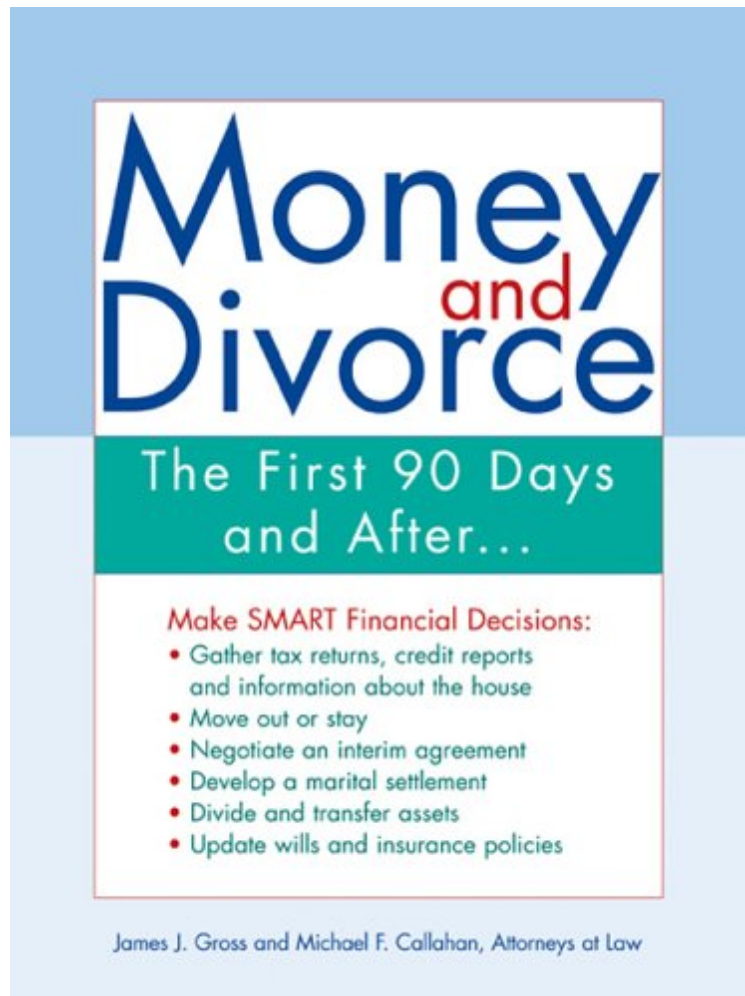


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## Money and Divorce: The First 90 Days and after...

*James Gross, Michael Callahan*

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#4371664 in Books 2006-02-01 2006-02-01 Original language: English PDF # 1 9.00 x .79 x 6.00l, 1.07 #File Name: 1572485248304 pages | File size: 53.Mb

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Financial Security Every Step of the Way Divorce is an overwhelming and complicated procedure that can leave anyone in financial ruin. Money and Divorce provides an innovative way to protect and organize your finances throughout your entire divorce process. By following a timeline that breaks down divorce procedures into 90-day increments, you can easily accomplish what needs to be done now-and prepare for what must be done next. DAY 190- Gather all of your financial documents- Start a comprehensive divorce notebook DAY 91180- Take defensive actions

to safeguard your possessions- Strengthen your position regarding future negotiationsDAY 181270- Resolve credit card and other debt issues- Maximize your share of the marital assetsDAY 271365- Stop spending money on unnecessary battles- Rid yourself of a difficult ex-spouseMoney and Divorce allows you to walk away financially secure.

