

Divorce awareness week 24-28 July 2023



DIVORCE AWARENESS

Let's talk divorce
settlement. Negotiation
tips.



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Webinar overview



- Settlements – what needs to be discussed?
- Divorce settlement negotiation tips: how to navigate the process with dignity
- Drafting a settlement (pitfalls)
- Going to court for your divorce (what to expect and what to say)
- The influence of social media on divorce proceedings



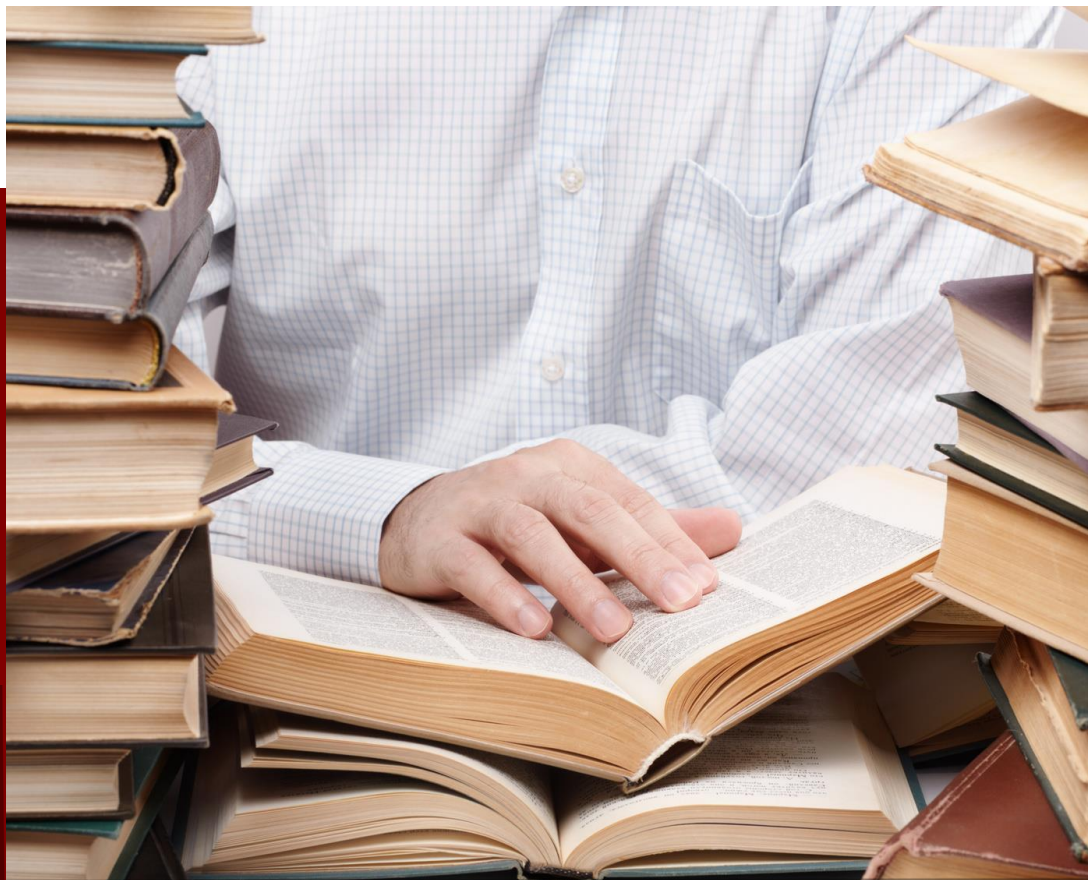
What to expect

Structure of our Lunch and Learn webinars

Pre-reading
material

Webinar

Resources &
Templates



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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

Let's talk divorce settlement

Let's talk divorce settlement



Prepare yourself

Approach an attorney
or skilled mediator

Know what you want but
also be prepared to
compromise

Take a break

Be honest

Avoid insults

Explain your reasons

Listen • Don't sign anything
you don't understand

Let's talk divorce settlement

Changing a divorce settlement



A.V.W v S.V.W and Others (3118/2021) [2022] ZAWCHC 74 (20 April 2022)

