

DIVORCE

GUIDE



ZRFM

Zukowski, Rogers, Flood & McArdle
50 Virginia Street, Crystal Lake, IL 60014

815-459-2050

ewakeman@zrfmlaw.com

www.zrfmlaw.com



Zukowski, Rogers, Flood & McArdle

815-459-2050

60 Years of Family Law Experience with 2000+ Clients...

“Our attorneys are experienced litigators and skilled negotiators. Our unwavering goal is to help you get beyond the process of divorce and into the next phase of your life in a peaceful, positive and cost effective manner.”

It is not an accident that the compassionate and highly experienced family lawyers at Zukowski, Rogers, Flood & McArdle (ZRFM) are known and trusted by families throughout the greater Chicagoland and Northern suburbs. Not only are we the largest law firm in McHenry County, ZRFM attorneys have lived and worked in Kane, McHenry, Boone, Winnebago, DeKalb, Lake and Cook counties throughout their careers.

Our Court-Ready Preparation Yields Favorable Settlements for You

Our family lawyers strive to achieve a negotiated settlement that delivers your desired result. That is why we prepare for litigation. This enhanced level of “court-ready” preparation gives us a distinct advantage at the negotiating table, because we have identified, analyzed and organized all of the unique details of your divorce and researched the relevant case law. Long before we even begin negotiations, we know which “fights to fight,” and on which issues it is in your best interest to compromise. We aggressively pursue reasonable solutions, and are prepared to tenaciously fight for your rights when necessary — at the negotiating table, or in the courtroom.

We are Responsive and Open Communicators

During your divorce, you will have questions, concerns and comments along the way. Be assured that when you contact us, we will treat your inquiry as a priority and immediately attend to your issue. We will also communicate with you honestly and openly, and help



Melissa J. Cooney, Richard G. Flood, Elizabeth Felt Wakeman

you realistically assess your options before choosing a wise course of action. Providing outstanding client service is our highest priority.

We Take Care of Your Complete Needs During and After Divorce

Your divorce may call for counseling regarding taxes, business valuation and real estate. Among our team of 20 attorneys, we have a CPA and several lawyers with extensive credentials in these areas, who will collaborate with our family lawyers to get you the best results.

We also understand that divorce is traumatic and life-changing. If you require support outside of the law, we will refer you to our network of professionals who will provide you with the psychological, medical, educational, financial, career counseling, or child care support you need.

We Understand Local Needs and Perspectives

Our experienced lawyers know how to apply relevant statutes and cases to different types of divorce situations. In addition, because our family lawyers have lived and worked locally throughout our careers, we understand the perspectives and tendencies of the local judiciary and legal community — all of whom respect our knowledge, ethics and results. Our team is dedicated to doing whatever it takes to ethically and effectively serve your needs.

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815-459-2050

ewakeman@zrfmlaw.com • www.zrfmlaw.com

We serve clients in McHenry, Kane, Boone, Winnebago, DeKalb, Lake and Cook counties, and throughout the Northern Chicago suburbs.

For most people, divorce is much more than a major legal process. It's also a challenging time of transition that can negatively impact virtually every area of life: emotional, psychological, domestic, parental, financial, physical health, social, vocational and more.

In this **Divorce Guide**, you'll find a number of useful articles and resources designed to help you and your family through the divorce process. We understand that divorce is not only a legal process but also a time of great transition that affects all areas of your life. It is our hope that these resources help you and your family move forward as smoothly as possible.



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The Divorce Process

A basic guide to the legal process behind ending your marriage.

By Jeffrey Cottrill

No two divorces are exactly alike. Every marital breakup has unique legal, financial, and/or parenting issues that require their own resolution strategies. But every divorce undergoes the same general journey from initiation to closure. Whether you and your spouse make this journey cheaper and faster is up to you, but the destination is always the same: from shared to separate lives.

Here's a basic primer of how the divorce process works in the United States and Canada. Bear in mind, however, that I'm not a legal professional. You'll want to speak to a family lawyer to find out how the options vary in your state or province, as well as how your own situation affects the process.

Temporary orders and filing the divorce papers

One of the first things you and your spouse have to do after you separate is to get a "temporary order" or agreement. This is extremely important, because it could set the precedent for your final divorce settlement. A temporary order/agreement establishes quick decisions about the children, property, bank accounts, and other issues that may

be important between the separation and the final outcome. For example, if one spouse moves out of the home and the other has no income, how will the latter feed the kids and pay the bills? For more information about temporary orders, visit www.divorcemag.com/articles/Financial_Planning/getting_prepared_temp_orders.html.

