

A close-up photograph of two gold wedding rings with small diamonds set into the bands, resting on a light-colored, textured fabric.

## Family & Marital Law

### **Do you have questions? Your best interests are at the heart of every answer.**

By their very nature, family law matters are often highly emotional and complicated due to the many relationships and issues that are involved. You may feel overwhelmed or uncertain, and you may have a multitude of questions.

It's important for you to know that that your questions are not uncommon, nor are they insurmountable. Our clients include business owners, doctors and other professionals, executives, professional athletes, other high-net worth individuals... all of whom have similar questions.

We're here to help, to listen with calm and understanding, to be your trusted guide and advisor through these uncertainties. We want you to feel rest assured that you have a team of professionals by your side, supporting you every step of the way.

Let us know the questions you're facing about your divorce or family law matter. Your best interests are at the heart of every answer.

### **Divorce / Dissolution of Marriage**

#### **I want a divorce. What do I do now?**

A divorce is typically a highly emotional and traumatic experience for the spouses and their children. It is often further complicated by business ownership, real estate and other asset holdings, intricate trust structures, and high net worth. We are here to help you navigate the complex issues and difficult challenges of the divorce process while protecting your best interests every step of the way.

The division of assets and spousal support, especially when it comes to a high-net-worth divorce, are often highly contested issues. Our attorneys can help protect you and your interests, and we will advocate on your behalf for a favorable division of property. We frequently work with financial experts to value a wide variety of assets, including real property and business interests, so that your case can be effectively presented. Our firm also has experienced attorneys in a number of other areas, such as business, real estate, tax, trusts and estates, who can help you with any other questions you may have. Our family law attorneys also have extensive experience arguing for, and defending against, claims for

### **Key Contacts**

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alimony.

Similarly, spouses are often combative when discussing children's issues such as financial support and time-sharing (historically known as "custody" and "visitation") – and many spouses are not aware of the evolving laws. We can advise you regarding child support and the court-required "Parenting Plan," which lays out the time-sharing schedule each parent will have with the minor children, along with each parent's rights and responsibilities.

Because of our experience drafting and negotiating these documents, we can help you develop a detailed Parenting Plan that allows for flexibility and active co-parenting while minimizing any future confusion between you and your spouse regarding responsibility for your children. In addition, if circumstances change or subsequent conflict arises regarding its terms, we can assist help you in seeking or defending a modification of the Parenting Plan.

We also deal extensively with conflicts arising out one parent's proposed relocation with a minor child, whether petitioning for approved relocation or opposing such a petition – whether local, out of state, or out of the country.

When working with our clients, our goal is always to provide you with cost-effective and fair resolutions for handling your divorce, and we believe in alternative dispute resolution whenever appropriate. However, our civil trial litigators are experienced and skillful advocates for clients in court when trial is unavoidable.

Most importantly, whether in arbitration, mediation, negotiating a private settlement, or trial, our attorneys have the utmost regard for confidentiality, privacy and your ultimate objectives.

In Florida, there are typically four options for divorce:

- **Negotiated Settlement**

From the start of the divorce proceeding, we will try to work with the other side to settle your case and avoid going to court, if possible. Initially, the idea of negotiating with your soon-to-be ex-spouse may seem like the last thing you want to do, but it is often more cost effective than going to court and it gives you and your spouse the power to determine the outcome as opposed to leaving for a judge to decide.

The settlement process usually begins with one of the parties sending over an initial proposal for handling the many issues surrounding your divorce. The receiving party and counsel will review the document and then present a counteroffer. Back-and-forth negotiations between you and your spouse, in consultation with your respective attorneys, will continue until all the considerations can be resolved between the two of you.

Once you and your spouse have agreed to the terms of the divorce, a marital settlement agreement and parenting plan will be drafted for you both to sign. These binding contracts will cover all the resolved issues regarding your marriage, including the division of property and assets, child and spousal support, and any other issues related to children or the marriage.

Most family law cases end with a settlement because it is less expensive, quicker and less contentious. However, it is important that you work with an attorney throughout the negotiation process to make sure you fully understand the conditions and what you are agreeing to.

Sometimes, you and your spouse may not be able to settle on the terms of your divorce. Your attorney can

then advise you on other options that are available to you.

