

Settlement Agreements – The Devil is in the Lack of Details – Part I.

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To get divorced in Virginia, all issues must be resolved regarding the marital estate, including custody, visitation, child support, alimony and a division of all assets and liabilities, including retirement accounts. A trial court will make the decision on one or all of the issues if the parties do not reach an agreement. To avoid having a judge, who has never met the parties or their children, make a final decision about family matters, divorcing parties often find it more advantageous to reach an agreement themselves, resolving the issues in their marital estate. If parties cannot reach an agreement alone, experienced family law attorneys can assist in obtaining the information necessary to make an informed decision about settlement terms. The settlement terms are memorialized in a formal Agreement that is either drafted by the parties, their attorneys or mediator.

However, problems arise months or even years later when the parties realize details are missing from agreements. For example, when parties contract to pay for college, but fail to put any contingency plans for emergencies, parties who have become disabled or unemployed find themselves obligated to large financial payments they are no longer in a position to afford. Additionally, if the parties fail to include language about how much to contribute to college (ie: capped at the cost of in-state tuition, or a certain amount per year), then parents can find themselves paying large tuition bills with no say in the matter when the child is more aligned with the other parent. While it may be less expensive for parties to draft their own agreement, having an experienced family law attorney draft or in the very least review the terms of an Agreement could save you tens of thousands of dollars later.

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