

NEGOTIATING A SEPARATION AGREEMENT

Instructions:

In this mock negotiation, the names of the separating couple are Jennifer and Andrew. They have been married for 12 years, and they have one son who is 8 years old. Students will work in small groups of two to three students per group. Half the groups will act as the lawyers representing Jennifer, and the other half will act as the lawyers representing Andrew. (*Note: An equal number of groups must represent each spouse.*) Each group must nominate a scribe to record the group's ideas.

The issues for negotiation in the separation agreement are listed below. Groups are to discuss each issue and reach consensus on the clause they want in the separation agreement for their client. After all the issues have been addressed, a group of students representing Jennifer will pair up with a group of students representing Andrew. Their challenge is to negotiate a separation agreement for their clients. Students should write down any clauses that they agree to, as well as any outstanding issues that could not be resolved. In a follow-up class discussion, students will share their agreements and talk about the negotiation process.

Issues for Negotiation:

- Andrew owns a boat worth \$50 000. He bought the boat, but Jennifer and Andrew use it all the time and they both love it.
- Jennifer owns a successful business. Andrew is a teacher. Her income potential is much greater than his. At this time, she earns \$250 000 per year, and it is expected that her income will continue to increase. He earns \$75 000 per year, and his income will stay relatively stable as long as he remains in the teaching profession.
- Andrew has given Jennifer a lot of jewellery. Most of it is unimportant to him, but he gave her a diamond necklace that used to belong to his grandmother that he wants back. The value of the necklace is \$47 000.
- Jennifer's mother gave the couple all of her antique china when they got married. Jennifer wants to keep the china since it is a family heirloom. The value of the china is \$25 000.
- Jennifer and Andrew have a son, age 8. Jennifer and Andrew both want to live with their son on a full-time basis. Jennifer thinks that the son will be better off living with her because she lives close to his school and friends, so his life would not be disrupted by moving. Andrew thinks their son should live with him in his rented apartment. It would mean that their son would have to change schools, but he is concerned that Jennifer spends so much time working that she will not pay much attention to their son.
- Jennifer and Andrew adopted a dog from the Humane Society five years ago. They both love the dog as if it was another child.
- The couple jointly owns several vacation properties. They own a condo in Florida worth \$300 000, a beach house in Mexico worth \$500 000, and a small chalet in Switzerland worth \$150 000.