

Family Focus

WHAT ARE THE THREE MOST IMPORTANT WORDS IN DIVORCE?

Posted by **Stuart Scott** | Jan 3, 2020

The three most important words in any divorce action are the simple words: “can”, “may” and “should”. While parties tend to concentrate on the major issues of support, custody, and division of assets and liabilities, the use of these three words in the context of requesting relief through the divorce process and finalizing a settlement may affect whether the action required of your spouse is permission, mandatory, or merely a suggestion.

In common parlance, people regularly confuse the words “can” and “may.” They also sometimes do not properly apply the word “should.” But knowing the differences between these three words and applying them effectively is one of the most important things you can do in finalizing your divorce documents to obtain the desired result.

The word “can” means one has the ability to do something, such as “can you pick up the children from school?” While, “may” concerns permission, such as “may I attend the therapy session with the child?” The verb “should” implies not only obligation but also correctness in choice.

Many people regularly confuse the word “can” and the word “may.” For example, consider the following sentence: “Can I go to the doctor’s appointment?” The proceeding sentence literally means “am I able to go to the appointment?” when in fact the person wished to request permission to go to the appointment.

One of the first lessons I teach young lawyers is understanding the difference between whether one *can* do something, whether one *may* do something and whether one *should* do something. Simply because one *can* and even *may* do something does not make it something one *should* do.

This lesson is also a very important one in divorce. I regularly see someone going through a divorce who takes an action that they can do and may do, when it is one that they should not do.

Simply because one *can* do something in the divorce process does not mean they *may* do it. For example, many people do not realize that in Tennessee an automatic stay goes into effect at the beginning of the divorce process. This stay also forbids either party to a divorce in Tennessee from adding or subtracting names to insurance policies, and opening or closing financial accounts, among other things.

Of course, one *can* change the beneficiary to a life insurance policy and open or close any financial accounts that they own at any time. But if one fails to realize that they may not do so in divorce and they do so anyway, this can result in sanctions and even jail time to the person who took an action which they *can* do but which they *may* not do pursuant to the law of the State of Tennessee.

Understanding what one should and should not do may be the most important knowledge a person can have when they are going to divorce. The reasons for failing to distinguish between what one should and should not do are numerous. They may result from bad advice, mistaken assumptions or emotional desires overruling reason. Understanding this distinction can help make the divorce process much less expensive, shorter in duration and even help with post-divorce healing.

Having an experienced family lawyer provide advice as to what can, may and should do can make the difference between an orderly, less emotion fraught and less expensive transition from married to single life. Failing to understand distinctions between what one can, may and should do can, and often does, cause disastrous and expensive ramifications.

About the Author:

Stuart Scott is a litigation attorney with over 25 years of experience. He has tried hundreds of cases in both state and federal court. Some of his noteworthy victories have been featured in local, state and national publications. Stuart is also listed as a Tennessee Supreme Court Rule 31 Family Law Mediator. Stuart focuses his primary area of practice on family law. He represents people going through divorce and focuses his efforts on providing his legal services and advice to his clients in this area. Mr. Scott may be reached in our Nashville office at 615-620-1710.



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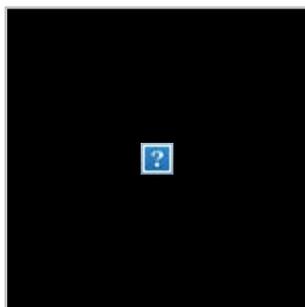


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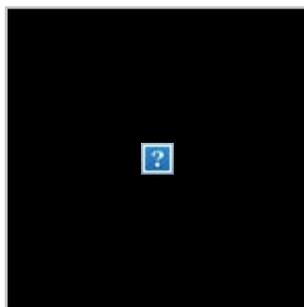
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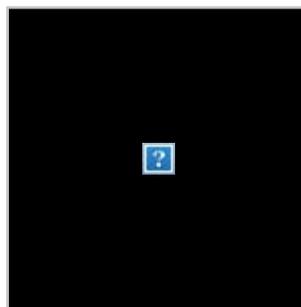
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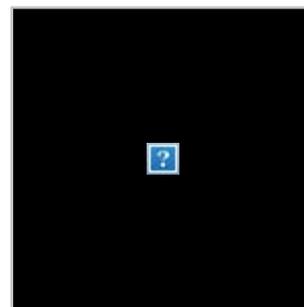
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