"A new concerning trend appears to have emerged where parties settle a divorce action by signing a settlement agreement with the assistance of their legal representatives only to thereafter, and before such agreement is made an order of court, **decide that they no longer wish to be bound thereby. *It needs to be remembered that regardless of whether or not an agreement between parties was made an order of court, they are usually bound by such agreement.***"



Let's talk divorce settlement

Changing a divorce settlement



JN v NN [2022] 2283-2021 (ECM)

Can you change a settlement agreement after it has been signed? In a recent judgement of 17 May 2022 in the case of JN v NN [2022] 2283-2021 (ECM), this question was asked (and answered by learned Govindjee J). Unfortunately, for the applicant, her application to vary the settlement agreement was dismissed.



Let's talk divorce settlement

Example of settlement agreement



PLAINTIFF

and

DEFENDANT



DIVORCE SETTLEMENT AGREEMENT

1. DEFINITIONS

1.1 In this agreement the following words shall have the meanings assigned to them as contained hereunder.

1.1.1 HUSBAND - _____

1.1.2 WIFE - _____

1.1.3 "MINOR CHILD" - _____

1.2 The headings shall be deemed to have been included for purposes of convenience only and shall not affect the interpretation of the agreement.

1.3 Unless inconsistent with the context, words relating to any gender shall include the other gender, words relating to the singular shall include the plural and vice versa and words relating to the natural persons shall include associations of persons having corporate status by statute or common law.

2. PREAMBLE

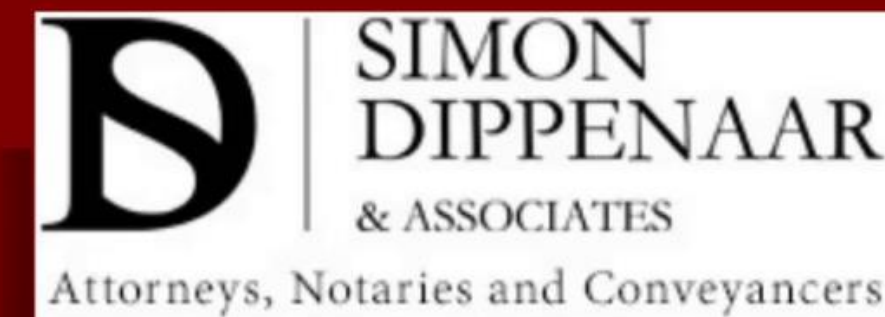
2.1 The parties were married to each other in community of property at _____ on the _____

2.2 The parties agree that their marriage has irretrievably broken down and that they are to be divorced.

- Court details, plaintiff, defendant, case #
- Definitions, preamble
- Immovable property
- Moveable property (household items)
- Debts in joint estate
- Motor vehicles
- Child Maintenance
- Medical Aid and medical expenses
- Provident fund / pension fund / RA's
- Parental responsibilities & rights
- Spousal maintenance
- Costs

Let's talk divorce settlement

Let's talk divorce settlement



Let's talk divorce settlement

Settlement pitfalls



- ⚠ • Make a list of assets that needs to be divided
- ⚠ • Stipulate exactly how items will be divided (provision for forgotten items)
- ⚠ • Be clear on who pays what until the divorce is granted (rates, taxes, utilities)
- ⚠ • Transfer of assets – alternatives if a party refuses to sign documents
- ⚠ • Spousal maintenance (even if only token maintenance)
- ⚠ • Clear language (no legal jargon)
- ⚠ • Pension fund details correct
- ⚠ • Tax implications needs to be discussed

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Navigate the process with dignity

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.

- Going through a divorce with dignity means separating the emotions from the process



Let's talk divorce settlement

Going to court for your divorce



UNCONTESTED UNCONTESTED



- Taking the oath
- Confirmation that you are the plaintiff
- Confirmation of address (establish jurisdiction)
- Married to defendant: marital regime
- Hand up marriage certificate / ANC
- Details of children (if any) / OFA report
- Reasons for breakdown of marriage
- Confirmation of settlement (signatures)
- Provisions for children explained
- Prayers requested

Let's talk divorce settlement

The influence of social media on divorce proceedings



- Social media posts can exacerbate the difficult dynamics at play during a divorce.
- Staying off social media can help divorcing people focus on their family or their own self-care.
- When posting during divorce, individuals should aim to avoid posting negative content that could invite retaliation or hurt a loved one.



