

“Divorce Law in Hawai‘i”

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Welcome to the Family Court’s divorce law in Hawaii program. This program is designed to teach those going through divorce and others helping them how to get ready for divorce, how to address and settle the different parts of their divorce, and how to resolve divorce problems without needless conflicts or expense.

My name is Bill Darrah – I have been helping present Family Court educational programs for twenty-seven years. I am a lawyer in private practice in Hawaii specializing exclusively in divorce with nearly thirty years of experience. I am nationally recognized as one of the best divorce lawyers in the United States. I am a certified divorce mediator and a divorce arbitrator, and I help put together the Hawaii divorce manuals annually updated - Hawaii Bar Association’s annually updated Hawaii divorce manual which is available to you. I am here today as a part of the Judiciary’s commitment and the commitment of the Family Court to ensuring that Hawaii’s family and children get the legal help they need and deserve.

You should, however, be aware that the materials presented today do not necessarily reflect what the Family Court would do in a particular case and these materials also should not be construed as legal advice. If you need professional help with your own special situation, I encourage you to get it and I would like to let you know that I do not take clients from this program.

We've given you handout materials – they describe in some additional detail the topics I will bring today. My prepared remarks will last about forty-five minutes and after that I will be happy to take questions from the audience.

To begin with, I would like to tell you the most important things that I have learned from helping people getting divorced for nearly three decades. First of all, if you are contemplating divorce, you should take a long, hard, last look at your marriage, and if you think that your marriage can be fixed, then you should do everything you can to fix it. But you can't try to reconcile and plan for divorce at the same time. And if you are going to get divorced, you should get divorced as soon as possible, because the longer it takes you to get divorced, the harder it's going to be.

Second, if you are a parent, then you should make your kids your ultimate, high priority. They are your legacy. Your good and wise actions at this time will inspire them; conversely they will mimic your bad behaviors in the divorce and learn lessons you really don't want to teach them. You have an extremely high interest in protecting your children from conflict and supporting them at this particularly challenging time.

Third, as painful as this experience is, please recognize that divorce is fundamentally one of life's great opportunities. You will learn many new skills which will make you a better parent and a better person through this process. You've been given this opportunity for a reason – you should take it.

I would also say that there are just really four keys to getting successfully divorced. First, you must learn enough about what Hawaii divorce law allows and requires, and the legal steps involved in getting a Hawaii divorce. In this program we will teach you a lot about that. Second, you must learn enough about your own financial

circumstances and the financial circumstances of your family. Third, you have to do a good job on the paperwork that is required by the Family Court in your divorce. And most importantly, it would be your income and expense, asset and debt statements, the child support guidelines worksheet, and the divorce decree. These are absolutely key. Fourth, and most importantly, one must maintain a proper frame of mind throughout this entire challenging time.

To keep a proper frame of mind, remember these three things: First of all, while everybody going through divorce has truly legitimate grievances about what has happened to them in their marriage, and has as legitimate right to be angry about that, divorce litigation with Family Court lawyers and judges will probably bring you absolutely no satisfaction. By its very nature, litigation is so expensive, so time-consuming, risky, gut-wrenching, and privacy-invasive; it is hardly ever cost effective. In litigation, there really are no winners, just losers. And you should choose litigation as your last resort.

Second, your over-riding goal should be to make an agreement with your spouse which you can both live with, which supports and protects your children as much as possible. You should do this as quickly as possible. The more time it takes, and more adversarial it gets, the more it will cost you, and the harder it will be.

Third, and probably most importantly, although this is an extremely difficult time, and you will be forced to make compromises, you must never give up your personal strength and resolve. You must stand up for yourself, you must be strong for yourself, your kids, your family, and all you know is good for everyone. Never express or act out of anger, learn every new skill you can to be a better person, and be the person that every body admires because of your courage and your grace at this time.

Now let me go ahead and describe divorce law in Hawaii as it would apply in the situations of each of you. Hawaii is a no-fault state. That means that one spouse can get a divorce even if the other spouse doesn't want it. The requesting spouse must be a Hawaii resident at the time they file; there is a six-month state residency requirement, and a three month circuit residency requirement.