- **Mediation**

If a case can't be resolved through a negotiated settlement, mediation may be the next step. During this confidential process, you and your spouse, along with your respective counsel, will meet with a neutral third party to help you reach a settlement.

The mediator, who is often an experienced family law attorney or former family law judge, does not serve as a judge during the mediation. Instead, the mediator acts as a referee of sorts between the parties, with no authority to make decisions regarding the case. Like a negotiated settlement, only you and your spouse have the power to decide the outcome of your case based on what is best for each of you and your family.

Even if you plan to take your case before a judge, mediation will usually be required first. Despite this mandatory requirement, many couples still opt for mediation when going through family law matters because it is generally quicker, more cost effective and leaves the final resolution to the spouses as opposed to a court-appointed judge.

Mediation gives you input and the final say on decisions regarding how your assets will be divided, how you will spend time with your children, and what will happen with your family home. It also provides an opportunity for you, your spouse and counsel to find creative solutions that will benefit everyone, since oftentimes the court's hands are tied as to how it can rule on certain issues.

We are experienced at counseling clients throughout the mediation process, and we can serve as your trusted advisor and advocate to ensure your settlement is fair and thorough. We are also able to serve as a mediator for parties involved in a family law dispute.

- **Collaborative Divorce**

In Florida, collaborative divorce is an option for couples looking to minimize the negative emotional and financial impacts that traditionally occur in a family law case. If you and your spouse can agree to a collaborative divorce, you may be able to work together in a respectful approach and resolve the case without litigation and court intervention.

Collaborative divorce requires both you and your spouse to hire collaboratively trained lawyers and sign a collaborative participation agreement. You both agree to engage in the collaborative process, which includes hiring a neutral financial professional and a neutral mental health professional. This collaborative team then works together to fashion a global settlement agreement for all issues in the case.

You may be asking, "Why do I need all of these professionals involved in my case?" You may be surprised to learn that financial and psychological professionals are frequently engaged as experts by each side, even in traditional litigation. A financial professional is crucial for mapping out the financial settlement, such as valuing business interests and other assets, helping to establish actual need for spousal support, and calculating other financial matters. Just as importantly, a mental health professional can help to craft a parenting plan that considers the best interests of your children and provides a holistic approach to your family's well-being. Together, the collaborative team often offers a cost-efficient means for you and your spouse to resolve the multitude of issues involved in a divorce or paternity case.

Many couples are increasingly gravitating toward the collaborative divorce approach because of its

emphasis on working together collaboratively rather than combatively. The process also allows for more privacy, since it eliminates the public court filings of a traditional contested divorce. In addition to being cost-effective, collaborative divorce can help resolve the case more quickly since the speed and scheduling of the process isn't reliant on the courts.

While the collaborative process may not work for all families and circumstances, it is an approach that is growing in popularity due to its peaceful, goal-oriented nature. If you have questions or are interested in learning more about a collaborative divorce in Florida, please contact Crystal Buit or Derren Ciaglia who are both trained and experienced in the process.

- **Traditional Litigation**

The goal and hope in any case is always to reach a resolution without going to court, and this does occur in the vast majority of family law matters. Sometimes, however, settlement is simply not feasible, whether for all issues or just one. When this happens, the court's involvement is needed, both for hearings on temporary issues during the process and for the ultimate trial where the judge will rule on the final outcome of your case.

It's important to understand that litigation can be lengthy and complex, as well as combative, emotional and expensive. It can require the demonstration of evidence, presentation of testimony, and more. The path of litigation often leads to extensive discovery that may involve taking depositions and hiring various experts, including forensic financial experts who can testify as to a spouse's need (or not) for alimony, as well as perform other calculations such as present day values for pensions; business valuers who are able to ascertain a business's value or lack of value; and psychological experts who are often instrumental in advising the court regarding the best interests of the children, including which parent the child should live with.

Our goal is always to provide our clients with cost-effective and fair resolutions to their divorce and family matters. However, sometimes litigation is the only option, and our civil trial attorneys are experienced and skillful advocates for clients in the courtroom.

Whether it's a hearing or a final trial, or simply going through the discovery and litigation process generally, you want an experienced Florida divorce attorney with the knowledge, expertise and resources necessary to properly present your case and work aggressively to protect your rights.