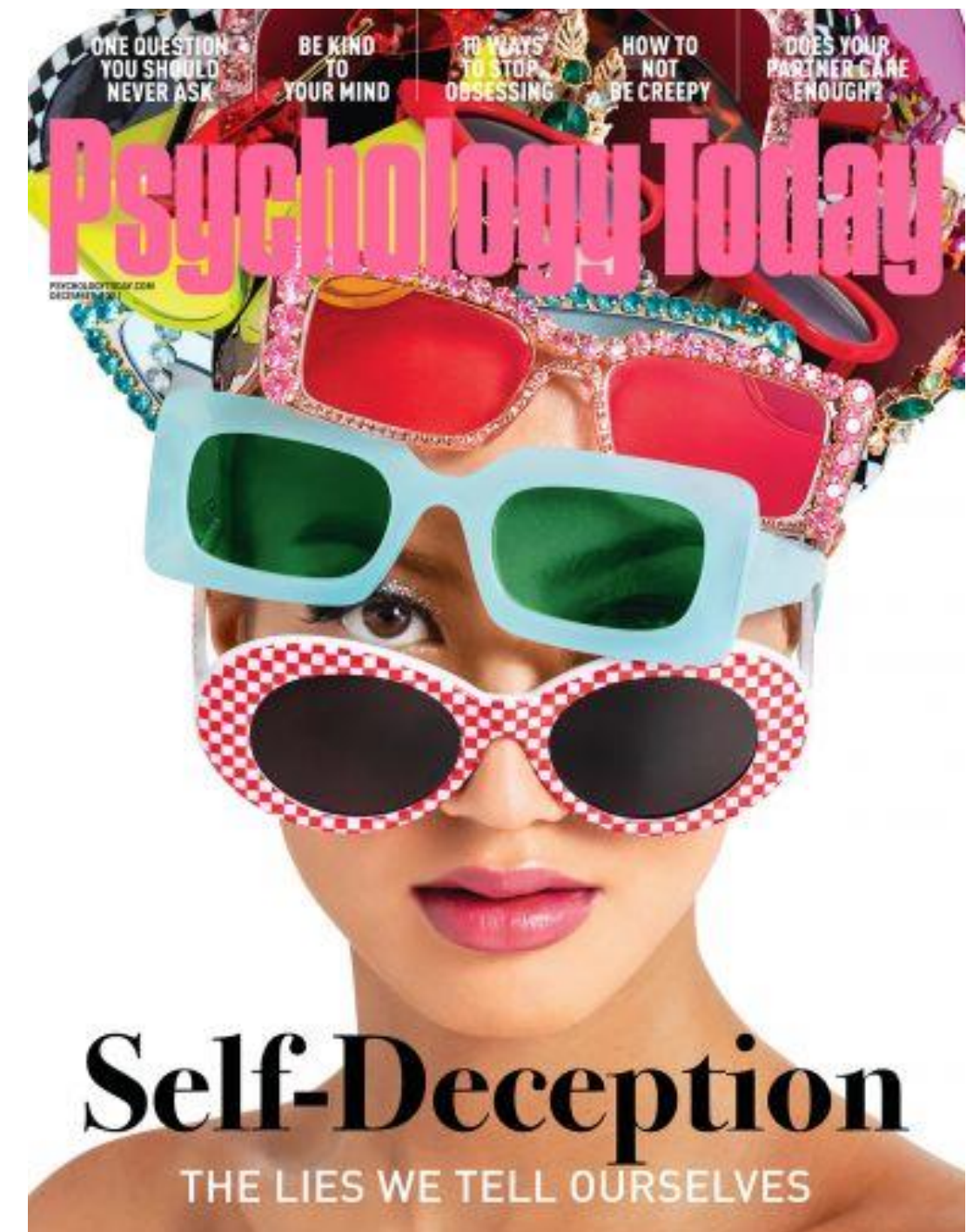
Let's talk divorce settlement

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)