The legal process of divorce concludes when a Family Court judge signs a divorce decree and it's filed. Your objective in this process of divorce is to secure your fair and appropriate divorce decree as soon as possible. A divorce decree for a family with children must separately address legal and physical custody, division of property and debts, child support, and spousal support principally.

If you cannot settle your divorce, and a Family Court judge must decide a divorce issue, depending on the issue, that judge will either follow a legal rule of law or exercise his or her discretion. However, a divorcing couple can enforcedly agree in most cases to a result which is different than a judge might order. Until a case becomes contested, a divorcing couple may make agreements to best reflect their own family values, and an agreement which both spouses can live with is far preferable to the stress of litigation and the risk of an unexpected outcome.

Let me talk a little about divorce custody. If you're parents, then you know that the Family Court has a number of good educational programs which you will be invited to attend and learn more about how to be a good parent at this time. So my remarks about custody will not be all that extensive. If you are a parent, your divorce decree will need to address legal custody and physical custody. Legal custody is the right of divorce parents to make decisions for their children until they are age 18. Physical

custody is where the children will live following the divorce. There are no Family Court custody and time-sharing guidelines – the Family Court strongly encourages parents to agree on any time-sharing schedule which is to the best interest of their children.

Custody fighting is very harmful to children – children in a custody fight feel split apart, and forced to choose between the two people they love the most. The Family Court is not going to make the child vote and we will not ask children to make a choice between their two parents. And if necessary, parenting counselors, custody evaluators, and therapists can help arrange the best possible post-divorce custody arrangement. Most physical custody or timesharing orders really have a limited lifespan even where very young children are involved. Custody can be reviewed when circumstances change, and so custody agreements as a practical matter should therefore focus mostly on the next few years. Divorcing parents can agree on joint legal custody, where both parents share information and make decisions for the children together, joint legal custody often fosters non-primary caretaker involvement and support of the children. And generally joint legal custody confers no real veto power on the part of the other parent.

Let me now talk about the second part of a divorce with children which would be the division of property and debts. When we negotiate a case, we like to settle custody first before we get into the money matters, and that's because we find that almost always parents can make a good child-centered understanding for their children post-divorce if they're not distracted by financial concerns. Once we've reached an understanding with respect to decision making and time-sharing for children then we like to turn to the division of property and the allocation of debts. When we address money matters, we like to start with that, because our rules for property division are very

clear, and property division affects post-divorce cash flow, which is a key consideration in deciding child support and alimony.

Hawaii recognizes and enforces written premarital agreements, which are rare, and written and oral post-nuptial agreements, which are also rare. In the absence of such an agreement, in Hawaii, a property division formula, which has been in effect for a long time, will guide and limit how assets and debts are to be divided. This formula calculates exactly how much the current family net worth each spouse is supposed to get following the divorce. And for these purposes, family net worth is simply the number that you get by subtracting the total of all debts from the total of all assets. This formula for property division is extremely simple: it needs to be, considering the enormous number of divorces each year in Hawaii and how few judges we really have to handle them. For example, on Oahu there about twenty new divorce filings every working day, about five thousand a year. But there are only three full time judges and a few part-time judges to handle them all.

To run this property division formula for your family, you need to know just three things. The first is each spouse's assets and debts on the time of the marriage. The second is each spouse's gifts and inheritances received from others during the marriage. And the third is all current assets and debts. It's really important to know that the divorce property division formula that we have divides everything that exists today. And not what might have existed at an earlier point of separation or filing for divorce. If you delay your divorce for six months, then you will have to acquire all the financial information, and you will be applying the formula to what exists then, not what exists now. The important message here is that when you decide to start working on your

divorce then you need to get into it with a vigor, address and engage your spouse in all of the necessary ways and get it resolved as soon as possible, or you'll have to start acquiring more information to settle the case. This formula divides a family's current net worth fifty-fifty, at the present time, subject to only two exceptions. First, if there is a difference between what the spouses had at the time of the marriage, then each spouse will be refunded assets that are equal to the value of what they had, at the time of the marriage. Second, a spouse will be refunded from current assets, assets worth, what any gifts or inheritances received during their marriage were worth, at the time of their receipt.

Now, in Hawaii, most couples don't have significantly different personal net worth's at the time of the marriage, and in Hawaii most spouses don't get gifts or inheritances during the marriage, so in Hawaii the formula applied to most couples provides for a fifty-fifty division. In your particular instance, your first step is to decide for yourself how you would like to divide up all of the assets and debts that exists of you, your spouse, and the both of you at the present time fifty-fifty and decide how you would like to propose to do that.

