A Financial Guide to Divorce

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Introduction

We work with individuals and families to assist them in building, preserving and transferring wealth. A cornerstone of our services is comprehensive financial planning. Our planning process starts with helping our clients understand their current financial reality and pursue the financial future they desire for themselves and their family. With that goal in mind, we work together to develop and execute a sensible financial plan. As our clients' lives change, we continuously modify and refine their plans to keep them on track of their stated goals. One significant life event that we help navigate is the divorce process. In fact, Modera Wealth Management has financial advisors with specific knowledge in the financial issues surrounding divorce, specifically three advisors: Scott Kittrell, Chad Foster, and Erica Lyall, who are CERTIFIED FINANCIAL PLANNER™ and Certified Divorce Financial Analyst® professionals.

While anyone experiencing divorce would benefit from the assistance of a financial professional with specialized divorce training, cases with relatively simple or modest financial considerations may not require an enhanced level of knowledge. In contrast, divorces that include complex assets (such as family businesses, stock options and pensions) are likely to find significant value from engaging the services of a financial advisor well-versed in these assets.

If you are considering divorce, it's important to first recognize it is a process — one that can involve a significant amount of emotional, legal and financial disruption. Every divorce is different in scope and complexity, but most share common challenges in how it impacts the lives of those involved. Assembling the right support team to guide you through divorce is the first step toward a successful outcome for you and your family.

The following information is intended to serve as a high-level guide to navigating divorce. Should you find that you would benefit from working with a credentialed Modera advisor, we encourage you to visit our website and schedule a time to speak with one of them:

moderawealth.com/specialties/divorce

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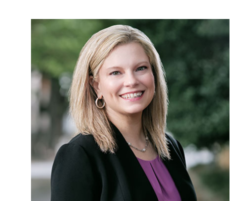

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Emotional Considerations

There is little argument that divorce is a highly emotional experience – not only for spouses, but also their children, family and friends. Navigating these relationships can be difficult as each person deals with their own emotional response. To maintain some sense of perspective, it can be helpful to educate yourself on the emotional impact of divorce.

The emotional response to divorce in many ways mirrors the stages of grief. It involves denial, anger, bargaining, depression, and acceptance. Understanding where you are in the grief process and how it influences your personal behaviors can be empowering. It will not only help you to better manage your personal relationships, but it will also allow you to be more objective and thoughtful in your decision-making.

Denial

The spouse who did not initiate the divorce process is more prone to linger in the denial stage. This can manifest in unrealistic thoughts of reconciliation or an unwillingness to move forward in the legal process. Denial offers comfort by allowing a spouse to escape the overwhelming reality of what may be an unwanted divorce.

Anger

The anger stage can be intense and will likely be experienced by both spouses. It can appear through expressions of hostility, stubbornness and vindictive actions. It's imperative that both parties find a way to be patient with one another, allow themselves the time to process their new reality and productively cope with the stress of the divorce.

Bargaining

Bargaining tends to most impact the spouse who initiates the divorce. Doubt and guilt emerge as the initiator weighs their decision to divorce and faces the resulting consequences.

Depression

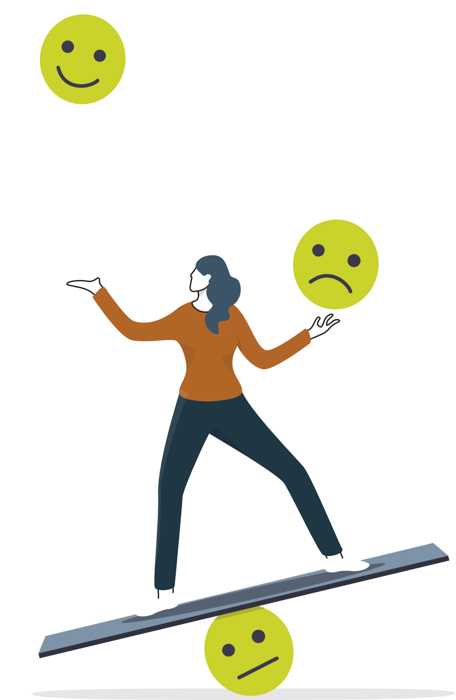
Depression is often the longest and most challenging stage. This is the period where the reality of the situation starts to sink in. Facing the certainty of a different tomorrow is often overwhelming and can be debilitating. A strong support network is particularly helpful during this stage.

