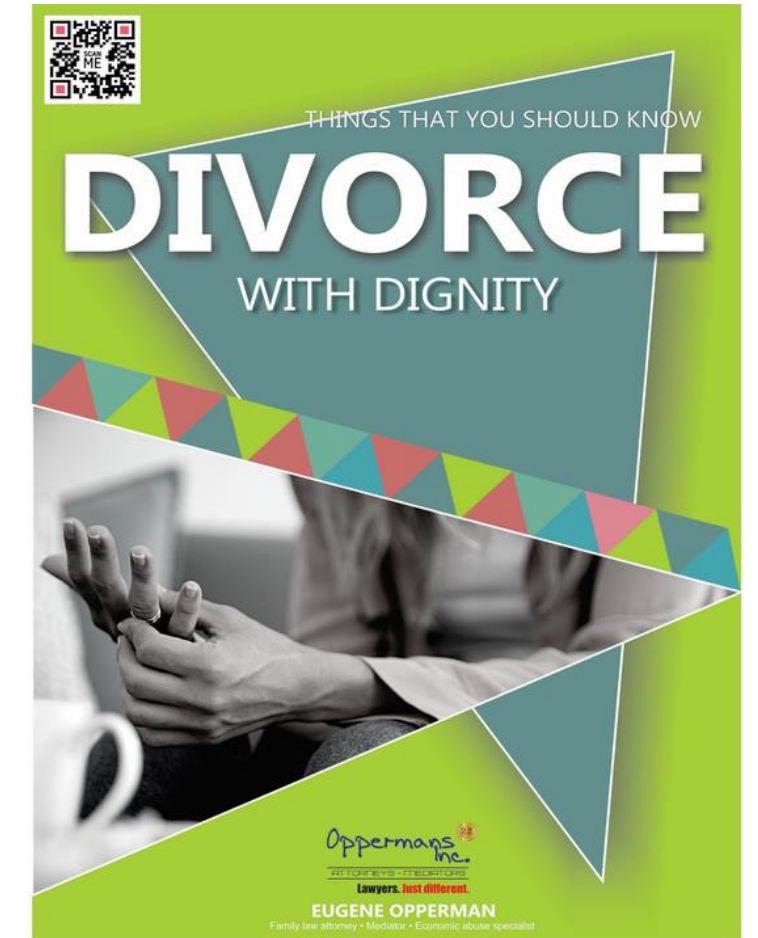
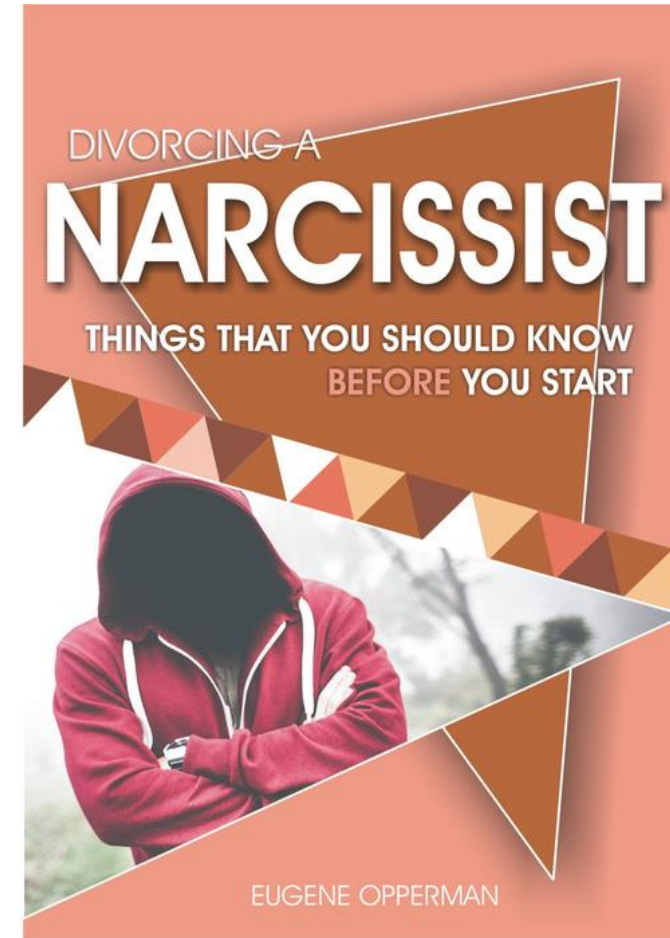
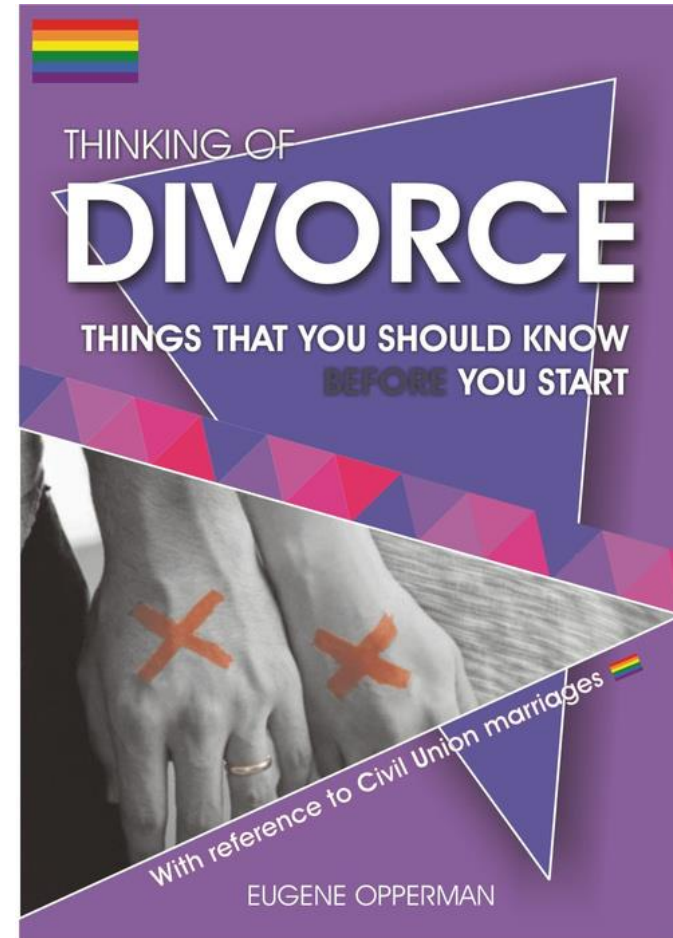
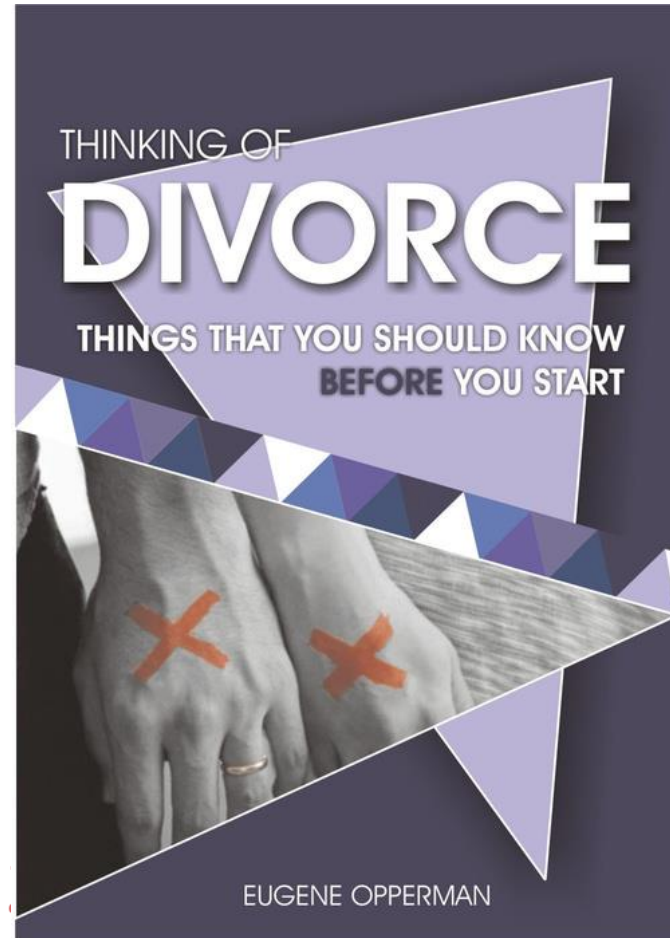
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Free downloadable ebooks



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Thanks to our host & co-presenter(s):
Eugene Opperman (Director, attorney & mediator from Oppermans Inc Attorneys)
Erin O'Neale (Candidate attorney from Oppermans Inc - compiling the handout)

Divorce awareness week

Legal disclaimer:



Although every measure was taken to ensure that the information contained in this webinar is legally correct at the time when it was presented, the information given and presented is ultimately the view of the individual presenter(s) and constitutes an opinion and interpretation of certain portions of the law. It should not be construed as legal advice. The information presented is for educational and informative purposes and if you require legal assistance with your legal matter, you are advised to contact a reputable family law practitioner to assist.

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