We are no-fault, both in the sense of you don't have to prove that someone did something wrong to get the divorce itself but also in the sense that past conduct during the marriage is almost entirely irrelevant in the applications of the rules that we have for both property division, also support. If a spouse gives assets away in contemplation of divorce, or acts in a fiscal irresponsible manner during the time of the divorce, he or she may be charged for it in the divorce property division. Otherwise, marital fault of pretty much every kind is irrelevant in property division. In rare cases the Family Court will

equitably deviate and give a lower order or otherwise disadvantaged spouse more than fifty percent of the marital estate, but in the vast majority of instances the division will be fifty-fifty.

Let me now address child support. When we are negotiating a case we try to settle custody, then we try to settle property division, and then we shift into the support issues, starting with the child support. We start with child support, because everything that we do child-centered in an effort to support and insulate conflict from children as much as possible.

Hawaii also has a formula for child support. The Family Court must order child support pursuant to the formula and a child support agreement by the parents must follow the formula. Like the property division formula, the child support formula is also very simple. It considers just four things: First of all, whether the non-primary caretaker has physical custody for more than one-hundred forty three days. Second, what are the gross incomes, not the net incomes, the gross incomes, for both parents. Third, whether there are childcare payments made to a naval employment. And fourth, whether there are medical insurance premiums paid for the children. The guideline amount has to be paid, unless there are exceptional circumstances. Guidelines support that calculates out in excess of a child's needs is an exceptional circumstance. Our guideline amounts in Hawaii and especially for higher earner support obligors tend to generate a higher amount. If that amount exceeds the reasonable needs of the children then that is an exceptional circumstance that might cause a lower than guideline amount to child support. Practically everything else is not an exceptional circumstances allowing deviation from the guidelines.

Your divorce decree as a parent also needs to address the responsibility of you and your spouse for your children's healthcare insurance and educational expenses - there are no guidelines for that. These matters are best resolved by an agreement both parents can live with, for quite simply the cost of fighting about these things will almost exceed what's at stake.

I make periodic reference to your divorce decree. The divorce decree is the document that the Family Court signs which divorces you and address all of the other issues that have to be addressed in your divorce. Your goal is to get an appropriate divorce decree as soon as possible.

If you haven't gotten them already, and we have some here, you should get the Family Court's uncontested divorce packet that's appropriate for you. They have a packet for parents and a packet for couples who don't have children. In there you will find a number of documents. The three most important, critical documents are: the asset and debt statement, which allows you to list all of the assets and liabilities that you're going to run this formula I've described by. The second is the income and expense statement which will show your income and all of your expenses which you will be looking at to see what sort of cash flow you will have coming out of the divorce after you pay the debts you're going to pay, after you have the income from the property you're going to receive, after you pay the support and other things that you're going to have to pay. You want to exit your divorce with sufficient financial self-awareness and you really want to exit the divorce, if possible, not in a deficit cash flow situation. And your income and expense statement will show you exactly how you will be exiting the divorce cash flow. And the most important document is in that packet, both of them, the

divorce decree. Look at it right away – you will see how all of this that I’m talking about makes sense and fits into this divorce decree. You will take this divorce decree and start filling it out to show the agreements that you and your spouse have made, and to identify all in one place for further work – those, hopefully few, remaining issues that will need to be addressed. Your goal is to complete a divorce decree that is fair and complete, and otherwise appropriate, sign it, and give it to your spouse, because if they sign it, you are done. No lawyers, no litigation. That’s your goal.

I also want to say with respect to child support, that it too, is subject to review in changed circumstances. So although with a three year old child you could have a divorce decree that provided for child support for the next fifteen years plus, you would however be much more concerned about making a plan for the next three or four years, recognizing that adjustments are possible or maybe even necessary.

Let me talk a little bit about alimony, which is the last part of the divorce. The Family Court can order alimony, and the couple can agree to it. Alimony is the post divorce payment by one spouse to the other. By both alimony and equitable deviation in property division, that’s that unusual shifting away from fifty-fifty, the parties, and a Family Court judge exercising his or her discretion, can be used to compensate a less financially advantaged spouse.