Acceptance

In most cases, there comes a time where each spouse embraces the divorce and begins to look towards the future. One may still experience some negative emotions and even revisit one of the prior grief stages, but the focus moves from the past to a new tomorrow. Acceptance leads to hope and empowerment.

Whether you are the initiator of divorce or on the receiving end, you will likely experience at least some of these stages of grief. Understand that it's normal and allow yourself ample time to move through each stage.

It's important to develop a quality support system if you do not have one. If you do, accept help when it is offered and lean on others when in need. Observe your children and seek counseling for them if they are struggling. For all parties affected, a trained and experienced therapist can be a worthwhile investment in long-term healing.



Legal Considerations

When you first share news of a pending divorce with family or friends, you will likely be told to immediately “get a good attorney.” While this is a rational first step, it pays to be thoughtful in your approach.

A good first step is to spend some time thinking through your goals and expectations. It may seem odd, but you need to be able to visualize a post-divorce life that works for you and your family. What do you want to accomplish through the divorce? What future do you see for yourself, your kids and even your spouse?

It is also important to understand the various options available to obtain a divorce – some of which do not require an attorney. They include uncontested divorce, pro se or “do it yourself” divorce, arbitration and mediation. Depending on your particular situation, one of these options may work for you. We believe engaging a divorce attorney to discuss the pros and cons of each option will put you in the best position to decide what is right for you. While engaging legal representation does come at a cost, it is important to understand that not having the proper legal counsel could impact your ability to reach a fair and equitable settlement.

Choosing the right attorney will likely require some investigation. Not all attorneys focus on divorce and those who do may specialize in the types of clients they represent. For example, some divorce attorneys only represent women or high net worth clients while others may specialize in mediation or litigation. If you do not know any divorce attorneys in your area, reach out to trusted sources and ask for referrals. Interview candidates to get a sense of their process, approach, fees, personality and level of engagement. Are they open to collaborating with other professionals like financial advisors or accountants to ensure the proposed property settlement works for you and your family? Also, consider how well they listen or if you get a sense that they have your best interest at heart.

Keep in mind that you are looking to establish a long-term relationship – one that will likely continue well after the divorce settlement process. How well you communicate and work together will have an impact on the pace of the process and outcome of the divorce as well as the amount of legal fees you will pay along the way.

When inquiring about fees, understand that attorneys may differ in how they are compensated. The most common method is by an hourly fee – either with or without a retainer. In contrast, other attorneys may offer their services by way of a flat fee. A flat fee arrangement generally includes provisions allowing the fee to be adjusted, if a unique issue arises or the case changes from uncontested to contested. Finally, some jurisdictions may allow for an attorney to be compensated by way of a contingency fee. The attorney’s compensation is contingent on the client achieving a successful outcome of his or her case either by a judge, jury award or a settlement. This method of compensation is less common in divorce cases and may even be prohibited in some jurisdictions. It is critical to clearly understand the fee arrangement of the attorney you hire to include situations that incur added fees.

Once you do select your attorney, it is wise to ask for a written agreement that details the terms and length of your attorney-client relationship. Having a clear understanding of what you can expect from the attorney and what the attorney expects from you can promote a much more transparent and productive working relationship.

As you get started, your attorney will likely ask you to provide a substantial amount of personal and financial information. Do it in a timely and comprehensive manner.

Every divorce case is unique, but the following is a sample of information you might be asked to provide at the beginning of an engagement:

- **Reason for the divorce** – Perspective on what led to the divorce and whether you prefer reconciliation over divorce.
- **Personal information** – Basic demographic information such as names, addresses, phone numbers, ages, dates of birth, etc. for yourself, your spouse and children (if any).
- **Marriage information** – Information on current and past marriages (when, where, how long, etc.). If there was a pre-nuptial agreement, provide a copy.
- **Information on children** – Information detailing current school, custody or visitation issues, college plans, extracurricular activities, etc.
- **Financial information** – Accounting of all assets, liabilities, income and expenses. The attorney will likely provide you with useful forms and worksheets.
- **Legal documents** – Copies of any lawsuits, judgments, garnishments, bankruptcies, etc.
- **Divorce goals** – List of the goals as it relates to division of assets, alimony, child custody, visitation and support.

A good attorney will consistently communicate all your options as well as offer advice or make recommendations. Disagreements are not uncommon, but constant disagreements may be a sign that you selected the wrong attorney, are overly emotional, or that you have unrealistic expectations. Understand that the pace of the divorce progress can be slow with periods of activity followed by periods of inactivity. Be careful to not take your frustrations out on your attorney as it's most likely out of his or her control. Finally, stay fully engaged in the process. Your participation goes a long way towards making sure you end up with an equitable settlement at a reasonable cost.

