



5 Ways to Ensure the Right Financial Settlement For Your Client

by Nancy Hetrick, ADFA™

Today Debbie walks into your office to have an initial consultation. Her husband informed her last week that he wants a divorce. She says they have been married for 25 years, her husband owns his own company and she has been a homemaker the majority of their marriage with only a few years of retail part-time work before the children were born. She is now 54 years old and terrified for her future. She has never handled the finances and has no idea how much money her husband makes, whether or not he has a retirement plan, or even if they owe any money on their home. She breaks into tears as she explains the situation, ashamed of her ignorance. Are you equipped to help her ensure that a fair settlement is reached? How is she even going to be able to complete a financial affidavit? If you're not careful, you could miss vital information about their financial situation leaving you at risk of a potential lawsuit. **How do you ensure that you will be the best advocate for your client?**

1. **DON'T take the other party's word for it!!** Sure, you can request all the docs in the world from the opposing party and hope they produce them but you can be certain that the other spouse, usually the man, KNOWS that the wife is ill informed and may give you only the information that he knows will satisfy her. Are you going to take the time to go through the tax returns and compare them to bank statements? Is it realistic for your client to even expect this? Probably not. But what choice do you have?
2. **Recommend the client add a CDFA to the team.** If you aren't aware of it, you need to be! CDFA – Certified Divorce Financial Analyst. This is the person that can save you from having to dig in to the details of a client's finances at a level you aren't prepared for nor trained for. Hey, you're an attorney not a financial advisor! The Institute for Divorce Financial Analysts provides advanced training to established financial advisors or CPAs on the intricacies of the finances of divorce. A CDFA can help your client prepare the financial affidavit, value pensions, do a certain amount of forensic accounting and ensure that a settlement proposal

is fully understood by both you and your client.

3. **Don't forget taxes!** Be sure you know the tax impacts of a settlement proposal. I recently met a woman who got the couple's rental property as part of her 50% of the assets. It was valued at \$250,000 and had a mortgage against it of \$125,000. Her husband received a \$125,000 CD as his 50%. A year after the divorce, she decided she couldn't afford to maintain the property and needed to sell. She then discovered some rather shocking news. Her husband never mentioned, and the attorneys never asked, that he had purchased that property before their marriage for \$50,000 which meant that this woman was now going to realize a \$75,000 capital gain and owe a whopping \$11,250 in taxes. It turns out her half of the assets wasn't as "equal" as she thought.
4. **If you fail to give proper financial advice, you could be sued for malpractice!** Some of my lawyer friends confirmed for me that one of the reasons that they became lawyers is they hate math!! They can articulate any argument in the world as long as there are no numbers involved. Realize where your strengths and weaknesses are and bring in a financial expert to ensure that the numbers are crunched properly. It's just too easy to make mistakes in an area that is not your specialty. Transfer that risk to a trusted CDFA. And once you find a good one, hang on to them! They'll be your best business partner ever!
5. **Make sure your client can afford what they keep** – So often in my practice I am confronted with a client that is emotionally attached to a house she can't afford to live in. She spends thousands of dollars in legal fees to fight for the house only to find out two years later that she's out of cash and can't exactly sell a window to put food on the table. Any settlement you negotiate for your client needs to be realistic not only today, but 10, 20 years into the future. If you're not sure that's the case, this is another area where a CDFA can help. A CDFA will prepare exhibits to help your client understand her situation and that are also very useful if the case should go to trial. (Most CDFAs are also qualified to serve as expert witnesses if necessary.)

When it comes to negotiating financial settlements for your clients, be sure you fully understand the entire financial picture. For a more complicated situation or where one party may not be fully informed, protect yourself from liability by bringing in a CDFA to partner with you for the clients best interest. Your client will appreciate it and your risk of future liability for any oversights or omissions is eliminated! Go for the win/win/win! For a list of CDFA's in your area, go to www.idfa.com for a locator.

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