There are different kinds of alimony. Temporary alimony is support received prior to the divorce while the divorce is still pending. Transitional alimony is support received while a less advantaged spouse is adjusting to a lower standard of living. Rehabilitative alimony is support received while a less advantaged spouse is acquiring new skills. Permanent alimony is support received for the rest of the life of a less

advantaged spouse. Alimony can also be reserved for future determination, but if a divorce decree does not provide for any alimony or reserve it, then there can never be any.

To apply for alimony, the party seeking alimony must show that they can't support themselves, that the standard of living enjoyed during their marriage through their own earnings and income from property, but they also are obliged to show that the spouse from whom alimony is sought has more income than that spouse needs to support themselves at the marital standard.

There are no rules or guidelines in Hawaii governing the duration of alimony. The payment of alimony has certain tax implications, alimony can't be discharged for bankruptcy while property division often can be. As a practical matter in Hawaii, most lower earner spouses usually do not qualify for alimony because most higher earner spouses do not have more income than they need to pay their debts, support their children, and still live at the marital standard themselves. And so in Hawaii alimony is not common. Alimony is also not favored so much because it defeats the objective of a final and complete split. Once the property is divided in a divorce is divided in a divorce fifty-fifty, or otherwise that can never be undone. However alimony can be modified if there is a change in circumstances probably even if the parties agree otherwise. Also, alimony promotes conflicts. Both the payer and the recipient of alimony can continue to investigate the other party's financial circumstances for as long as alimony is owed, in aid of a possible modification request.

So those are the four parts of a divorce that you will work through in your own instance – settling them part by part: custody, property division, child support, and

alimony. There are rules and steps for all of them, if you just gather and exchange the information, follow the rules and steps, this can be done easily and without conflict.

Let me go ahead and describe the steps in a Hawaii divorce. In Hawaii, a vast majority of the couples make agreements, and in a few cases actually go to trial. All cases follow the same path. The legal process of divorce begins when someone files. It doesn't matter who files. Thereafter the Family Court can make pre-divorce orders, either on its own or with the agreement of the parties. The Family Court can have conferences, grant uncontested divorces where the couples settle, have trials, grant contested divorces, and issue post-divorce orders.

An uncontested divorce can take as little as two or three weeks from the signing of the paperwork to the divorce itself. Contested divorces involve conferences with the Family Court, required mediation, involvement with a volunteer settlement master attorney who will help explore settlement options. A contested divorce with all of its requirements can take more than a year. In my experience, almost no divorce case should go to trial. Most divorce cases should settle quickly and without a lot of conflict.

When cases don't settle, it is because there are invariably one, two, or three problems. The first is an insufficient basis of shared financial data. Your mission is to secure a settlement with your spouse, as hard as it is to reconnect with your spouse, at this difficult time, because the alternative of litigation is truly your last resort. You want to take charge and keep charge of your situation, and that means reconnecting with your spouse. Your discussions with your spouse will work if you have shared enough financial information. Often that doesn't happen and that creates big problems.

Second, if there is a problem, it can be because of insufficient knowledge as to what a likely Family Court ordered outcome following a trial will be. Everybody negotiating their own divorce is going to have – is going to want to have – some assumptions and beliefs about what a judge would order if settlement cannot be achieved. What's legally customary and the norm. By coming to this program you are learning about that, and by looking at the other materials that we've referred you to, you will learn enough about that so that your proposals will be in the range of reality, let's say. Hopefully your spouse will themselves be able to acquire the same information. You can share with them the handout materials that you got from the program today. You can refer them to all of the sources that I'm referring you to. There are really no mysteries or secrets here. There is a standard true and tried way of doing this if you and your spouse can get together on that path then you can settle this without a lot of conflict.

The third problem that interferes with settlement, and the most prevalent of course, is a simple lack of respect and dignity in personal dealings. Again, every one of you in this room has a reason to be very angry at your spouse. But this settlement process will not work if you express or act out on that anger – it simply won't. It's not about whether you're justified or being mad; it's about what you need to do to get through this process without needless conflict and expense. So be a saint – is there anything wrong with being a saint at this time? Is there anything wrong with setting an example for your children? And your friends and family members? You have seen many, many divorce flame outs – people who have been hopeless in their efforts to handle their divorce. And you have scorned them – do you want to be scorned? You

have multiple opportunities here to be an angel; you have multiple opportunities here to be a devil. But you can only choose one. I have never seen anybody go wrong by making a gracious kind gesture at this time. You fight with them, they will want to fight back, and you will be distracted at this precious time and then it'll be six months from now, and you'll have to go back and acquire all of this financial data that took you so much energy to acquire at this time.