You should hire a divorce lawyer and/or mediator, and financial advisor, as soon as possible. You'll set your temporary order/agreement in a brief, relatively informal hearing before a judge — so prepare a complete list of what you want to request in advance. Among items you can request: temporary custody and visitation arrangements; a restraining order so your spouse won't contact you; child or spousal support; and/or who gets the car and house.

Next, you or your spouse files a petition, application, or complaint for divorce with your local family court. The person who files, or plaintiff, serves a Summons upon the other spouse stating that they want a divorce and what they are seeking in terms of property, child custody, support, etc. The other spouse, or defendant, must answer the Summons and, if they wish, can make their own claim.

Check DivorceMagazine.com for information on the grounds for divorce in your state or province. Most states and all Canadian provinces, however, don't require fault as a prerequisite — so you don't have to justify filing by accusing your spouse of wrongdoing.

Collecting information and discovery

Once you've hired your divorce lawyer, you must gather all relevant information for your lawyer's perusal:

- Full names, addresses, phone numbers, and Social Security or Social Insurance numbers of you, your spouse, and your children;
- The date of marriage, date of cohabitation, county or region where the wedding occurred, the wife's maiden name, and any information about prior marriages of either spouse (including the names and prior names of ex-spouses);
- A copy of your premarital agreement (or other domestic contract) and information about any prior legal proceedings, separations, or marital counseling during the marriage;
- All available financial data, including: income-tax returns from the past several years; a recent pay slip; the

major assets and liabilities of both you and your spouse; budget worksheets; insurance policies; credit-card statements; wills; and any credit or mortgage applications.

Unless you create a separation agreement, your lawyer will use this as a starting point for the discovery process. The lawyer gets as much specific information about the marriage as possible, to work out the financial and children's issues fairly. Most of discovery involves financial matters, for which your lawyer needs specific, accurate details. From the value of items you bought during the marriage to stocks, pensions, and revenue from a business, you and your professionals (e.g. lawyers, mediators, financial planners, accountants, appraisers, etc.) have to retrieve documentation of every dollar value — including that of premarital assets. For articles on preparing for a deposition and separation agreement, visit — www.divorcemag.com/articles/Divorce_Settlement_Preparation.

Contested vs. uncontested divorce

There are two general types of divorce. If you and your spouse can't agree on the divorce terms — or if one of you doesn't want the divorce — it's a contested divorce, and a judge will

decide the outcome if you can't come to agreement on your own. In an uncontested divorce, both of you agree on how to divide your assets and debts, who gets custody and pays child support, and whether one spouse needs to pay spousal support to the other. Obviously, an uncontested divorce will be faster and simpler. But even a divorce that starts with major disagreements can be worked out if you choose to make it that way, and the majority of cases do settle.

If you're in the United States, ask your lawyer if you're eligible for a "summary" divorce. This is a simpler and faster divorce process which involves less paperwork, fewer court appearances, and less time in negotiation. However, this will only work if your marriage was relatively short and if you have no children, little property, and no intention to seek spousal support. In Canada, the closest would be an uncontested divorce or a joint application.

Motions

If you need to readjust certain arrangements during the divorce process — such as custody, visitation, or support — you can initiate this by filing a motion with the court. Next, a short hearing takes place in which the

lawyers representing you and your spouse present their cases before the judge. In most cases, only the lawyers are permitted to speak; however, if you are going the Do-It-Yourself route in your divorce (a path that's only recommended for very simple divorce cases), you will be able to represent yourself in this hearing. Once the judge makes a decision on the matter, the regular process continues as before.

Litigation or negotiation?

If your divorce is contested, you and your spouse must decide how to resolve your divorce. Will you fight it out through adversarial litigation, or can you set aside personal feelings long enough to negotiate outside of court? If you want to avoid the "divorce from hell", Alternative Dispute Resolution (ADR) methods, such as arbitration, mediation, and Collaborative Divorce, have become popular means of settling divorce in a cooperative environment with reduced stress and expense. Some states have made mediation compulsory in the divorce process.

Talk to your lawyer (and your spouse) about the different options. For more information on divorce mediation, go to www.divorcemag.com/articles/Mediation; for information on Collaborative Divorce, please go to www.divorcemag.com/articles/Collaborative_Law.