About the AuthorJames J. Gross received his J.D. from the University of Missouri. He was formerly an attorney with the Federal Communications Commission. Mr. Gross is a managing partner and has practiced in the areas of family and business law and civil litigation for over 20 years. He is licensed to practice in Maryland and the District of Columbia. He resides in Potomac, Maryland. Michael F. Callahan received his J.D. from Georgetown University. Formerly with the Internal Revenue Service, he has practiced in the areas of family law, tax controversies and bankruptcy. Mr. Callahan has written several articles and lectured on many topics, including the tax aspects of divorce. He is licensed to practice in Maryland, Virginia, and the District of Columbia. James J. Gross received his J.D. from the University of Missouri. He was formerly an attorney with the Federal Communications Commission. Mr. Gross is a managing partner and has practiced in the areas of family and business law for over 20 years. He is licensed to practice in Maryland and the District of Columbia. He resides in Potomac, Maryland.Excerpt. Reprinted by permission. All rights reserved.The Marital Settlement Agreement Negotiation ChecklistExcerpted from Money and Divorce by James J. Gross and Michael F. Callahan, Attorneys at Law 2006The marital settlement agreement is the essence of your divorce. It resolves every issue of your marriage and divorce, and it will eventually become incorporated by the court into your divorce decree. Therefore, you need to take great care in what you put in it.If you have a marital settlement agreement, when the time for divorce comes, you can tell the judge that everything has been resolved and there is nothing left for the court to do but give you a divorce. In the meantime, you can live as though you were single and unmarried.Once the agreement is signed, you can even date other people without risk to your legal case. You are still technically married until the court grants your divorce, and adultery is still adultery. However, adultery cannot affect property division and alimony, because they have already been decided by your agreement.Only the court can grant a divorce, but an agreement is a contract between the two of you. You do not need to file it with the court until the divorce. It is valid and enforceable by the court from the day it is signed. It is like a private divorce.While the court has legal requirements for a divorce, such as residency, jurisdiction, and grounds, there are no such requirements for a marital settlement agreement. You might have to live apart for a period of time before you can file for divorce, but you can sign a marital settlement agreement today, whether you are living apart or not.A divorce court judge is limited by the legislature in what he or she may order in a divorce. You do not have these limitations in a marital settlement agreement. For example, if the court in your state cannot order title to real estate changed, then the judge could only order your home sold if you go to trial. However, you are free to work out a different arrangement by agreement, and one spouse can agree to buy the house from the other.An agreement can be more specific and go into greater detail than a court decree. A judge may order custody and visitation in one paragraph. You can include a parenting plan in your agreement that specifies the details of custody, a visitation schedule, homework and television routines for the children at each house, and much more.Many states do not make provisions in the law for a judge to order support for college costs for children. However, if the parties agree on this, they can put it in their marital settlement agreement.Even when the court cannot order certain provisions in a divorce trial, the court does have the power to enforce such provisions if they are included in a marital separation agreement. In other words, the parties can make an agreement with provisions that the court could not order in the first place, and these provisions will become a valid and enforceable order of the court when the agreement is incorporated into the final order of divorce.What to IncludeThe marital settlement agreement needs to cover everything about your divorce, including children, support, property, and legal fees. The marital settlement agreement begins with the effective date and the parties. The agreement will set forth the facts of your marriage, which are called recitals or whereas clauses. This will include the date and place of your marriage, your children and their birth dates, and the date of your separation (if you are separated).Every agreement requires consideration, or an exchange of something of value, in order to make it valid. This is a formality required by law, and it can be one dollar, ten dollars, or anything else of value. The consideration in marital settlement agreements is usually the mutual promises you are making to each other in the agreement. Your agreement will set forth the terms of your separation and state that you can live separate and apart as though you were single and unmarried without interference from your spouse. It will also state that from the date of the agreement forward, you will no longer have a marital interest in the income, property, or estate of the other, except as set forth in the agreement. You will each waive your right to inherit from the other.The agreement will address all issues related to your children. You will need to decide who will make long-term parenting decisions, such as education, medical care, and religion.Issues to Be NegotiatedYou can use the questions on the following pages as a way to organize what you want in a settlement.POINTS OF NEGOTIATION CHECKLISTChildren? Where will the children go to school?? Who will decide if they go to public or private school?? What about tutors and extracurricular activities?? Who will decide about the need for the children's medical and dental care?? What doctors and dentists will they see?? What medications will they take?? Who will decide if they need braces, cosmetic treatment, or therapy?? What religion will

the children be raised in?? What will be their last names?? Who will give consent if they want to get married or join the armed services before age 18?? Who will select a lawyer if the children have a lawsuit?? Where will the children live most of the time?? What will be their routines at each house for homework, television, and going to bed?? What will the schedule be for time-sharing or visitation?? What will the schedule be for each week, holidays, vacations, and summer?? What will happen to these arrangements if one parent relocates?Child Support? How will the financial needs of the children be supported?? Who will pay child support and how much?? Will it be paid directly to the other party by personal check or through the court?? Will it be paid once a month, twice a month, or every two weeks?? Will it be adjusted each year for inflation or not?? When will child support stop?? Who will pay for health insurance?? What about uncovered medical expenses?? Who will pay for day care and summer camps?? What about expenses for extracurricular activities like piano, soccer, ballet, or karate?? Who will pay for religious celebrations, weddings, or automobiles?? How will college expenses be handled?Note: The court always has the final say on child custody, visitation, and child support. It cannot delegate this authority to the parties, a third party mediator, or an arbitrator. The court can consider the opinion of the parties and third parties, and often follows these recommendations. However, the court must make its own decision based on the best interest of the child. The court can always modify custody, visitation, and child support if circumstances change and modification would be in the best interest of the child.Alimony? Is any type of spousal support needed?? How much and for how long?? Should there be a cost of living escalation?? When does spousal support terminate?? Is it modifiable or non-modifiable in the future?? Who will pay the legal fees for the divorce?? Is there life insurance to secure child support and spousal support?? What about health insurance for each spouse?Property? What will happen to the marital home?? If it is to be sold, when will it be listed for sale and at what price?? How will the sales proceeds be divided?? If one spouse buys the other one out, what is the price and what are the terms for payment?? How will you deal with the mortgage if it is in both names?? Who will draft the deeds and pay the costs for transfer?? What happens to the automobiles, household furniture, furnishings, jewelry, clothing, and other personal items?? How will bank accounts and stock be divided?? What happens if there is a family business?? How will retirement funds be divided? Will there be a survivor annuity, and if so, who will pay for it?? Whose lawyer will draft the court order for dividing retirement funds and who will pay for it?Taxes? Will you file joint or separate returns?? Who will prepare the returns or pay for their preparation?? Who will get the exemption for the children?? Who will pay if there are taxes due?? How will a refund be divided?? What happens if there is an audit for past years?? Who will pay any taxes due on sale of the house, stock, or distribution of pensions?