Now, like everything else success in this process is all about good preparation. You need to get educated about the law. You need to maintain a good support system. Figure out who you can really turn to for good quality help at a time like this. Many people will want to talk to you about your troubles; you may not want to talk to all of them. You need to maintain your own personal privacy and integrity at a time like this. Find out who your true friends really are. Evaluate your own needs and abilities – it's time for you to marshal your resources. It's a rebuilding time; you're reinventing yourself. You don't know enough about your own financial circumstances right now. You need to know that. Get going on that.

Complete the paperwork like I said, freely exchange information from your spouse – with your spouse. The biggest problem I encounter is interference on the flow of information. Keep lines of communication open as much as possible, favor mediation, and avoid litigation except as a last resort. If you need to, you should seek and obtain from your spouse understandings that are necessary to preserve assets or control debt, or bar harmful unilateral actions during the divorce process itself. And if you need to, you should seek from and get understandings from your spouse about timesharing with your children and how important decisions will be made as you are in

the process of divorce. If you have a situation involving family violence, or drug or alcohol abuse, you should learn about Family Court restraining orders and you should get them when necessary.

And finally from the financial side of things, this program was developed four years ago, this program is now in its fourth year, this program was developed to teach people how to address financial issues in divorce because like I said, if it was just the custody issues most people could sort them out. My expertise is helping people settle their financial issues, and what I can tell you is, your ability to maintain and organize your financial paperwork is key. In the handout materials you will find a short list of the most important documents that you will need to have on-hand at all times. Look at that list and gather up those documents.

Let me talk a little bit about mediation because it's become so popular and because it's become such a help for us. We found that mediation helps people make divorce agreements in almost every situation. In mediation one or more trained neutrals help divorcing couples exchange information and explore win-win solutions. It's not judging. It's completely privileged and confidential, and because it works so well a good faith effort at mediation is required by the Family Court in every contested divorce case.

As divorce lawyers we favor mediation because it is cheaper than litigation, it is faster, it is usually successful. Mediated agreements are typically more durable. Mediated agreements are typically more complete and comprehensive, because in most contested cases, one or more issues may actually not be addressed completely, mediation reduces the likelihood of post-divorce litigation and conversely litigation promotes more litigation because most losers in a contested divorce desperately want

another fight to get even. So if you win now, you will only have to fight later and later and later until you lose and then you will want to fight again.

Most people going through divorce in Hawaii don't have lawyers. It is said that only a small percentage of cases have lawyers on both sides, some cases have a lawyer on one side, and I think the majority of all Hawaii divorces these days are pro se parties only, that is to say, no lawyers involved. And because of this the Family Court and the Hawaii state bar association have responded with a wealth of materials to help divorcing couples help themselves.

I already mentioned the Hawaii State Bar Association's divorce manual, many of you may have already seen it or heard about it, it's an annually updated three volume, multi-CD publication that's been written by over a hundred and fifty local and national family law professionals on every aspect of divorce. Anything that you would need to help yourself is there and if you find yourself needing to talk to a lawyer, you would be well advised to first look at the divorce manual to see what it says about your situation so you can ask even better questions to the lawyer. And the divorce manual is available in Room 115 downstairs. And this is written in your materials.

The Family Court also maintains an information center, on the second floor of the Circuit Courthouse, on 777 Punchbowl, a couple of blocks away on the Diamond Head – Makai direction, from here, on the second floor in the mauka-ewa corner. You can get divorce forms and other information from the representative of the Family Court there. Finally you may want to go to the Hawaii Judiciary's website, the address for which is in your materials, to obtain divorce forms, use the child support guidelines in an interactive

format, and obtain additional information that would help you get through your own divorce.