Trial

If you and your spouse just can't agree, then your case goes to trial. Divorce trials can take many months or even years, and they're never pleasant.

Generally, you and your spouse each tell your respective side of the story before the judge (and the public). You take the stand, and your own lawyer asks you questions that prompt you to explain your side — and then your spouse's lawyer has the option of cross-examining you or challenging the validity of your perspective. The same goes for both sides' witnesses (both personal and professional): each of you duking it out through conflicting



Will you fight it out through adversarial litigation, or can you set aside your personal feelings long enough to negotiate? Alternative Dispute Resolution methods have become popular means of settling divorce.

testimony and attempts to make your respective case look more believable. Finally, the judge — a stranger who only knows you through what he or she has seen in court — weighs all the evidence and makes all the final decisions.

The issues

Money and property:

Who gets what? What items and accounts legitimately belong to you? Who should keep the marital home? Who gets which car? How about the cottage? The family business? The pets?

Many states classify property owned by the spouses as “marital” or “separate” — the latter meaning that the property belonged to one spouse before marriage or was a gift to one spouse. The goal of property division is “equitable distribution” — meaning an even division of assets and debts. If you negotiate asset division with your spouse directly, be clear about which items are high priorities to you and which ones you would be willing to let go.

The more financially complicated your divorce, the longer this will take, and you’ll likely need an accountant, a business valuator, a Certified Divorce Financial Analyst, a Financial Divorce Specialist, or a financial planner to make sense of all the assets involved. For more helpful articles, go to www.divorcemag.com/articles/Financial_Planning

Child and spousal support:

Often referred to as “alimony” or “maintenance”, spousal support is a

monthly amount of money that a financially advantaged divorcee can be ordered (or agree) to pay their ex-spouse, to help maintain a lifestyle to which the latter has become accustomed. Ask your lawyer whether you’re eligible for spousal support — and if so, don’t be afraid to take it. The purpose of spousal support is not to punish your ex but to maintain your lifestyle.

Child support is what a non-custodial parent regularly pays to the custodial parent in order to support the children from the marriage. This way, both parents can financially contribute to bringing up the children, even if one isn’t present on a regular basis. For more helpful articles, go to www.divorcemag.com/articles/Child_Support.

Child custody and visitation:

One of the most important decisions is where and with whom the children will live. Is joint custody in their best interests, or should they live with one parent full-time with regular visits with the other? Unless your spouse is abusive, both of you should work together to create an agreement in which you both get a fair share in raising your children. Custody battles in court are usually full of character slurs and accusations that are emotionally traumatic for you — and more so for the children. For more helpful articles, go to www.divorcemag.com/articles/Child_Custody.

The waiting period

There is usually a set minimum waiting period between the divorce petition and the final decree. Even if your

process is very quick, the waiting period must elapse before the judge officially grants the divorce. Lengths vary between states, but the average waiting period is about six months.

The divorce judgment

After all the issues have been decided (either by you and your spouse or by a judge), a court clerk reviews all the papers and sends them to the judge. When the judge signs a document that officially ends the marriage (a Divorce Judgment Order or a Divorce Decree), you are legally divorced — and free to remarry if you choose.

The divorce process is complicated, and this brief summary doesn’t touch on what an emotional rollercoaster ride a divorce is. It’s a wrenching experience that can cost a lot of money and upset your lifestyle in profound ways; it can also damage your children’s psychological growth if you and your spouse don’t consider their well being and act in a way that supports an amicable divorce. But once it’s done, you’re free to start over — so the sooner you get to the end, the better for all involved. Talk to the necessary divorce professionals (family lawyers, divorce mediators, Certified Divorce Financial Analysts, accountants, therapists, etc.) to find out how to make your divorce process as quick and painless as possible. ■

Jeffrey Cottrill is the former Managing Editor of Divorce Magazine.

For more articles, and a more in-depth explanation of each of the subjects covered in the divorce process, visit www.divorcemag.com/articles/Separation_Divorce_Process.

For helpful tips on how best to work with your divorce lawyer, visit www.divorcemag.com/articles/Divorce_Lawyers.

Choosing the Divorce Professionals You Need

Get the best possible advisors to help you during your divorce.

By Diana Shepherd, edited by Josh D. Simon



Divorce is a complex process that affects just about every aspect of your life: financial, emotional, physical and legal. Unless you've been married for only a short time and have no property, assets, or children, you'll probably need the advice of more than one divorce professional to help smooth the road ahead of you.

