Bryce Neier: Military Divorces

North Carolina litigator Bryce Neier focuses on family law at his Fayetteville practice. Offering counsel on numerous issues, Neier has successfully represented individuals going through what some term " military divorce. "

In reality, state laws and statutes control all aspects of family law matters and the military has little control over those type issues litigated in the state courts.

During divorce proceedings, all parties may have to consider many issues such as child custody, child support, alimony, and property division. In particular, The Uniformed Services Former Spouses' Protection Act allows judges to follow state statutes on dividing assets, which of course includes military pensions. Each state will determine how a pension, military or private will be divided.

One key thing all spouses should be on the watch for is the Survivor Benefit Plan for the military pensions. It is critical that the spouse receiving a portion of his or her spouse's military pension ensure he or she has been the deemed elected former spouse primary beneficiary under the military retirement. If not, and the military spouse dies, the former spouse could receive zero of his or her share of the pension.

Folks should also be aware that the "ten year" rule has nothing to do with whether a spouse can seek a percentage of his or her spouse's military retirement. The "ten year rule" is to determine if a spouse can get direct electronic payment of his or her share of the retirement directly from DFAS. A spouse can have less than ten years marriage running concurrent with the active duty service and still be awarded a percentage of the military pension.

The rules and regulations regarding military benefits such as pensions, SBP, and even Tri Care coverage are ever changing given the current environment of federal budget cuts.

Spouses should always consult attorneys with knowledge of these areas lest they lose substantial financial benefits. Attorney Bryce D Neier should be one of those attorneys one seeks for such advice.