Financial Considerations

The emotional and legal aspects of divorce are best managed with the assistance of experienced professionals skilled in those areas. As financial advisors, our role is to provide expertise as it relates to the financial issues of divorce. Our work serves to complement the efforts of the attorney. While attorneys are trained in the legal aspects of divorce, some may lack a deep understanding of more complex financial issues. It is here where a skilled financial advisor or accountant, particularly one with proven divorce knowledge, can provide great value in educating both you and your attorney on the financial implications of potential settlement decisions.

The financial implications of divorce can be significant and life changing. What a lifetime of hard work, saving, investing and planning has built must now be divided in an "equitable" way. You will be asked to provide a complete accounting of your assets, liabilities, income and expenses to detail the full scope of your financial life. The less you understand the financial characteristics of your marriage, the more important it is to get organized and educated. A skilled financial advisor can be an invaluable resource in this effort.

Assets

It is important to develop a detailed financial statement early in the divorce process. Most attorneys will provide forms or worksheets to clients to serve as a guide in collecting information. It starts with listing what you own, otherwise referred to as your assets. Common assets include financial assets (i.e. bank accounts, investment accounts and retirement plans), real estate, business interests and personal property (i.e. cars, boats and jewelry). You will need to provide a value for each asset as close to the date of separation as possible. Financial assets can generally be valued by way of a current account statement. Other assets like real estate, jewelry, pensions and family businesses may ultimately need to be valued by a professional appraiser. It is also important to identify who owns each asset, whether it was acquired before or during the marriage and if it was received from an inheritance.

Financial Assets

Cash – If you or your spouse have significant cash in your home or a safe deposit box, please make note of it.

Bank Accounts – List all checking, savings and other deposit accounts. Identify ownership and provide current account statements. Include children's accounts, if any.

Investment Accounts – Provide details on all accounts holding marketable securities (i.e. stock, bonds, mutual funds, ETFs, etc.) plus a copy of each account statement. Provide cost basis information on taxable accounts.

Retirement Accounts and Pensions – Include a copy of the current account statement for IRAs (traditional and Roth). For retirement plans such as 401ks and other defined contribution plans, you will need to include the latest summary plan documents along with a copy of the most recent statement. For defined benefit plans, aka pensions, a copy of the most recent estimated monthly income at your earliest retirement age is best.

529 Plans – Provide copies of all education accounts with detail of ownership and beneficiary information.

Stock Options – Provide a copy of the stock option grant agreement and the most current grant statement covering all grants received from date of grant to the present from current and prior employers.

Stock Purchase Plans – Include a current statement for any ESOP (employee stock ownership plan) or ESPP (employee stock purchase plan) provided by a current or prior employer.

Life Insurance and Annuities – Provide copies of the declaration page for any life insurance policies detailing owner, insured, face amount, cash/loan value and beneficiaries. For annuities, include a copy of the policy or a current account statement.

Tax Refund – Include information regarding any expected tax refund. If you have not filed yet, provide a copy of the extension.

Most financial assets provide periodic account statements that make it relatively simple to assess their value and divide them during the settlement process. What must be considered are the tax implications related to the assets. Financial assets can differ greatly in how their income or capital gains are taxed, as well as how they are taxed upon distribution. For example, a $10,000 savings account and a $10,000 IRA are taxed very differently. If someone withdraws $10,000 out of their savings account, the withdrawal is not taxed. If someone withdraws $10,000 from their IRA, it is subject to federal and state taxes and a 10% penalty if withdrawn prior to age 59 ½. Depending on the specifics of the situation, it could be a costly error in a property settlement for one spouse to accept the $10,000 IRA thinking it is equivalent to the $10,000 saving account.

Pensions are often valuable retirement assets that can be overlooked. The marital portion of a pension benefit is subject to division as part of a divorce settlement. The marital portion is the benefit that accrued during the time of the marriage. Properly identifying and valuing pension assets when they exist should be a part of your overall settlement plan.

Education accounts, specifically 529 plans, offer a unique challenge in settlement. The goal should be that:

- Both parents have an equal say in the distribution of assets.
- The 529 plan(s) are properly accounted for as part of the equitable distribution.
- Future college contributions are taken into consideration. Specifically, provisions that ensure contributions made by one parent are safeguarded against improper use by another.
- Education uses are clearly defined to outline which uses are eligible and which are not.