You will need expert services from one, some, or all of the following professionals: lawyer, mediator, accountant, divorce financial specialist and therapist. While each of these professionals can help you through a challenging transition period, finding the right ones can be stressful.

Here's a guide to help you choose the best possible advisors to support you with your divorce. At the end of this article, you'll also find a list of useful questions to ask these professionals when you interview them.

Choosing a Lawyer

Choosing a lawyer may be the most important decision you'll make during your divorce. As in any profession, there are good lawyers and bad lawyers. It's up to you to do your homework and to ask the right questions to determine which group your lawyer belongs to (a list of questions to ask a potential lawyer is provided at the end of this article). Look for a lawyer who:

- Practices family law. A lawyer who specializes in taxation isn't going to be much help to you.
- Has experience. Make sure your lawyer has practiced family law for a while, and find out if they have

written books or lectured/mentored other family lawyers.

- Is a skilled negotiator. If your case can be settled without a protracted court battle, you'll probably save a great deal of time, stress, and money. Is firm. If you end up going to court, you don't want your lawyer to crumble at the first obstacle.
- Is reasonable. You want someone who'll advise you to settle if the offer is fair, and not have the case drag on to satisfy your lawyer's need to "win."
- Is not in conflict with your best interests. Don't share a lawyer with your spouse, or hire your spouse's best friend (even if this person is a friend of yours, too), business partner, or any member of your spouse's family to represent you — even if you're on good terms with them. Aside from the obvious conflict of interest, you'll likely create enemies and spark a family feud before your divorce settles.

Choosing a Mediator

With mediation, you, your spouse and a third-party mediator work together to negotiate how to live successful lives apart. Mediation can save time and money, and is usually less emotionally damaging than a full-blown court battle. Together, you and your spouse work out an agreement you can both live with from the same side of the mediation table, rather than opposing sides of the courtroom.

Mediation isn't an option in all divorce cases. However, when both parties are willing to look at the issues instead of the emotions that cloud the issues, mediation is worth a try. Statistics show that when a case is negotiated

through a mediator, the parties tend to stay out of court in the future. Another benefit of a mediated settlement is that you and your spouse will learn powerful new communication techniques, which is particularly important if you have children or share business interests.

Mediation doesn't normally eliminate the need for a lawyer, and your lawyer will have to approve any agreements made by you and your spouse before they become legally binding. However, the mediation process can speed up negotiations because you and your spouse communicate directly instead of through a "broken telephone" chain from your spouse, to your spouse's lawyer, to your lawyer, and then finally to you. Many family law practitioners are also trained mediators, and so finding a mediator may simply be a question of asking your lawyer about his or her qualifications.

Choosing an Accountant

A Certified Public Accountant (CPA) can handle many of the financial matters of your case. His or her responsibility is to calculate you and your spouse's net worth, and to produce figures that are agreeable to both you and the courts. There are a number of different accreditations given to accountants, and you'll find these designations after their name. Wading through the differences between someone who is a CFE (Certified Fraud Examiner) or a BCFE (Board Certified Forensic Examiner), or a member of the ASA (American Society of Appraisers), or a member of NACVA, (National Association of Certified Valuation Accreditation) may seem a daunting task, but by doing a little research, you'll come to understand what you need to know. If you think your spouse is hiding assets, a forensic accountant could be helpful. If you and/or your spouse own your own one or multiple businesses, a business valuator will be important to value company assets and also to value company goodwill.

You could ask to be introduced to an accountant through your lawyer. These two members of your divorce team may have to work in tandem from time to

time, so it's beneficial to find someone with whom your lawyer is familiar. You can also ask your personal accountant (if you have one) to suggest someone who has a matrimonial background, but be sure to check his/her prior experience.

Choosing a Divorce Financial Specialist

When your marriage has dissolved, and even during the divorce process itself, you may want to employ a financial expert who has been specially trained in issues that pertain to separation and divorce.

Certified Divorce Financial Analysts (CDFAs™) tend to be financial planners or accountants who have completed the Institute of Divorce Financial Analyst's training. Equipped with the specific

separately), and everything else from the contents of a safety deposit box to the cars. And while you'll be dealing mainly with "big ticket items," if something is very important to you, make sure it's on your list. If a business is involved, brokerage statements or corporate minute books will also be required.

Basically, your accountant or divorce financial specialist needs to see any major paperwork that involves the transaction of money for both you and your spouse.