I want to thank you all very much for coming to this program today. I told you there are 5,000 divorces here on Oahu every year that's 400 or so a month, a 100 or so a week. I do this every month, of everybody's who's getting divorced, you all did what it took to learn about this program and come here to start on this education program progress which is so important to your success. This also means that you are the leader in your family. You're here – your spouse is not here, so you have an even higher responsibility to learn and help. So thank you again for coming and I would be happy to take any questions that anybody would have at this point.

The question from the audience is what about annulment? The Family Court is a special court in Hawaii. The Family Court can do about twenty-two or twenty-three different things at least; one of the things it can do is divorce couples. It can also in unusual circumstances, grant an annulment, which makes it like the divorce never happened. And with an annulment there won't be any property division, there won't be any alimony, the custody will have to be worked out, and child support will have to be worked out too. The statutory requirements for annulment are extremely restrictive. You can get annulled if you have a certain blood relationship with your wife – like she's your sister perhaps, some close relationship like that. You, in most instances, will not be able to get annulled if there has been some fraud in your marriage – perhaps in the securing of the marriage itself, or some flaw in the disclosure about financial matters. If you think you have an annulment situation, you should look at the Hawaii divorce manual in the section that describes exactly what would be required for an annulment.

Who else has a question?

This question asks about what we call a default situation. The legal process of divorce begins with the filing of a divorce complaint. The vast majority of couples sign uncontested divorce documents, and the divorce is over on an entirely uncontested basis. In a contested case, the defendant, the other spouse who didn't file for divorce, either has to be served with a copy of the divorce complaint, or they need to sign an acknowledgement that they have received their copy of the divorce complaint. And without service or an acknowledgement, the Family Court may be very limited in what it can do. There are unusual situations where the defendant spouse is served, but then they do not respond at all, which is what we refer to as a default. In a default situation, an application must be made to the Family Court for the approval of a divorce decree on requested terms following the default. And the Family Court judge, reviewing the matter, will attempt to determine whether the terms of the divorce proposed are appropriate, perhaps even fair and reasonable, even though a default has occurred. And also in Hawaii, even where a default has occurred, the defaulting party can at the last minute appear and again participate in the proceedings. And if you got a lot at stake and a delicate default situation, you should speak to someone to get some advice on how you might proceed.

The question asked was "What to do when you have a fear or anxiety that your spouse isn't going to play fair and maybe even start hiding things or giving things away." And of course everybody going through divorce has those moments of fear and anxiety. And of course your spouse at every instance is at times having the same fears and anxieties about you. I think what we know is that when one spouse starts hiding things

or giving things away the other spouse will too to some degree, and that creates a real awful situation. What I have discovered is, for most the part, I don't believe that spouses going through divorce tend to try to cheat that much. I think they all inherently understand that's a bad idea and that could precipitate a long ugly expensive fight where they might get burned. I think that they also recognize that that sort of behavior will stimulate problematic behavior on the part of their spouses. I have had some rare opportunities in which people have tried to hide money big time, and I was amazed at the odd ways in which they were found out. I was really surprised in a couple of instances that to see that in fact their misdeed weren't discovered. This process only works for us if everybody's open and above board. And another thing that is going on right now is if you look at the list of documents that I tell you need to remain mindful of as you're going through this process, you will recognize in your marriage right now, on a monthly basis new information is being generated: bank statements, account statements, charge card statements, check registers, even tax returns which allow you very easily to trace who's done what with money from this point looking forward. If you think you have a situation where you think your wife is going to be provocative about that, you probably should in as a non-threatening way as possible ask her not to do it. Ask her to promise you whatever you think is appropriate in terms of the use of shared resources. "Honey we have a joint account that's got \$20,000 dollars in it and it's all we got. Can we just agree nobody's going to make withdrawals from that account until we agree or somebody else tells it's okay to do that?" There's a lot of anxiety and paranoia that occurs at this time and that will be your enemy. You and your spouse are really together against the rest of the world in this process. You want to do it together –

preserving your assets as best you can. You don't want to have strangers come in to make decisions for you or consume your resources. So even though she's mad at you, you're mad at them and would like to do things to spite, you have a very high interest in agreeing not to do that.

