

SUPERPAGESSSA

The Child Support Standards Act sets the criteria for child support . Just as our taxes are determined by consulting a tax table, so is the amount of child support one can expect to pay or receive determined by the CSSA. When this law was adopted, the idea that child support could be negotiated became a thing of the past.

A parent with one child will be required to pay seventeen percent of his or her gross income less the amount deducted for FICA and local (city) income tax. Two children raises this percentage to twenty five and three to twenty nine per cent. The child support dollar is an after tax dollar to the paying parent and not taxable to the parent who receives the payment.

In addition to support, parents are also required to contribute pursuant to a pro rata ratio based on their respective incomes to cover the cost of child care expenses, unreimbursed medical and dental expenses as well as special educational expenses (dancing lessons, SAT courses, etc.).

In New York, children must be supported until the age of twenty one unless they are first emancipated which happens as a result of full-time employment, military service or marriage. Generally, where a child is in college, support is continued to the earlier of graduation or the twenty second birthday.

Sometimes a parent with an obvious ability to generate a substantial income will claim to earn much less. Even if the numbers bear this out, courts will often impute income at the level it is reasonably believed the parent is able to earn.

Even where a settlement has been made between the parents, it is necessary to provide the court with complete information as to assets and income including the latest tax returns and pay stubs. While courts have leeway to deviate from the percentages mandated by the CSSA, sufficient reason must be given before this will happen. Generally, it must be shown to the court's satisfaction that such a deviation from the CSSA percentages is in the best interest of the children of the parties.

Statutes of limitations are the law's way of saying "enough is enough". With the passage of time, witnesses die or move away, memories become blurred and records are lost or discarded. There comes a point where even the best case brought to right the most egregious wrong cannot be allowed to go forward since the ability to defend it will be severely compromised by the delay.

The law wants us to exercise our rights diligently and with reasonable speed. It imposes different statutes of limitations for different matters. Personal injury matters must be commenced within three years of the date of the accident and matters involving contracts must commence within six years of the date of the breach. If you wish to sue somebody who has socked you in the eye or slandered your good name, the statute of limitations for these willful acts is only one year. In all of these cases, the statute of limitations stops running when a lawsuit is actually commenced.

Medical and Dental malpractice claims have a statute of limitations in New York of only thirty months. Calculation of just when this statute may run may be confusing and complex so be sure and consult a lawyer as soon as you feel you may have such a claim.

The shortest statute we deal with involves your right to sue a governmental body such as a town, county or school district. You will have only ninety days to serve formal notice of claim. Such a notice must provide certain specific information and be served upon designated officials. If you have a claim against a public entity, you should consult your lawyer at once for on the ninety first day you are a dollar short and a day late!

Where a claim involves a minor child, statutes of limitations are extended to his or her nineteenth birthday since the failure of a parent to exercise the child's rights should not result in a loss of those rights.

Different states impose different statutes of limitations for similar matters. Also, there are a host of other rules to keep abreast of when making claims under federal law or against the United States, New York State or other states.

If you believe that you have a legal claim against a person, corporation or governmental body you should review the matter with your lawyer without delay. People who fail to exercise their legal rights until the statute of limitations runs generally learn that the law can be very unforgiving.

superpagesFraud

The law is very particular when it comes to proving that a fraud has occurred. The “five fingers” of fraud must all exist before it can be shown that a fraud was actually perpetrated.

First, a fraudulent misrepresentation must have occurred. “I am offering you an opportunity to purchase a bridge which crosses the East River between Brooklyn and Manhattan. You will be able to erect toll barriers and get rich in short order” .

Next, there must be reliance on the misrepresentation. Every once in a while somebody might actually believe that the Brooklyn Bridge was for sale. That is not enough. He or she is going to have to put some money up in order to take a concrete step towards making the purchase.

Before a civil fraud can be proved, the reliance must be justified. It simply is not reasonable to claim that you really expected that you could purchase the bridge and charge tolls. More to the point, wasn't there an opportunity to check the books and records of the business before it was purchased ? An accountant might have reviewed the books and found that the coffee shop was not bringing in two hundred thousand dollars a week before making an investment on blind trust.

The fourth element of fraud is damage. The half million dollars spent for the “deed” to the bridge and for the architect to design the toll booths should be sufficient in the example given above.

The problem comes with the fifth element which is the need to show that there was intent to defraud. To do this it may be necessary to get into the mind of the defrauder. It will be necessary to show by word and deed that he actually knew what he was saying was false and that this misrepresentation was intended to cheat the victim. Without proving intent to defraud, the victim who has lost money has simply made a bad investment and has suffered the consequences.

Always ask yourself just why you have been chosen to participate in the “opportunity of a lifetime”. A consultation with your lawyer and your accountant before you put your money up will likely keep you from being victimized. Keep in mind that things that look too good to be true usually are.