Choosing a Therapist

A therapist can help you deal with the various emotions that could get in the way of negotiating a divorce settlement. During your separation, you may experience grief, anger or depression. Also,

When you first meet the divorce professional you may hire, you should be prepared with some well thought-out questions.

training on handling divorce cases, a CDFA can analyze settlements in the context of your long-term financial situation and inform you of the ones that appear fair and equitable on the surface, but will not stand the test of time. A CDFA can also reduce future uncertainty by forecasting the financial impact of alternative settlement proposals. For instance, a CDFA can tell you what the financial consequences will be of keeping your home instead of selling it. A CDFA can work with your lawyer and provide the financial data required to support your case.

Additionally, a CDFA™ can help you with budgeting, or assist with tax, estate, or retirement planning. He or she will help you organize your financial future by proposing a personalized plan with a time horizon, and a solid investment strategy to help you move towards financial stability after your divorce.

You'll also need valuations or other paperwork detailing property owned by you and your spouse (together or

until you achieve an "emotional divorce," you won't truly be free to create a fulfilling new life. A qualified therapist can help you work through the issues that are holding you back and keeping you stuck in the past.

However, the process of finding the right therapist can be a frustrating one. Anyone can call him or herself a "therapist" regardless of background or training, so do your due diligence to find someone competent. A therapist with an "MD" after his/her name is a psychiatrist; one with a "Ph.D." is a psychologist. If you see the letters "MSW," it means this person has a master's degree in social work, while an "LCSW" is a Licensed Clinical Social Worker. If possible, choose a therapist who specializes in marriage and divorce.

Setting realistic limits and goals is an important part of the therapist's services. Good therapists are willing to listen, but they don't always have to agree with you. A good therapist will encourage questions that indicate you're interested

in your own recovery. As you glance around the therapist's office, try to imagine yourself coming here every week for several months.

Remember, it can take three to five sessions before you have a clear idea of whether this therapist is the right one for you. However, if after this period you don't feel right about the relationship, then trust your inner voice, thank the therapist for his/her time, and interview the next candidate.

Questions to Ask when Interviewing Divorce Professionals

When you first meet the divorce professional you may hire, you should be prepared with some well thought-out questions. Here are some suggestions of what to ask:

- What is your training, experience, credentials and affiliations?
- How long have you been working in this field?
- Do you serve divorcing people exclusively? If not, what percentage of your work involves divorcing people?
- How much direct experience do you have dealing with cases like mine. This is an especially important question if there are aspects that make your divorce unique.
- What is your approach? Do you have any biases? We all have certain viewpoints, which cloud our judgment, and professionals are not exempt. If you have children, you should ask if this professional has any strong views about the role of mothers or fathers, or about the care of children.
- Will you keep our communications confidential? Can I call you between scheduled meetings? If so, do you charge for these calls?
- Do you require a retainer, and if so, what is it? Is this fee refundable? What is your hourly fee? What are your payment terms?
- Approximately how much will your services cost? The professional will only be able to provide an estimate based on the information you provide and your realistic estimation of how amicable you and your spouse are. If you think your case is extremely simple, but your spouse's lawyer buries



your lawyer in paperwork, you can expect your costs to increase.

- What do you think the outcome will be? Remember, you're looking for truthfulness here, not to be told a happy story.
- If your spouse has retained professionals of his or her own (and you know who they are), ask if they are familiar with any of them.
- How long will this process take? Again, the answer will be an approximation.
- What are my rights and obligations during this process?
- What are your hours? Do you work any evenings or weekends?
- How accessible is your office (close to parking, public transport; wheelchair accessible; etc.)? Is it located in a safe neighborhood?
- What happens next? Do I need to do anything? And when will I hear from you?

Questions Specifically for Your Prospective Lawyer:

- What percentage of your cases go to trial? You may want to choose a lawyer with a low percentage here: a good negotiator who can settle your case without a long, expensive court battle. A good trial lawyer may be necessary if every indication is that nothing could possibly be settled outside of a courtroom.
- Are you willing and able to go to court if this case can't be settled any other way?
- Who will be handling my case: you, an associate, or a combination of

senior and junior lawyers and paralegals?

- Should I consider mediation?

Questions Specifically for Your Prospective Accountant, Financial Advisor, Mediator, and Therapist:

- How many times have you been to court? These professionals may be testifying on your behalf, so you want someone who has experience in the courtroom. If possible, find out how these cases turned out.
- Have you worked with many lawyers? Ask for a few references, and call them.

