Fair Isn't Always Equal

The 50/50 Myth — What Equitable Distribution Really Means

From our conversation with Attorney Jessica Fagan, Fagan Law Group | MyDivorceSolution.com

1 THE MYTH VS. THE REALITY

THE MYTH

"Whatever we have will split down the middle." It sounds fair. It sounds simple. Many people treat 50/50 like a security blanket — but divorce isn't black and white.

THE REALITY

Only **9 states** follow strict community property rules. Most states use **equitable distribution** — where "equitable" means **fair, not equal**, and fairness is negotiated, not automatic.

2 EQUAL ON PAPER ≠ EQUAL IN REALITY

TAX BASIS

Two accounts with the same balance are not the same asset. A Roth IRA is post-tax; a traditional IRA is taxed on the way out. Ask what each dollar is worth **after taxes**.

RISK

A volatile investment account "worth" the same as the house today may not be worth that in three weeks. Weigh the risk you're taking on, not just today's statement.

WHO FUNDED THE FAMILY

Spending patterns tell a story. If one spouse's card paid for the groceries, uniforms, and activities while the other's went to personal spending, that history matters.

3 KNOW YOUR ZONE BEFORE YOU NEGOTIATE

Jessica calls it the **zone of settlement**: your best day in court, your worst day in court, and the realistic range in between. At MDS, we build the same thing as **division scenarios — A, B, and C**. When you know your zone, you can sit in mediation, turn to your attorney, and ask one powerful question: **"Is this in my zone?"**

WORST DAY IN COURT	YOUR ZONE OF SETTLEMENT Scenarios A | B | C	BEST DAY IN COURT

"The best deal is everybody leaves a little uncomfortable — but everybody got within their zone." — Attorney Jessica Fagan

Your Before-You-Negotiate Checklist

4 GET FINANCIALLY CLEAR FIRST

- [ ] **Inventory every asset and every debt** — in one place. If you don't know the balance, start with where it's held: which bank, which card, which account.
- [ ] **Verify with documentation.** Never negotiate on "purported values." Statements, not assumptions.
- [ ] **Complete a lifestyle analysis.** Know what you actually spend monthly — groceries, streaming, cell phone, dining out. Ability to pay and need both start here.
- [ ] **Price your future.** Check the marketplace for your health insurance premium. Look at what housing costs in your market and what a down payment would require.
- [ ] **Ask the tax question on every account.** Pre-tax or post-tax? What is it worth after the IRS?
- [ ] **Build your scenarios (A, B, and C)** and understand what your future looks like in each one.
- [ ] **Interview more than one attorney.** Don't hire the first name you Google because you're scared.
- [ ] **Make decisions from knowledge, not fear.** You're allowed to gather information before you act.

5 QUESTIONS TO BRING TO YOUR ATTORNEY

- Is this offer in my zone?
- What's the tax impact of keeping this asset instead of that one?
- Can I accept less alimony if I receive more in assets — and does that protect me better?
- Can I take less than 50% if the tradeoff sets me up stronger long-term?
- Has the other side actually answered discovery — or are we negotiating blind?
- If we don't settle today, what is our Plan B?

Before anyone can talk about how assets should be divided,
you need to know what they are — clearly, accurately, in one place.

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