Real Estate

It is important to understand the details of all real estate owned by the divorcing couple to include legal description, ownership, valuation, cost basis, improvements and rental income.

To provide an accurate accounting, the following documents are suggested:

- Copy of the current grant deed to include a legal description.
- Most recent appraisal or market value opinion for each property (if currently existing).
- Cost basis for each property. Cost basis is determined by the original cost of purchasing the property plus added improvements.
- Rental or vacation property – Records of ownership to include cost basis, improvements, depreciation taken, etc.

Some real estate, particularly the family home, can become a point of contention during divorce. One party may feel an emotional need to stay in the marital home, especially if the children are of school age. A decision to remain in the home needs careful consideration and analysis. Can the spouse afford the cost of owning and maintaining the home? Does staying in the home prevent a spouse from moving forward emotionally?

The three most common approaches to dealing with the marital home include:

1 Sell the home immediately and divide the assets.

2 One spouse buys out the other spouse's interest in the home. This is typically done by either refinancing the home or by offsetting the spouse's interest in the home with another asset.

3 The two spouses continue to own the home for a specific number of years after which they sell the home and split the proceeds. In this scenario, the spouse living in the home is generally responsible for paying the mortgage and taxes. He or she also receives credit for any principal reduction during the time from the divorce until the sale or buyout. The cost of major repairs is the responsibility of both parties with the spouse paying for the repairs getting reimbursed once the home is sold or there is a buyout.

Business Interests

If you and/or your spouse own one or more businesses, there are a variety of financial documents that are needed. A copy of any prepared financial statements, business tax returns and loan applications for the past 5 years should be provided. Any agreements or appraisals concerning value of the business like a buy-sell agreement or existing business appraisal should also be included.

Family-owned businesses present a variety of challenges when it comes to property settlement. The spouses can either decide to sell the business and split the proceeds or they can agree that one or both retain the business. When a business interest is retained by both, it is necessary to obtain a professional appraisal, execute an equitable buy-sell agreement insured to protect against either's death plus institute a mutually agreeable succession plan.

Personal Property

Personal property includes most assets outside of financial assets, real estate and business interests. It includes items like household items, jewelry and vehicles. To get a proper accounting of personal property, you will be asked to complete a comprehensive inventory. Keep in mind that household items are generally valued at actual value and items like used furniture, electronics and home furnishings tend to lose value quickly. Be careful to avoid letting personal property values become an issue during settlement. They are rarely worth the stress and expense of a settlement fight.

Household Items - It can be tedious to list all the household furniture and furnishings to comply with this request so be thoughtful in your approach. You will typically be asked to provide estimated values of items and indicate whether the item was purchased before or during the marriage. You may find that grouping similar small items together is a reasonable shortcut. If, however, any specific household item is of notable value, please be sure to provide the necessary detail.

Jewelry, Collectibles, Art - These items tend to be of a more significant financial and sentimental value. Provide ownership records, purchase receipts and prior appraisals (if existing) for valuable items such as jewelry, art, gun collections, antiques, precious metals or other collectibles. If any of the items are insured as scheduled personal property, provide the related policy information.

Vehicles, Boats - You will need to provide a copy of the title and registration for all vehicles, boats, airplanes, trailers and motor homes. If there is a loan on any item, include a current loan statement. Independent valuations can generally be obtained from sites like Kelly Blue Book or NADA.

Insurance and Employee Benefits

Insurance is a financial product designed to manage risk and generally is not considered as asset, but some types of insurance like an annuity or life insurance can be a source of significant asset value. It is important to provide documentation detailing these values and coverages.

Annuities – A copy of the policy or an annuity statement dated as close as possible to the separation date should provide ample detail regarding the owner, annuity type, current balances, withdrawal penalties, etc.

Life and Disability Insurance - Include declaration pages showing the date, face amount, type of policy, name of insured, name of the owner, beneficiaries, premium amount and cash/loan value. Term policies do not have cash value. If it is provided via an employer, please make a note.

Homeowners and Auto – Provide a copy of the declaration pages of these policies.

Cafeteria Plans or other employee benefits – Include most current statement or description of cafeteria benefit plan, incentive plan or bonus plan and any other employee benefit in which either spouse participates. Employer-funded country club initiation or membership fees, banked vacation days and sick days should also be included.

