



FELDSTEIN FAMILY
LAW GROUP
PROFESSIONAL CORPORATION

Divorce and Free Agents

As originally posted in the Huffington Post on July 29, 2011

By: Andrew Feldstein



When the NFL lockout comes to an end in August 2011, there will be a flurry of trades and movement by free agents. As these football players make decisions that will chart the trajectory of their careers, there is one thing they may not be considering.

The patchwork of divorce legislation across Canada and the United States means that one geography may offer a player a far more favourable divorce than another.

Why is this relevant? First, football players make millions of dollars over a very short period of time. Second, football players have very high divorce rates.

This is a lesson which is applicable not just to sports players, but to everyone who is considering relocating for personal or business reasons. The geography you divorce in matters a lot to the division of property, alimony, and spousal support—among other considerations.

A varied landscape

Throughout the United States, and Canada, each province or state has a different regime for the division of property upon the breakdown of a marriage.

In the United States, divorce and the division of property is under the jurisdiction of the individual states. This has led to a wide diversity of property division schemes throughout the country. Texas, for example, uses a community property system while Maryland uses an equitable distribution system.

In Canada, while divorce is under the jurisdiction of the federal government, the individual provincial governments determine how property will be divided upon marital breakdown.

In Canada, the general split is between jurisdictions that distribute title to assets and those provinces which just have one spouse make an equalization payment to the other.

Things to Consider



FELDSTEIN FAMILY
LAW GROUP
PROFESSIONAL CORPORATION

The different systems mean that whenever persons are relocating to a new jurisdiction, they should pay careful attention to how divorce is handled there. This is simply a pragmatic step that every person should take, given the high divorce rate in both the United States and Canada.

Professional athletes can be particularly affected, as they are often paid very large amounts and have a divorce rate sometimes pegged at 80 per cent. Given the high divorce rate, “free agents” would be foolish if they did not closely examine the division of property laws in any state they are relocating to.

This can also be important for individuals relocating for business purposes. Particularly when a couple has been dealing with a large amount of conflict, an individual might move in an attempt to save the marriage and find themselves in a jurisdiction that has far less favourable divorce laws for their situation.

Spousal support, or alimony, is also something which varies wildly from state to state. To use Texas as an example, a judge is given strict guidance by statutes. Alimony can only be applied for marriages that last more than 10 years and the payments are limited to three years.

The state of California, on the other hand, has a vague alimony statute and allows judges to determine duration and amount according to caselaw.

The consequences of living in one state or another are immense when dealing with alimony. An athlete in Texas might not have to pay any alimony at all, while an athlete in California or New York in the same circumstances could end up paying thousands.

Not Romantic, but Pragmatic

Obviously, no one wants to consider divorce in their future. Yet, given the divorce rate in Canada and the United States, it is foolish not to consider the possibility of a breakdown in a marriage.

Doing so does not make one unfaithful, or love their spouse and family any less; it is simply a pragmatic consideration based on the circumstances we may find ourselves in.

Professional athletes, with the incredibly high divorce rate, should pay particular attention to the divorce laws of the jurisdiction they call home. Although it may be unromantic, being prepared will pay dividends if it is ever required.