## High Net-Worth Divorce

Discussions around the division of assets and spousal support are often contentious; however, this is especially true when talking about multi-million-dollar net worth. Whether you're embarking on a divorce or paternity action, a business interest can complicate the process even more. A professional practice, commercial enterprise, or family business may suddenly become the focal point of discussion. Or an individual's income may be so high that a downward deviation from child support guidelines is necessary to avoid an inequitable result.

Unique circumstances such as these can be incredibly daunting and stressful for you, but we can help guide you through the process, every step of the way. We are familiar with the many nuances involved in complex cases such as these, as they are routinely part of our experiences representing high profile athletes, business owners, executives, professionals, and other high-net worth individuals in divorce and paternity actions.

Some representative high net-worth cases have included:

- Representation of the wives of John Daly, Jeff Gordon and Mark O'Mara
- Participation on the legal team representing Elin Nordegren in her divorce from Tiger Woods
- Representation of John Walsh
- Representation of many NFL and NBA athletes

Whether representing a public persona or private family, we understand the importance of upholding the highest regard for confidentiality, privacy and the client's ultimate objectives.

## Alimony / Spousal Support

### Will I have to pay or will I receive spousal support?

Unlike child support, alimony in Florida is not currently determined by a specific formula and is often a complex and quarrelsome issue. The court analyzes need, ability to pay, length of marriage, age, and a multitude of other factors to determine the form and amount of alimony, if any.

There are several types of alimony available under Florida law, including:

- **Bridge-the-gap alimony** is awarded to help one spouse meet a short-term need, such a transitioning from married to single life. It may not to exceed a duration of two years, and it may not be modified.
- **Rehabilitative alimony** is awarded for a specific amount of time to help a spouse establish a means of supporting himself or herself in the future by redeveloping previous skills or acquiring education or training for new employment skills. This time of alimony can be modified.
- **Durational alimony** is awarded to provide the receiving spouse with economic assistance for a set time period that does not to exceed length of marriage. This type of alimony is more common following short-term (less than 7 years) and moderate-term (7 to 17 years) marriages.
- **Permanent alimony** is generally only awarded for long-term marriages (more than 17 years). Additionally, the court must determine that no other type of alimony is fair. Permanent alimony can be modified or even terminated if there is a substantial change in circumstances for either party or if the receiving former spouse enters into a supportive relationship.

We have experience demonstrating to the court a need for alimony consistent with a lifestyle established during the marriage, ascertaining the need for a specific type of alimony, or even defending against claims for alimony.

## Equitable Distribution / Division of Assets & Liabilities

### How will our assets be divided?

In Florida, the answer to the question of "Who gets what?" is based on the premise of "equitable distribution." The court must begin with the premise that the distribution between you and your spouse should be equal. This means that the division between divorcing spouses will almost always be an equal 50/50, unless there is a justification for an unequal distribution based on all relevant factors.

Among the many factors that the court may consider when dividing your and your spouse's assets are economic circumstances, contributions to the marriage, length of the marriage, and strong attachments to particular assets. The court is also tasked with determining whether an asset or debt is marital or non-marital, including whether any appreciation or enhancement in a non-marital asset could be marital. That's why it is vitally important to have a skilled divorce attorney on your side to guard your property rights.

The division of assets is often one of the most disputed and contentious aspects of a divorce, especially when talking about complex and multi-million-dollar estates. Do you and your spouse own a business or real estate? Do you have other investments or unique items such as antiques, jewelry or art? What other tangible and intangible assets are at stake? We often work with financial experts to help clients thoroughly evaluate and value assets, as well as to classify them as marital or non-marital, to ensure your interests are protected during the division process.

When dividing assets in a divorce, many questions arise related to tax, estate planning, trusts, businesses, real estate, and other legal matters, and our firm has many experienced attorneys who can advise you on how to navigate these issues to achieve the best resolution for you and your family.

## **Child Support & Children's Issues**

### **How will the divorce impact my kids?**

While the financial issues surrounding a divorce are undeniably important, we know there is nothing more significant and emotional than how it will impact your children. (One of our team members grew up in a divorced home and personally understands how difficult the process can be for the entire family.) From timesharing (often referred to as custody), visitation and relocation to decisions about education, health and welfare, from determining monetary child support to insurance coverage, numerous critical and sensitive considerations must be addressed.

