



Jeff Bezos Divorce: Is Adultery Grounds For Divorce in Florida?

Commentary by
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The world is a buzz over news that Amazon founder Jeff Bezos may have had an extramarital affair and that he and his wife are divorcing. And as it happens in all divorces, the parties' assets and liabilities must now be split, including Bezos' \$135 billion net worth as stated by Forbes in January.

So, what if Jeff Bezos was filing for divorce in Florida? Would "adultery" be grounds for divorce and would his wife, Mackenzie Tuttle, be entitled to any additional claims for his adultery?

What may seem shocking to some—the answer to both questions is NOT EXACTLY.

Now, let me explain.

Of course, adultery is a reason any spouse may use to seek

a divorce. But, statutorily, it is not the grounds needed nor the basis for a Florida court to grant your divorce. Florida is a no-fault divorce state that statutorily requires a spouse to only allege one of two grounds for a divorce to be granted: either that the marriage is "irretrievably broken" or that there is "mental incapacity of one of the parties." Any other allegations as to why it's broken aren't even needed.

Moreover, Florida family courts, for the most part, are not interested in the facts or allegations surrounding a spouse's adultery ... unless that spouse spent money on an extramarital affair. This could include buying jewelry and paying for hotel rooms and vacations with a paramour ... to name a few.

So, about Bezos' alleged extramarital affair. What could

Mackenzie Tuttle ask a Florida court for when it comes to money spent on a paramour? It is called an unequal equitable distribution. This provides a means to award Tuttle one-half (or her equal share) of any money she could prove Bezos spent on his paramour. And once proven, the court would award Tuttle her rightful share from Bezos' equitable distribution. Which means that the Florida court first equitably distributes parties' marital assets and liabilities and then determines the unequal equitable distribution entitled to someone like Tuttle.

Which leads to the next question. How would a Florida court equitably distribute Jeff Bezos' accumulated wealth? First, the Florida court would start by splitting Bezos' \$135 billion net worth equally with each party receiving \$67.5 billion dollars.

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It would also split—or divvy out—the property. For example, awarding each party equal real property—i.e., Bezos could keep the 29,000-square-foot home in Medina, Washington, and Tuttle could keep the Spanish-style mansion in Los Angeles worth \$24.5 million.

Now, the average family law divorce does not have such substantial assets like Bezos has accumulated over the years. In the average divorce, the Florida family court would look to equally divide marital assets and liabilities, such as a marital residence, cars, bank accounts, brokerage/retirement accounts as well as credit card debt and loans. And just as important as what items they would need to divide would be the date the court takes into consideration in valuating marital assets and liabilities.

Unless the parties settle their divorce out of court (like Bezos most likely will), the Florida court will decide the valuation date for each asset and liability. Generally, the court will pick between three potential dates: the date of filing the petition for divorce; the trial date; or a separation date if agreed to by the parties. And the court may even select different dates for different assets/liabilities. This

is because there may be a significant increase or decrease in a marital asset or liability due to one party's action after the date of filing or separation. Or the opposite, where there is a long period of time between filing for divorce and going to trial, the change in value of assets may need to be accounted for. Take for example the stock market—parties who filed for divorce in January 2018 and have yet to go to trial have seen a significant drop in the market, which may require a court to use the trial date for stocks as opposed to the date of filing for a credit card debt.

The court also will determine the nonmarital assets and liabilities, which include gifts from third parties and assets acquired prior to the date of marriage. There are several ways, however (and that is a big however) where a nonmarital asset can become a marital asset. For example, if Bezos owned a house prior to his marriage, sold it, and used the funds to purchase a new home titled in he and Tuttle's name, Bezos would have lost its nonmarital status and created a new marital asset. Or, as another example, if Bezos had received proceeds from the sale of an inherited real property

and put the proceeds into a joint bank account, he would have commingled the inheritance potentially turning the proceeds into a marital asset.

Last, it is only after all the assets and liabilities are equitably distributed and any unequal equitable distribution awarded that the court would consider whether either party is an alimony candidate in this long-term marriage. While Florida courts are still able to award permanent alimony to a spouse from a long-term marriage (i.e., over 17 years), the court takes into consideration one party's needs and the other party's ability to pay before making such an award. And in Bezos' case, spoiler alert: Neither party would be an alimony candidate with no less than \$67.5 billion dollars to their name!

Lindsay B. Haber is a partner in the family law division of Kluger, Kaplan, Silverman, Katzen & Levine in Miami. She has experience in high-profile, high-conflict family law matters, such as complex and high-value property, business and financial distributions as well as acrimonious child-related matters including international kidnapping and parenting conflicts.