Superpages employment

New York is an employment “at will” state. That means that you can lose your job for most reasons, even unfair ones. Most employees take cold comfort in knowing that they are free to quit whenever they want. The nasty, abusive boss can usually make his workers totally miserable with impunity.

There are important limits to this offensive conduct, however. Remarks and insults and discrimination relating to one’s gender, ethnicity, race and religion fall into an area protected by federal, state and New York City law and may well give the victim the right to sue. New York State and New York City extend these protections to claims based on sexual orientation

Federal employment statutes are aimed at correcting abuses in the workplace so there are important rules to be followed before making a claim. Offensive conduct must be reported to a supervisor or, when possible, to HR in order to give your employer the chance deal with it appropriately.

A formal complaint must first be filed with the Equal Employment Opportunity Commission which then has up to six months to investigate and act. After six months, a claimant may request the right to sue on his or her own. Keep in mind that the intent of the law is that claims must be filed swiftly to preserve them. Also keep in mind that one or two incidents will not generally support a claim.

Claims with the EEOC must generally be filed within 300 days of the incidents complained of—although this limit may be as short as 180 days in certain matters.

The worst thing a boss can do is retaliate when a complaint—even a worthless one—has been made. Retaliation can expose an employer to extremely heavy damages.

Whether you are an employee or a boss, knowledge of what constitutes improper workplace conduct can be essential. Don’t be a stranger to your lawyer. He or she can help guide you through this particularly treacherous area of the law. Always seek legal advice before trying to deal with a situation involving improper workplace conduct.

Superpages equitable distribution

Often, one of the most difficult aspects of a divorce is to define the assets of the marriage and to agree upon the portion each spouse is to receive. Unlike community property states where all assets may be subject to a 50/50 split, New York mandates a division of marital property based on a plan of equitable distribution. Assets accumulated by one party before the marriage and not commingled with the assets of the other spouse may be excluded from the marital estate. Also, inheritances and the proceeds of some legal actions such as personal injury cases may also be exempt. That portion of a pension earned during a marriage belongs to both parties..

Any property accumulated from the date of the marriage to the date the action for divorce was commenced is normally considered to be marital property. Some assets are best described as hybrids. An example of this is a home which one spouse owned prior to the marriage but which both parties have maintained (for example by contributing to the cost of renovations and repairs or by making mortgage payments). In such instance it is necessary to first ascertain the value of the property on the date of the marriage and the valuation when the couple divorces. The increase in value is a marital asset to be shared by the parties.

Sometimes a valuable asset acquired by one party before the marriage appreciates substantially over the course of the marriage purely because of improved market conditions. Examples of this are jewelry, fine art and unimproved real estate. The increase in value of such assets is not regarded as marital property because neither spouse did anything to bring this about.

Family businesses, especially those where a lot of cash is involved, generally present the most substantial problems. It is often impossible for a husband and wife to agree upon the value a business. It may be necessary to retain a forensic accountant to do an appraisal. The legal fees in such contests can be astronomical and the rancor can reach incredible heights. It is always better and cheaper to strive for an amicable settlement in these cases before a family is literally ripped apart and most of the assets end up with the lawyers.

The law wants to preserve the status quo during a divorce and not let the monied spouse starve the other spouse into settling on the cheap. Courts will lessen the sting of prolonged litigation over a business by directing the monied spouse to pay for the services of his or her partner's appraiser and attorney. Although the law provides that these fees may be recovered at the end of the action, in reality this hardly ever happens. Another temporary measure taken by matrimonial courts during prolonged litigation is to direct the monied spouse to continue to support the household at the same level as before the action was commenced.

The corners we cut in business often come back to haunt us when we go to court. The shrewd businessperson who manages to bury his or her income by living on large sums of unreported cash is often severely compromised. Judges will frequently refer substantial

failure to report income to the IRS. Many a matrimonial case has come to a screeching halt and a lucrative settlement for the innocent spouse when an incident of blatant tax fraud has surfaced.

SUPERPAGE 5TH AM

The Fifth Amendment gives us the right to remain silent when being investigated for the commission of a crime or after being charged. You are protected from having to testify against yourself or provide factual information which might be used to arrest and later convict you of a crime.

Once a suspect is placed under arrest, the police are required to give “Miranda “ warnings that he or she has the right to remain silent and to counsel at every step of the legal process. Please be aware that the Supreme Court has now made it necessary for a suspect to actually state to the police his or her intention to remain silent. So in order to remain silent, first speak up, ask for your lawyer, and then BE SILENT.

Popular TV shows often depict police convincing and sometimes coercing suspects into providing details of their crimes and signing full confessions. By talking to the police, they unknowingly give up valuable constitutional rights against self-incrimination. Our advice to clients is to be polite and cooperative but only to volunteer “pedigree” information (name, address, phone number and the like) and always to request that an attorney be called. That request immediately serves as a notice to the police that they must not ask any factual questions out of the presence of counsel