

# Family law in america

Law



## Family Law in America

Many people are always eager to know whether they can hire one attorney to represent them in a divorce. The case involving Eric and Cindy epitomizes a case whereby spouses are in total agreement until they decide to divorce. Both parties share responsibilities at their home and prior to their marriage, they had signed a prenuptial agreement. The wife disclosed much of her assets and the husband agreed to share the responsibilities at home. Nonetheless, since they have agreed to file a divorce and their case is an uncontested divorce, it looks simple. However, the challenge is that there is no clarity as to whether they have agreed on property division, child custody and support issues. Since they have agreed to part ways, one of the spouses hires an attorney to prepare the obligatory paperwork (Stoner & Irving, 2012).

It is noteworthy that a lawyer can barely represent both parties in a divorce case. In this case, the husband wants to hire a lawyer to represent both parties in an uncontested divorce. This is possible and the lawyer will prepare and file a divorce petition. He or she will also draft a waiver of citation and divorce decree. The lawyer must go to court and ensure that judges approve the divorce (Crotty, 1999). For example in this case, the wife will only be required to read and sign both the waiver and the final decree. Ethically, it is not possible to represent two parties in a divorce when there is a conflict of interest. If one attorney tries to represent the husband and the wife in this case, he or she may face some problems. If the attorney takes side and informs one party that the deal would make it possible for him or her to gain financially, it might anger one party. If the attorney manipulates any party to decide otherwise, the case is considered unethical. In fact, one <https://assignbuster.com/family-law-in-america/>

attorney cannot represent two parties with conflict of interest.

Getting an annulment is out of questions because it is a court order that a marriage never existed. Annulment could only be granted if the spouse was already married to someone else. Annulments are very rare. In this case, there is no such a case whereby the husband is claimed to have been married to someone else. However, the case indicates that the wife had mental issues, but still the issues never avoided her from agreeing to marry. She was not forced to marry, they all agreed. Annulment in this case is not appropriate because after realizing that the wife had mental problems, the husband was willing to continue with the married out of love. The prenuptial agreement remains valid because the case does not indicate that one party contemplated divorce or separation. Glendon (1989) affirms that when spouses sign the prenuptial agreement willingly and the process has followed the four basic rules, there is no course of alarm. The agreement was in writing; it was signed by both parties, and did not have an automatic termination clause (Glendon, 1989). It protected properties acquired when the spouses were already married and those they bought while together. In Florida, the custody of children is governed by statute that considers the best interest of the child. The term “ custody” is not applicable in Florida and rather it is referred to as “ time-sharing (Goldenberg, 2005). Time-sharing is established of an agreement between the parents of the child. Parenting plan varies about the unique circumstances of a particular family. In this case, the Court may choose to award the parties a “ Shared Parental Responsibility” or Sole Parental responsibility. Under the new statute in Florida, the Courts favor the Shared Parental Responsibility that requires both parents to confer when making decisions that affect the welfare, health,

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and safety of the child. Finally, since Eric and Cindy signed the prenuptial agreement, the court is likely to rule for equal distribution of properties.

#### References

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