

Scenario 1: Client requests a contingency fee:

Potential new client comes to your office for a consult after the parties have already filed their divorce petition and exchanged financial disclosures. Client says the other party is going to keep the house and he believes he should get a \$200,000.00 equalization buyout. He wants you to look everything over and write up an MSA. He doesn't have any money to pay a retainer up front and offers you 5% of whatever equalization payment you can negotiate on his behalf at the end of the case.

Can you provide representation under these terms?

Could you charge an hourly rate that you agree you won't collect until the case is resolved?

What if the case is for collection of past due support or maintenance?

Scenario 2: Fees due pursuant to MSA

At the conclusion of Scenario 1, you have drafted an MSA that calls for the equalization payment to be made to your trust account to secure the fees owed to you before distribution to the client. However, the other party drafts a check made directly payable to your client and mails it to you just before the deadline. Your client inquires about the status of the payment.

Must you tell the client that you received the payment incorrectly addressed?

If the client demands you forward the check to them instead of requesting a corrected check, must you forward it to them?

Scenario 3: Client may unintentionally misjudge their finances:

Parties have been married for 15 years. You represent the Husband who has earned a pension for the last 20 years. Wife has also worked during the marriage and has a 401k with about \$20,000. The parties clearly indicate they each want to keep their own retirement accounts. When your client filled out his Financial Disclosure Statement he put the value of his pension at \$38,000 which is a number he got off something he got in the mail last year. You are pretty sure if you valued the pension it would be worth several times that.

Do you have an obligation to say that you think your client's belief of the value of his pension is not accurate?

Does it make a difference if the wife has an attorney?

Does it matter if that \$38,000 number starts to get thrown into a large property division equalization calculation as opposed to just a each to each property division?

Scenario 4: Client intentionally misleads you and the court about their finances:

Client switches jobs right before the temporary hearing. She made about \$5,000 a month at her old job. She tells you that for the next year or so her overall income will be around \$4,000 - \$4,500 a month but eventually she thinks she will make in the \$6,000 - \$7,000 range. The court sets child support based on \$4,500 a month based on the court taking your claims about your client's income at its word. Once documentation of her income is obtained by opposing counsel it shows that she was clearly making \$7,000 a month from the beginning. She insists that she only brings home around \$4,500 a month and was confused about gross v. net income. You don't buy it as you had clearly explained the difference to her multiple times in the past.

Can you continue to represent this client who you think has lied to you and you stated that lie in court?

What duty, if any, do you have to the court or other party to correct the misstatement?