

Today's Business: Controlling the divorce narrative

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Melissa Needle, a lifetime Connecticut resident, is founder of the Westport-based law firm Needle Cuda.



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If divorce is on the horizon, start by doing your homework. If you own a business, don't hesitate for a second.

A divorce narrative is a spouse's story about the marriage. How did you get to where you are? A well-crafted story with a clear point of view adds gravity to key issues and "connects the dots" to the statutory requirements in Connecticut. The story can be considered by family court judges when determining specific components of divorce judgment, including child custody, child support, alimony and division of business assets.

The primary objective of this marital history is to capture the "big picture," showcasing your side of the story while noting there are always two sides.

For example, information essential to a divorce case may be whether or not a family member is plagued by health challenges, physical or emotional. Such issues can directly affect a parent's ability to care for a child or whether a spouse is able to work outside the home.

Educational background and work experience similarly affect how earning capacity might be weighed; informs key inputs for calculation of child support; and supports requests for alimony amounts and duration.

Fault also is a factor Connecticut family courts can consider and should be fleshed out in the narrative. Why divorce? What will the spouse claim is the reason? Family court judges may consider causes of the marriage breakdown when determining what is fair. However, fault is not a requirement for getting divorced in Connecticut as it is in some other states. Connecticut is referred to as a no-fault divorce state, simply meaning the court has jurisdiction to enter a judgment of divorce simply based upon one spouse's claim of irretrievable breakdown in the marriage.

Fault is just one of many factors that can be considered in the determination of what is fair, so being hyper-focused on the emotionally charged issue of fault is not necessarily going to be disproportionately helpful toward the end result. It is more important to paint a complete picture, produce a detailed narrative, so that themes can be uncovered and organized into a legal strategy.

For example, include a detailed inventory of the positive and negative attributes shown by your spouse, a comprehensive commentary about your individual and collective financial position, a detailed description of the lifestyle which you enjoyed, and any extraordinary factors or special needs related to your children.

Always make it easy to understand, identify and latch on to your point of view.

A marriage/relationship chronology of important events, excerpts from personal diaries, journals and correspondences also can add value. Your story also may benefit (if applicable) from marking major conflicts/episodes in your relationship: things that can be flagged by police reports, medical/mental health hospitalizations, rehabilitation stints related to drug and alcohol abuse, therapy and/or relationship counseling.

Further, commentary about all the ups and downs inherent to one's career, the financial operation within your marriage, and your overall household dynamic and behaviors are important to layer into the mix.

Similarly, important nuances can be emphasized with descriptions about extended family relationships that either positively or negatively affected the marriage or the financial operation and/or juxtaposition of roles within a family business.

A marital history is your opportunity to provide transparency and a clear point of view about the most complex issues and critical themes on which your arguments rest. It guides your legal team on the prioritization of discovery process and in mustering compelling evidence.

Homework is the creation of the marital history, helping to ensure that the court and all professionals involved (custody evaluators, family relations officers, opposing counsel) have complete and concise information that best serves your story.

It is “living” document, often needing updates and supplements to help your team, including all professionals involved, to think about your case from your point of view.

This “homework” may seem daunting; however, it is central to engineering and delivering the best results. In the end, many say that writing the marital history was a cathartic, empowering and validating experience, helping to reinforce the initial decision to pursue a divorce.

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