Here's the question for those of you who did not hear it, I'm assuming a Hawaii divorce and I'm assuming a Hawaii divorce not too long ago. How long ago? Completed in '03. The procedures that you'll be following in your own divorce here are essentially the same procedures that existed in '03 and before that as well. Whether you get divorced on a contested basis or an uncontested basis, there is a requirement that the Family Court be provided with these income and expense, and asset and debt statements. I cannot underrate the importance of these documents in sorting out the financial issues in your divorce. Complete these two forms only and you can sort everything else. Fail to complete either one of these forms, and you will just not be able to get the job done. There have been rare instances in which somebody settled on the terms of their divorce, falsely believing that their spouse's financial circumstances were other than they thought. Someone agrees to concede to someone else whatever assets they own in their name alone only to discover after the fact those assets were greater and more valuable than what's thought. Sometimes, in those situations, the required Family Court asset and debt statement was not submitted to the Family Court. Now whoever's going through the divorce knows that they're entitled to financial disclosure from their spouse in the same form that they were required to make financial disclosure too. And so where that financial disclosure was not forthcoming from the spouse there might be some question about why the other spouse did not insist on it.

Where there have been, or there has been, fraud in the obtaining of a divorce decree, in certain circumstances relief can be granted. But the law really favors finality and so it is really hard to set aside a divorce decree. If you want to see the complete description of all the rules that apply, look at the Hawaii divorce manual in the section about setting aside a divorce decree. You also need to recognize that when contemplating trying to set aside a divorce decree time is of the essence. Because there are certain deadlines that fall to preempt your ability to act. But it's all laid out there real nice; there's been some recent cases on that.

This is a follow up to the default inquiry from earlier, and you were saying he was served personally? This is a great follow-up question. In a contested divorce you can serve your spouse in a number of different ways. Besides them acknowledging, which is a certain form of service I suppose, you can have a sheriff personally serve them like in the movies where the guy knocks on the door and "Oh it's the sheriff – you've been served." In certain situations you can serve someone by mail – certified or registered mail. You can read all about them in the Hawaii divorce manual. Generally it involves a person who doesn't live in Hawaii. The other thing that you got to remember is that Hawaii in a divorce situation will have complete authority over both spouses and all they own and their kids if everybody's in Hawaii. But as is sometimes is the case, one spouse maybe here and the other spouse maybe in another state or another country. In those situations it is likely the case that the person who files for divorce here can get divorced, but there maybe a question about the power or jurisdiction of the Hawaii Family Court to make orders against the person or the property of the other spouse who is away. Especially if that other spouse is not a Hawaii resident who happens to be

somewhere else. But the service issues can be somewhat challenging and I tell you that in section two of the Hawaii divorce manual – sort of towards the front – there is a section in the front there is a full discussion that explains how to get service against the spouse in all of the different situations you might find yourself.

Where can you get information about services for families and children going through divorce like a resource or a reference? In your materials there is the information you need to get all the legal materials you need. If you are interested in community resources for yourself and your family there are a couple of good lists of resources in the Hawaii divorce manual at the very end. There's lots of help out there – you just need to decide who you want to ask.

That's a great follow-up question. The question was, this was the man who was divorced in 2003, how can I look at the records in my case? Were you divorced on Oahu? You can walk down to the courthouse and access your file. You can also go to the Judiciary's webpage and use their Ho'oiki search engine which lets you see all cases filed in Hawaii in the recent past, of all descriptions, including divorces, with other information too such as the titles of all of the documents that were filed in each of the cases.

I want to warn everybody about this too – we live in the age of identity theft. When you look at the paperwork that you will be submitting in your divorce, you will notice that some of the information might help someone steal your identity. For example there is a place in the Family Court forms where they ask you to list your social security number, your home address, your home telephone number, the birth dates of your children, and other private information. Divorce files are open to the public; this is

an issue of current great concern. The public has a right to know, but we have our rights as citizens to the privacy of our personal family matters, and there's something of a collision concerning that. Right now without a Family Court order to the contrary, everyone's divorce file is open so when you consider filing materials with the Family Court like your asset and debt statement too, provide enough information so that the reader can understand what you're talking about, but not so much information that somebody could actually steal your identity. The other beauty of course with settling your case with your spouse is if you settle there's very little paperwork that gets submitted to the Family Court with your uncontested divorce. On the other hand if you fight it out there will literally be banker's boxes of materials that someone could happily peruse and learn so much about you that you would never really want them to know. Does anybody else have any other questions? I want to thank you very much for coming; it's been a pleasure to speak to you.