Indeed, the path of divorce is typically a challenging one on many levels. The decisions you make now will affect your long-term future, and that of your children. By using the guidance and questions above to choose the right professionals, you'll not only make your divorce easier, less expensive, and less stressful — you'll also empower yourself to successfully start your new life after divorce. ■

Diana Shepherd is the former Editorial Director of Divorce Magazine. Josh D. Simon is a writer for Divorce Magazine.

For more articles on working with your divorce lawyer, visit www.divorcemag.com/articles/Divorce_Lawyers.

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Tips for a Peaceful Divorce

By Josh D. Simon

With the right attitude and the right support, a peaceful divorce is possible.

At first glance, the idea of a “peaceful divorce” may be impossible to imagine. However, as destructive as divorce can be for some couples and families — in terms of psychological turmoil, financial wreckage, and lasting emotional damage to children and extended family — the fact remains that it’s both possible and probable to have a peaceful divorce. That’s because, more than anything, the decision to take the peaceful path starts with something within your grasp: your attitude.

Your attitude will profoundly influence whether you wisely respond or unwisely react to your spouse. It will also determine your ability to look past or look through the painful emotional fog that surrounds you, so that you can make clear-headed decisions that are best for you, your children, and your future.

Below, we present 6 tips for achieving a peaceful divorce, so that you can eventually look back upon this time with your dignity, self-respect and mental health in-tact.

Tip #1: If You Can’t Forgive, then try to Accept

It’s hard for most people to forgive their spouse for the hurtful things they have done and said, or for all of the other major and minor issues that come together and “cause” a divorce. The plain fact is that divorce is often a crushing, unwanted outcome to what both spouses hoped and dreamed would be a

lasting union. However, forgiving someone frees you from dragging around the heavy “baggage” of negative thoughts and energy.

If you aren’t ready to forgive your spouse, then strive to accept the fact that the marriage is dissolving. And furthermore, reach deep inside and accept the role you played in this outcome. Without question, this is easier said than done, and may be too agonizing in the early stages of a divorce. However, the sooner you can accept the situation and your responsibility, the sooner you start to heal — which is a key to a peaceful divorce. You can only give what you have, and if you have inner peace, then you can share it.

Tip #2: Take the High Road — and Stay There

Your spouse, his or her family, friends or even new significant other may try to drag your divorce through the mud. This may come in the form of comments said to your face and behind your back. As tempting as it may be to react-in-kind, resolve to take the high road and decide that you’re going to control the emotional integrity of your divorce; at least as far as you can. This not only helps preserve your self-esteem and dignity, but surprisingly, it can also have a positive influence on your spouse. By modeling how someone should act during divorce, you show your spouse “how it’s done.” And, if you notice that your spouse is taking the high road, acknowledge it as often as you can.

Tip #3: Don’t Use Your Children as Pawns

What harms children greatly during divorce is how their parents act during divorce. In other words: your children are watching you and paying attention to your attitudes, actions and behaviors. And that means if you use them as pawns to “attack” your spouse, or worse, poison them with sordid tales about how evil and uncaring their father or mother is, you’re not harming your spouse — you’re harming your children. And in the same light, when it comes to custody negotiations with your spouse, don’t treat your children like “assets” that you can try and trade or withhold, depending on your mood. Unless the courts agree that your spouse is an unfit parent, then he or she has a right to co-parent with you. Remember, it’s not about you or your spouse. It’s about your children, and what they need to grow into healthy, happy adults with fond memories of both parents.

Tip #4: Choose a Divorce Lawyer who Views Going to Court as a Last Resort.

Almost all divorce lawyers are skilled, compassionate professionals who sincerely want to help you make it through this challenging time in your life quickly and as painlessly as possible. However, there are likely a few divorce lawyers who will pour gasoline on your emotional fire, and march into litigation without striving to resolve

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How to Work with Your Divorce Lawyer



Tips for keeping your legal fees down and getting the best possible outcome.

By Diana Shepherd, with notes from Josh D. Simon

You and your lawyer will become partners, for better or for worse, during and perhaps for years after the divorce process. How well your partnership works can have an enormous effect on your divorce and how much you'll have to spend in legal fees. Here are some tips on how to work with your divorce lawyer.