Liabilities

Liabilities represent any debts or loan obligations of the spouses.

Mortgages, Loans, Line of Credit – For most couples, their home mortgage is their largest debt. For real estate or other secured and unsecured loans, you will need to provide a copy of the most recent mortgage or loan statement detailing name, address, account number, monthly payment and balance. In addition, you should include the terms of the loan, date originated, original loan amount, interest rate and term.

Student Loans – The most recent copy of the student loan statement should be provided. If not shown on the statement, include the name of the school, interest rate, term and payment schedule along with when you or your spouse received the loan.

Credit Cards – It's best to provide a summary list of every credit card with the name of the owner, card number and balance. In addition, provide the most recent account statement for each card plus statements for the first few months following the separation. Note any reward or frequent flyer points that have accrued on any of the cards.

Taxes – Report any taxes you believe are owed for the current tax year. If you have paid estimated taxes for the current or preceding tax year, detail the amount and source of the payment. If you have been issued an unpaid federal or state tax deficiency whether before or after separation, provide a copy of the letter or notice.

KEY TAKEAWAY:

In addition to listing your liabilities, it is important to monitor any additional debt balances that appear after separation. If large levels of new debt are incurred by your spouse, you should contact your attorney. It is worthwhile to know that when it comes to settlement, any debt associated with an asset generally stays with the asset. For example, a car loan will generally be the responsibility of whoever is awarded the car. That does not mean that the other spouse has no more obligation. To be released from the obligation of a joint debt, the new owner would need to refinance the debt without their former spouse's endorsement.

Income

Now that you have provided an accounting of your assets and liabilities, it is time to identify your sources of income and expenses. In detailing sources of income, think beyond employment compensation. Income includes additional sources such as investment income, rental income and business income, just to name a few.

Employment Compensation – Provide the three months of pay stubs preceding your separation along with the most recent full year statement for both you and your spouse. If your pay includes extraordinary sources of income like bonuses, stock purchase plans, stock options, or incentives, you should include copies of the previous 5 years of year-end pay statements. As mentioned previously, note accrued vacation and sick days plus other employer sponsored benefits like country club initiation fees or dues. Should you or your spouse work under an employment contract, include a copy.

Personal Tax Returns – Provide complete copies of the past 5 years of federal and state tax returns including all schedules and attachments.

Business Tax Returns – Gather and include complete copies of the previous 5 years of corporate and partnership tax returns for any entities in which you have an ownership interest.

Expenses

Expenses data is generally gathered in the process of developing a budget. First, you will want to create a budget that details income and spending during your pre-divorce life. The budget is backward looking and expresses your standard of living while married. You will also want to create a second budget that projects living expenses post-divorce. This budget is forward looking and will serve as the basis for determining equitable alimony and property settlement.

A financial advisor can add great value to you as you work through the process of gathering financial information, but it is budgeting and cash flow planning where they may offer the biggest benefit. A skilled advisor can work with you and your attorney to evaluate the long-term impact of a proposed settlement.

As you approach settlement, you can enhance the process by being prepared. You will have already identified your assets and liabilities, so the process moves on to assigning them between you and your spouse. Depending on the state where you live, the laws involving division of property may differ. There are currently nine states that are community property states, thirty-eight equitable distribution states and three states that allow spouses to opt in to a community property framework.

You will be best served to focus on what you need and avoid getting overly focused on what you want. Negotiations generally start high and work lower as spouses move towards a mutually beneficial outcome. Without fail, one spouse feels he or she is giving up too much and the other spouse feels he or she is not getting enough. For a successful settlement, consider your true needs and those of your spouse.

When presented a final settlement, don't feel pressured to sign the decree. You must fully understand the agreement and its implications in their entirety. Once the final settlement decree is signed, it is extremely difficult to revisit or modify its terms.

> "A financial advisor can add great value to you as you work through the process of gathering financial information, but it is budgeting and cash flow planning where he or she may offer the biggest benefit."

ASSET TOOL WORKSHEET

Directions: Please use this sheet to outline all major assets (real estate, investments, cars, boats, etc.)

Type of Asset	Description	Quantity	Marital Asset? Y/N*	Current Value	You Plan to Keep	Spouse Plans to Keep
				$		
				$		
				$		
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				$		
				$		
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*Was this asset initially purchased while you were married?

HOUSEHOLD ASSET WORKSHEET

Directions: Please use this sheet to outline all major household items (not including major assets on prior list). Examples include furniture, dishes, photo albums, etc.