Let's talk divorce settlement

The influence of social media on divorce proceedings



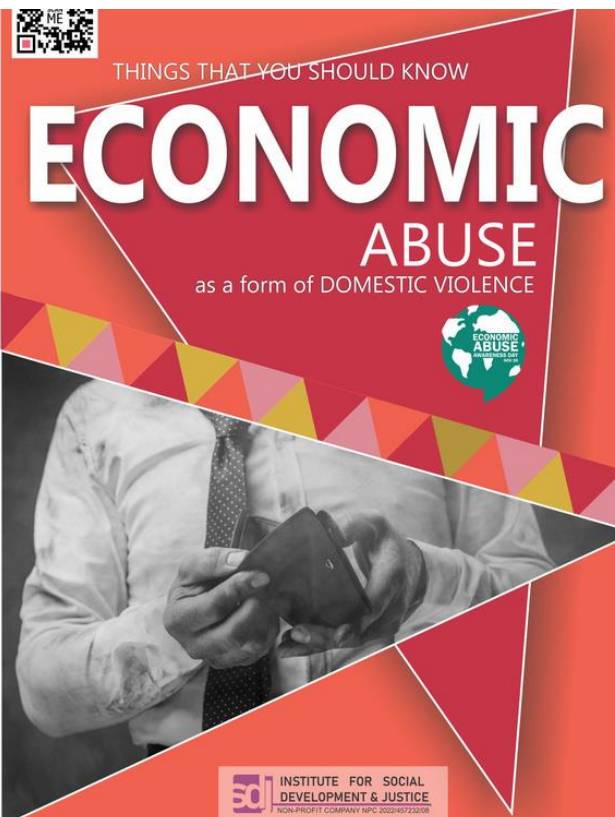
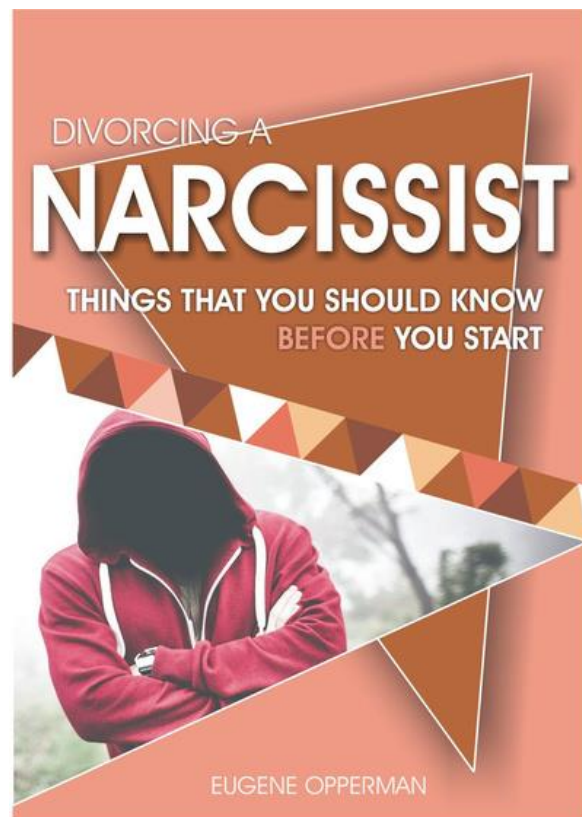
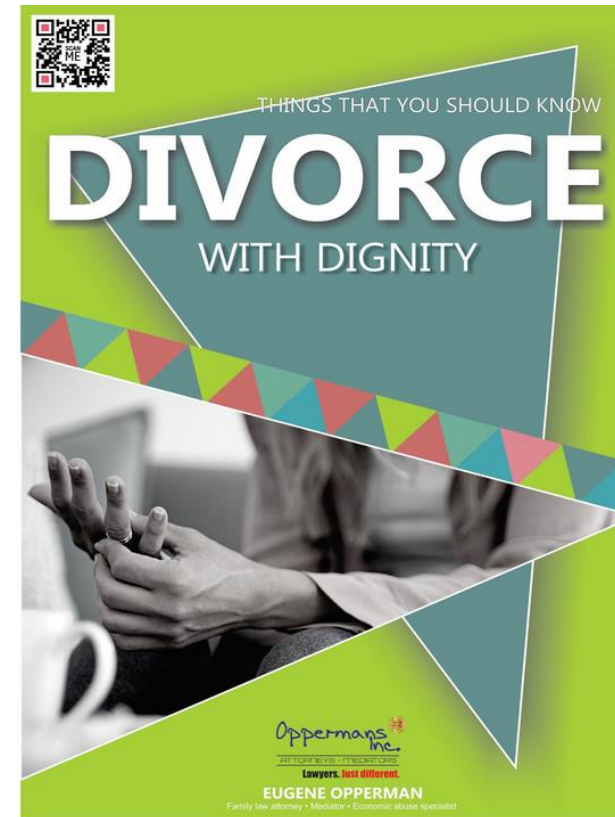
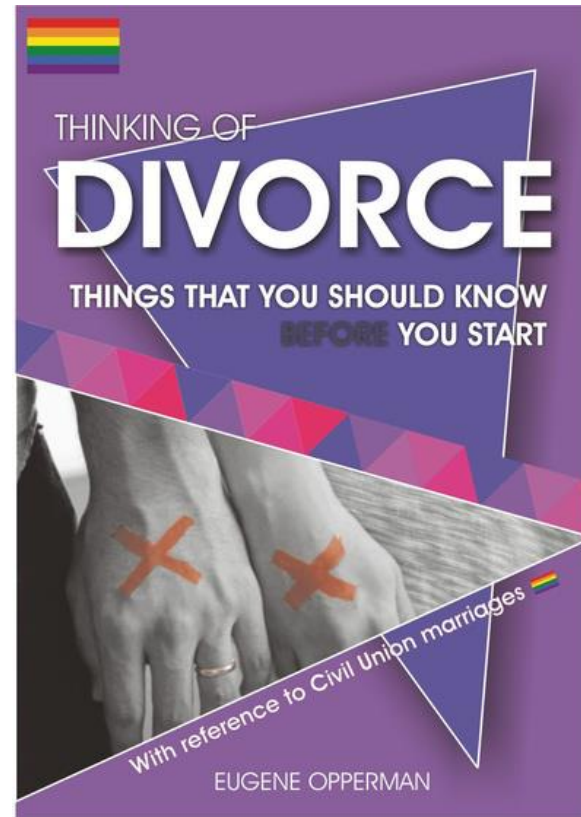
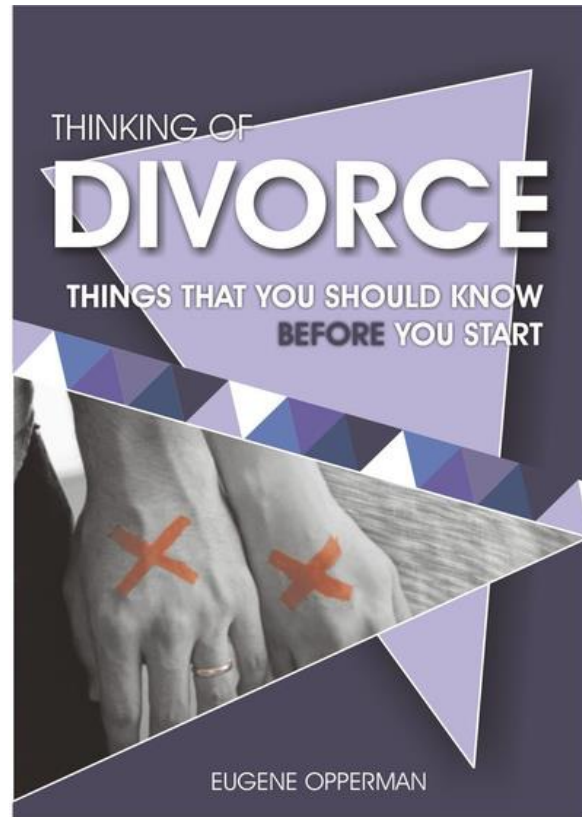
- Stop using social media during your divorce
- If you stay on social media, don't post anything negative
- If you really want to post something, post positive images
- Change your privacy settings to the highest levels

- Remove your relationship status
- Don't discuss your case online
- Don't look for "dirt" about your spouse online
- Google yourself
- Don't post intimate photos or videos from your marriage



Let's talk divorce settlement

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)
Simon Dippenaar (Director from Simon Dippenaar & associates)

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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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