What Your Lawyer Needs to Know

Once you've chosen a lawyer, you'll need to provide information. When your lawyer requests information, respond as quickly, completely, and concisely as you can; don't write a 24-page document when all that was required was a "yes" or "no." The following checklist will give you an idea of what you may need to disclose:

- Why are you seeking a divorce?
- What caused your breakup? If you're secretly hoping for reconciliation, then you and your lawyer are working towards different goals.
- Personal data about you, your spouse, and your children (if any). Write down your names; your home and work addresses and telephone numbers; your ages and places of birth; your Social Security or Social Insurance Numbers; your states of health, both mental and physical; your Green Card(s) and immigration papers (if applicable).
- Facts about your marriage. When and where did you get married? Did you sign a prenuptial agreement? If so, bring a copy. Have either of you been married before? Will there be issues involving your children, such as custody or access?
- Financial information. What assets and debts did each of you bring into the marriage? What are your incomes and what are your expenses, jointly and individually? What are the names and addresses of your employers? How much money do both of you have invested: in the bank, the stock market, etc.? Has either of you invested in insurance or a pension plan? What property do you own? Was the property purchased before or after the marriage? Do you have a mortgage? Prior to seeing your lawyer, create a budget detailing how much you spend every month on items such as housing, food, clothing, personal grooming, gifts, vacations, etc. If you have children, make sure you include their expenses.
- Legal documents. Bring copies of prior or pending lawsuits, bankruptcy suits, judgments, and garnishments.
Your divorce goals. Be very specific about your goals in terms of realizing your future; make sure your short-term goals for property, other

assets, custody, visitation, and support are consistent with that future.

What Your Lawyer Expects from You

Your lawyer hopes you'll be calm, businesslike, and well prepared. Ideal clients can control their emotions, are organized, willing to work together with the lawyer, and listen to their lawyer's advice.

Your lawyer will expect to be paid on time and in full. If your financial situation is bad, your lawyer may be able to create some kind of payment plan. If you're broke because your ex cleaned out the bank account, your lawyer can file motions asking the court to grant temporary orders for child or spousal support, custody, payment of your lawyer's fees, etc. And if you suspect your divorce might get nasty, ask your lawyer about filing orders to protect you and/or your kids — financially and physically.

cate properly, if you continually don't follow the lawyer's advice, or if you don't pay your legal bills. But if you're cooperative and reasonable, it's more likely that your lawyer will trust you and work hard on your behalf.

However, your lawyer may keep representing you even if you inadvertently annoy him or her — if only because you're still paying him or her to work for you. Or maybe your lawyer is just too polite. If you detect impatience or weariness in your lawyer's tone or body language, consider whether you're burdening him or her with too many complaints about your spouse, or whether you're wasting time by asking a lot of obvious questions or by venting your frustrations. It's also possible that you did something to hurt your case strategy, such as mentioning something to your spouse (or your spouse's lawyer) that should have been kept secret. Perhaps your last check to the lawyer bounced, or maybe you were rude or

lawyer-client relationship. If he or she won't provide one, find another lawyer.

After learning about your case, your lawyer should create a strategy. Be aware that this plan may change along the way, depending on what your ex and his or her lawyer does.

Your lawyer should clearly explain all your options, and offer advice regarding the best paths to follow, but respect your wishes if you strongly disagree with a suggested course of action. If you find yourself in constant disagreement with your lawyer, either you've chosen the wrong person or you're being unreasonable. Consider your motivations and actions to see if you're refusing your lawyer's advice for purely emotional reasons.

Even a good divorce lawyer will sometimes have bad news for you: that your spouse won't budge on an important issue; that you'll have to give him or her money or other assets; or simply that your expectations are unrealistic, illegal, or not financially feasible. Expect to feel frustrated or disappointed from time to time as your divorce progresses, but don't take it out on your lawyer! He or she can't always pull a great solution out of his or her metaphorical hat.

You should expect your lawyer to return phone calls reasonably promptly (24 hours is reasonable if he or she isn't on vacation), and to consult you before taking any major actions.

Finally, if you want to ensure that your divorce agreement reflects your goals — and doesn't cost you an arm and a leg — then stay involved with the process, and answer your lawyer's requests promptly and honestly. ■

Diana Shepherd is the former Editorial Director of Divorce Magazine. Josh D. Simon is a writer for Divorce Magazine.

The optimal relationship with your divorce lawyer is a two-way partnership.

To get the best service from your lawyer, it's essential to be a good client. Here's how you can gain your lawyer's respect:

- Don't call your lawyer outside of work hours unless it's an emergency.
- Don't burden your lawyer with your emotional issues; hire a therapist for that.
- Always tell your lawyer the truth, even when it's unpleasant or unflattering to you.
- Be realistic. Don't expect your lawyer to behave like the heroic lawyers on TV or in John Grisham novels.
- Don't blame your lawyer for the system or expect him or her to change it.

