PHILADELPHIA BAR ASSOCIATION
FAMILY LAW SECTION MEETING MINUTES
MAY 2, 2016
Chair, Dina Ronsayro, Esquire, presided.

I. WELCOME AND INTRODUCTION: Dina called the meeting to order at 12:07 p.m. She welcomed everyone and acknowledged the following individuals were present: the Honorable Diane Thompson, the Honorable Ourania Papademetriou, Divorce Master Dennis O’Connell, Support Master Daniel Sulman, Custody Master Jacqueline Vergara, and Thomas Rogers from the Philadelphia Bar Association (Senior Managing Editor, Publications).

II. CORRECTIONS OR ADDITIONS TO MINUTES: The April minutes were approved.

III. TREASURER’S REPORT: The financial information was not available as of the time of the meeting.

IV. ANNOUNCEMENTS:

A. Dina reported that the Board of Governors passed a resolution regarding innovative models for non-lawyer assistance and practice. Essentially, the Philadelphia Bar Association is requesting that the Pennsylvania Supreme Court give the Association the opportunity to participate in and explore and evaluate any innovative models that the Pennsylvania Supreme Court may choose to undertake.

B. Kristine Calalang, Esquire, read a thank-you card from the Honorable Barbara Joseph. Her Honor expressed gratitude to the Section for all the well-wishes and compassion Her Honor has received.

C. The Help Desk continues to need volunteer attorneys to sign up for Mondays and Wednesdays from 12:00 p.m. to 3:00 p.m. Please contact Lee Schwartz, Esquire, to schedule at lee@schwartzjordan.com.

V. PROGRAM: “Gray Divorces”


B. Notable Points

1. An estimated 55% of gray divorces involve marriages which lasted over 20 years before separation.
2. Gray divorces are becoming more prevalent in recent years. Some postulate this is because women are working more and becoming more independent. Of the individuals who initiate divorce when they are 40 years old or older, statistical studies show women are more often the initiators.

3. **Social Security** – In order to receive full retirement benefits, you need to be sure of the age you must reach to collect your full amount (see https://www.ssa.gov). If you delay collecting until you are age 70, you can receive higher benefits. If you elect to start collecting earlier than your full retirement benefit age, your benefits will be reduced.

4. You can obtain your Social Security Statement online at https://www.ssa.gov/myaccount/.

5. You can also go online to enroll in Medicare at https://www.ssa.gov/medicare/.

6. **Alimony**
   a. There is a Pennsylvania Superior Court case which involves the issue of early retirement benefits from Social Security – McKernan v. McKernan No. 1057 MDA 2015, 2016 Pa. Super. 60. In this case, a Husband was seeking to reduce his alimony obligation based on his argument that Wife could file for early Social Security benefits. The Superior Court found that there was “no authority empowering a trial court to order Wife to apply for and obtain Social Security Retirement benefits prior to reaching full retirement age. See 23 Pa.C.S.A. § 3701(b).” The Court further found that there is “no provision in the Divorce Code that requires a party to apply for early reduced Social Security benefits, or requires that a party be assessed “retirement income capacity” based solely upon eligibility for Social Security benefits.” Ultimately, this led the Court to affirm the lower court ruling, as the Superior Court found “no error or abuse of discretion in the court’s conclusion in this case that Wife’s eligibility for Social Security benefits does not establish substantial and changed circumstances under section 3701(e) warranting further modification of Husband’s alimony obligation.”
   b. Be aware of all the client’s expenses (e.g., health insurance, tax obligations, life insurance, auto insurance, etc.) when seeking to determine a reasonable amount for alimony.
c. Be aware of whether your client needs a financial planner or to have a will drafted or updated or to have an advanced health directive and guide him/her accordingly.

7. **Issue of Capacity**

   a. Be vigilant regarding any possible issues of capacity that may arise regarding your clients, and be aware of any drastic actions they are taking or significant changes in their lives.

   b. Consider whether your client may need a guardian, as you cannot proceed with filing for divorce if your client lacks the capacity to make informed decisions.

8. **Effects of Gray Divorces on Adult Children** – There are issues of children aligning with one parent, even in cases with adult children. Note the use of trusts is still frequent in cases with adult children.

9. **Estate Planning** – This is a list of key items which should be discussed with clients: original will, revocable (or irrevocable, if appropriate) trust, instruction letter for actions to take upon their death, Power of Attorney, Advanced Health Directive, list of all assets and debts, safe deposit box (along with a list of the contents and the individuals who have access to it), marriage license, and current life insurance policy.

10. **Death Before Divorce Decree** – If a party dies before the grounds for divorce are established, generally, the divorce abates. If a party dies after the grounds are established, the divorce action can proceed.

11. **Retirement Benefits** – If you are over the age of 59.5, you may be able to liquidate or withdraw from your retirement accounts. The IRS website provides typical situations where you may want to consider withdrawing from a retirement plan. See their website at https://www.irs.gov/retirement-plans.

VI. **COMMITTEE REPORTS:** Committee meeting times/dates and announcements are disseminated over the Family Law Section's listserv.

VII. **GOOD & WELFARE:** None.
NEXT SECTION MEETING: Monday, June 6, 2016, at 12:00 p.m. on the 15th Floor of the Philadelphia Family Court building at 1501 Arch Street

NEXT EXECUTIVE COMMITTEE MEETING: Thursday, June 16, 2016, at 12:00 p.m. on the 11th Floor of the Philadelphia Bar Association at 1101 Market Street

Respectfully submitted,

[Signature]

Kristine L. Catalang, Esquire
Secretary

ATTACHMENT (1):
- May 2016 PA Appellate Court Family Law Slip Opinions – Courtesy of Sara Slocum, Esquire, of Astor Weiss Kaplan & Mandel, LLP