The best interests of minor children are the primary concern in Florida – and for us. We work with our clients to establish the court-required Parenting Plan that maps out the time-sharing schedules, allows for flexibility when necessary, and details the responsibilities of each parent. We have also dealt extensively with conflicts arising out of a parent's proposed relocation with a minor child, whether petitioning for approved relocation or opposing such a petition – locally, out of state, or out of the country.

## **Modification & Enforcement Actions**

### **What if my circumstances change?**

After your divorce is final, circumstances may change. Perhaps there is a life-changing event that warrants a change in alimony, child support, timesharing/child custody or some related issue. Or maybe your spouse is not meeting their required obligations. Our attorneys are experienced dealing with post-divorce issues and can help you find resolutions that work for you and your family.

### **Post-Divorce Modifications**

If your financial or living situation changes after your divorce, you may consider petitioning for a modification. Significant life events such as job loss, retirement, relocation, remarriage, issues with the children or other major

changes may warrant a change to previous arrangements regarding alimony, child support, timesharing, and other parenting matters.

In Florida, modifications to court-ordered alimony and child support can be modified when the circumstances or the financial ability of either party changes. The change must be significant, material, involuntary and permanent in nature.

Our attorneys can assist you throughout the modification process, including assessing whether a valid claim exists, answering your questions, petitioning the court, and advocating for you and your child's best interests. We can also defend against such a modification action.

### **Enforcement**

Sometimes after a divorce, either spouse may fail to live up their side of the settlement agreement or court order. If your former spouse is refusing to pay support, not abiding by a timesharing schedule or parenting provision, or otherwise neglecting their obligations, we can take the necessary steps toward an enforcement action that ensures your and your children's interests are protected.

## **Prenuptial & Postnuptial Agreements**

### **How do I protect myself... just in case?**

A prenuptial agreement, commonly referred to as a "prenup," is a legal agreement entered into by both spouses before marriage. Prenuptial agreements serve to protect each of you financially in the event of a divorce or legal separation. They are particularly important if one or both of you is entering the marriage with a large amount of assets. Prenuptial agreements also outline the rules and procedures to be used should the marriage end in divorce, which reduces conflict during any subsequent divorce proceedings.

Postnuptial agreements serve the same purposes as prenuptial agreements, except they are entered into by both spouses after you are already married.

Not having a pre- or postnuptial agreement can lead to a bitter and costly trial where a judge, and not you and your spouse, will determine important issues such as the division of your assets and liabilities, alimony payments, child support, and timesharing. Each state has specific laws regarding what can and cannot be included in a pre or postnuptial agreement, and a prenuptial or postnuptial agreement can be thrown out by a judge if it is prepared improperly.

Further, in the absence of a pre- or post-nuptial agreement, the income earned and assets received by a spouse during the marriage may likely be considered marital and subject to division in the event of a divorce, including potentially the appreciation or enhancement of non-marital assets. Having a strong prenuptial or postnuptial agreement in place can help ensure that your pre-marital assets are protected in the event of divorce.

Our attorneys can assist in preparing, reviewing, and enforcing your prenuptial or postnuptial agreement and can help you defend against an action that your spouse may bring to enforce the terms of an agreement if it was entered into improperly.



## Same-Sex Marital Considerations & Domestic Partnerships

### What if I'm in a relationship but not married? What if I'm in a same-sex marriage?

Although same-sex marriages are recognized in Florida and elsewhere, there are several steps you can – and should – take to protect your relationship whether or not you are married. If you entered into agreements meant to protect your same-sex relationship arrangement in a pre-marriage environment, we can help you understand how those arrangements have been affected by the changes to marriage laws and what steps you might want to take in a world where same and opposite sex marriages are treated equally.

Our attorneys have worked with numerous couples to create domestic partnership agreements, joint property agreements, business agreements, powers of attorney, medical directives, wills and other documents designed that provide the legal security you deserve. In any relationship, it is important to create a roadmap for dissolution, in the unfortunate event of a break-up – through which we guide our clients with strength and compassion.

## Paternity

### What happens if I have a child outside of marriage?

When a child is born to unmarried parents in Florida, the child is automatically considered the lawful child of the mother, meaning that she has sole, legal and physical custody. Until paternity is established, an unmarried father has no parental rights or legal responsibility for the child.