Description of Household Item	Quantity	Marital Asset? Y/N*	Current Value	You Plan to Keep	Spouse Plans to Keep
			$		
			$		
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			$		

*Was this asset initially purchased while you were married?

DIVORCE BUDGET TOOL WORKSHEET

Directions: Please use the sheets on the next three pages to outline all existing budgetary items.

Living Expenses	Specifics	Pre-Divorce Current Monthly Amount	Post-Divorce Current Monthly Amount
Housing	Mortgage/Rent	$	$
	Property Taxes	$	$
	Electricity/Gas	$	$
	Water/Sewer	$	$
	Utilities	$	$
	Phone/Cell Phone	$	$
	Cable/Internet Package	$	$
	Maint/Repair	$	$
	HOA	$	$
	Exterminator	$	$
	Yard/Lawn Care	$	$
Subtotal Housing		$	$
Essentials	Food/Groceries in Home	$	$
	Clothing/Dry cleaning	$	$
	Medical co-pays	$	$
	Dental co-pays	$	$
	Vision co-pays/Glasses	$	$
	Prescriptions	$	$
	Personal Grooming	$	$
	Childcare	$	$
Subtotal Essentials		$	$
Vehicle #1	Fuel	$	$
	Maintenance	$	$
	Parking/other	$	$
Vehicle #2	Fuel	$	$
	Maintenance	$	$
	Parking/other	$	$
Subtotal Transportation		$	$

DIVORCE BUDGET TOOL WORKSHEET

Living Expenses	Specifics	Pre-Divorce Current Monthly Amount	Post-Divorce Current Monthly Amount
Insurance	Life insurance	$	$
	Long-term care	$	$
	Medicare Supplement/Clt	$	$
	Dental	$	$
	Vision	$	$
	Disability	$	$
	Homeowners/Renters	$	$
	Vehicle	$	$
	Umbrella	$	$
	Other	$	$
Subtotal Insurance		$	$
Education	Private School Per Child	$	$
	College Tuition Per Child	$	$
Subtotal Education		$	$
Other Debt	Credit Card	$	$
	Credit Card	$	$
	Student Loan(s)	$	$
	Auto Loan	$	$
	Auto Loan	$	$
Subtotal Other Debt		$	$
Other Essentials	Home Equity Loan	$	$
	Quarterly Tax Payments	$	$
	Professional Fees	$	$
Other		$	$
Subtotal Other Essentials		$	$
Total Current Non-Discretionary Expenses*		$	$

*Add subtotals from housing, essentials, transportation, insurance, education, other debt and other essentials.

DIVORCE BUDGET TOOL WORKSHEET

Living Expenses	Specifics	Pre-Divorce Current Monthly Amount	Post-Divorce Current Monthly Amount
Entertainment	Restaurants	$	$
	Movies, Theatre, Concerts	$	$
	TV Apps/Subscriptions	$	$
	Club Dues, Memberships	$	$
	Vacations/Travel	$	$
	Classes/Lessons	$	$
Hobbies		$	$
Client		$	$
Spouse		$	$
Travel/Vacations	Total Family	$	$
Other	Gifts	$	$
	Savings	$	$
	Charitable donations	$	$
	Miscellaneous	$	$
	Pet Expenses	$	$
		$	$
Total Current Discretionary Expenses		$	$

Total Current Expenses*	$	$
Multiply Total x 12	$	$
Total Annual Amount for Pre-Divorce and Post-Divorce	$	$

*Add total current non-discretionary and total current discretionary expenses.

About Modera Wealth Management

Modera is a fee-only, fiduciary financial advisory firm focused on providing clients with a high level of care and attention. We examine and evaluate each client's entire financial picture, offer prompt responses to their questions, and present customized solutions that always put their interests before our own. You want advisors whose services are comprehensive and who are able and willing to offer you support and guidance throughout the year on a wide range of financial matters. Choosing fiduciaries — those legally bound to act in your best interest — will provide you with objective advice.

Modera has maintained a client-first philosophy since its inception in 1983 when its predecessor firm established itself as one of the country's first fee-only advisory firms. Since then, Modera has grown its geographical footprint while adding depth and breadth to its services and experience. Modera has offices up and down the East Coast, spanning from Massachusetts to Florida, and serves clients in cities and states throughout the country. To learn about what makes Modera unique in the financial advisory world, please visit *moderawealth.com*.