In many cases, both parents agree on the paternity of the child, with the father voluntarily accepting his rights and responsibilities. However, in cases where the paternity is disputed, either the mother or father can initiate a proceeding to establish paternity and resolve many related issues such as custody, child support, time sharing and parenting plans.

Our attorneys are experienced in representing both parties in paternity actions. If you are an unmarried mother or father, we can help with establishing a claim of paternity or defending against one. Once paternity has been established by acknowledgment or a genetic test, we can counsel you on issues such as timesharing, parental responsibility, and child support, keeping your best interests in mind. We understand the very sensitive nature of these types of matters, and we handle each case with discretion and respect.

## News

Lowndes Named to 2025 “Best Law Firms” by *Best Lawyers*  
11.07.2024 | AWARDS & RECOGNITION

Derren Ciaglia and Gary Kaleita Named Top 10 Authors by *JD Supra's* 2024 Readers' Choice Awards  
03.06.2024 | AWARDS & RECOGNITION

Best Lawyers Recognizes 49 Lowndes Attorneys in 2024, Three Named Lawyer of the Year  
08.17.2023 | AWARDS & RECOGNITION



14 Lowndes Attorneys Named to *Orlando Family Magazine's* "Awesome Attorneys 2023"  
02.21.2023 | AWARDS & RECOGNITION

## Publications

Two Big Changes to Florida Law that Every Father Should Know About this Father's Day  
06.06.2024 | ARTICLE

Mediation Missteps: How to Prevent Common Pitfalls in Family Law Cases  
01.17.2024 | ARTICLE

Cryptocurrency and Divorce  
12.17.2023 | PUBLICATION

The Parenting Plan  
12.17.2023 | PUBLICATION

What All Unwed Fathers Should Know About Voluntary Acknowledgements of Paternity  
09.27.2023 | ARTICLE

Navigating the Legal Maze of Parental Relocation in Divorce  
09.26.2023 | ARTICLE

All Eyes on Oher: The Crucial Role of Quality Legal Counsel for Proposed Wards in Guardianship Cases  
08.16.2023 | ARTICLE

Florida's Alimony Overhaul: New Legislation Changes Modification Standards  
07.03.2023 | ARTICLE

Governor DeSantis Signs Landmark Alimony Reform Bill Eliminating Permanent Alimony  
07.01.2023 | ARTICLE

New Florida Legislation Helps Unwed Fathers Gain Parental Rights  
06.20.2023 | ARTICLE

Florida's Proposed Alimony Reform Alters Parenting Plan Modification Requirements  
04.17.2023 | ARTICLE

Florida Legislature Tries Once Again to Overhaul Alimony  
03.28.2023 | ARTICLE

Protecting Your Inheritance with a Prenuptial Agreement  
04.05.2022 | ARTICLE

Why the Cut-Off Date Matters in Florida Divorces  
03.31.2022 | ARTICLE

Tips for Holiday Cheers—Not Tears—When Going Through a Divorce  
12.20.2021 | ARTICLE

Co-Parenting Tricks to Make Halloween a Treat  
10.19.2021 | ARTICLE

Lessons from a Celebrity Divorce: The Importance of a Prenuptial Agreement  
08.18.2021 | ARTICLE

Dads Are Important, Too: The Vital Role of Dads in Divorce and 50/50 Timesharing  
06.18.2021 | ARTICLE

Gray Divorce: What to Consider When You're Divorcing Later in Life  
05.24.2021 | ARTICLE

COVID-19 Continues to Impact Divorce Proceedings  
06.09.2020 | ARTICLE

Worried That a Sizeable Estate or Trust Gift Was Procured by Undue Influence?  
05.30.2019 | ARTICLE

Mental Capacity: An Easy Challenge Or A Tough Road?  
05.15.2019 | ARTICLE

Life Changing Alzheimer's Or Dementia Diagnosis? 3 Ways Guardianships Can Bring Stability to Your Family  
02.07.2019 | ARTICLE

Step-Parent Adoption – Time to Take the Plunge?  
01.31.2019 | ARTICLE

Prenuptial Agreements – Who Needs Them?  
12.20.2017 | ARTICLE