If you don't abide by these tips, your lawyer may want to quit your case. This may also happen if you don't communi-

unprofessional to one of the firm's paralegals or secretaries.

If you think you may have annoyed or angered your lawyer, ask if this is the case. If you have done something wrong, apologize for it; if there has been a misunderstanding, clear it up immediately. It's important that you and your lawyer maintain a strong, trusting relationship in order for you to get the best possible representation — and to achieve the best possible outcome.

What You Should Expect from Your Lawyer

From the day you hire your lawyer, you both should have a clear understanding of what you need and expect from each other. Ask for a written agreement that details the terms of your

For more articles on working with your divorce lawyer, visit www.divorcemag.com/articles/Divorce_Lawyers.

Taking Control

Understanding your income and expenses will help you to gain control of your finances — and life — during divorce.

By Diana Shepherd, CDFATM



Here's a question for you: do you have a written, detailed, up-to-date budget detailing all your daily, weekly, monthly, and yearly expenses and income? If you're like most people, your answer to this question will be "no." The lack of a budget may have caused financial problems during your marriage, but it could be ruinous post-divorce. If you don't know what your expenses are, how will you know how much you'll need to maintain your current lifestyle — for yourself and your children? Or worse: you may already be living so far above your current income that you've taken the first steps down the road to bankruptcy without even being aware of it.

So the first step to gaining control of your finances — and life — during divorce is to prepare an accurate current budget and a post-divorce budget. You will need to gather documentation to ensure that your budget is objective and not the product of guess-work.

First, you need to identify your sources of income, which includes revenue from full- and part-time employment, investment return, and self-employment income. Add up all the income from different sources to come up with total income. If you're clueless about what your spouse earns, obtain or make copies of his/her tax returns for the last three to five years. Also, watch the mail for statements from banks or brokerage houses; if you have never opened any of these during your marriage, and you have good reason not to let your spouse know of your sudden interest in the family's finances, you can start by making a note of how many of these arrive in an ordinary month as well as the names and addresses on each envelope.

After you have an accurate picture of what's coming in, you need to create an equally accurate picture of what's going out. You should review your check register and credit-card statements — or your online banking records if that's how you usually pay your bills. Remember that not all your expenses are paid monthly; some insurance premiums or

tax bills might be payable quarterly or annually, so make sure to account for those as well.

Don't forget about cash withdrawals using ATM cards; you'll be surprised how quickly taking \$50 here and \$100 there can put you in the red if these withdrawals are not included in your budget. Also, you need to be able to account for where/how you spent the cash: was it taking taxis to work, going out to restaurants, on a new outfit, or paying the babysitter?

After you've completed a "first draft" of your budget, ask a reasonable and financially-savvy friend or family member to review it and question the expenses that seem unreasonable. (You may think a \$500 shirt and weekly spa appointments are both reasonable and necessary, but someone who sees you living beyond your means may not agree!) If you're going to ask for help with your budget, you'll have to agree to keep an open mind and not to become angry or defensive if he/she questions one of your items. This person is trying to help you, and he/she will probably be a lot easier on you than a judge would be!

Start with the pre-divorce scenario using the budget table on page 22 as a guide. Make two copies of the chart, replacing or deleting items to suit your needs, then fill in pre-divorce expenses on one and post-divorce expenses on the other. After you've created your pre-divorce budget, go to the post-divorce page and carry over each expense with an increase or decrease in its value based on your new circumstances. For example, an increase might be lawn care or snow removal if your ex used to handle that. Food expenses, on the other hand, should decrease now that you have one less mouth to feed.

If you're like most people, your number-one financial concern during divorce is maintaining positive cash flow — in other words, being able to pay the bills on a monthly basis — not only on the day after divorce, but five, ten, 15 years into the future. In order to meet cash-flow needs, there are three sources of money that may be available to you as a result of your divorce: child support, spousal

support, and marital property. Let's take a quick look at all three.

Child Support

In the US and Canada, a parent is obligated to support his or her children, regardless of the parent's marital status. All states and provinces have child support guidelines; you should review the guidelines in your area to get a rough idea of what you might be entitled to receive or have to pay. Generally speaking, child support is based on factors such as the ages of and number of minor children, the amount of time they will reside with each parent, and the income of each parent. These factors are plugged into a formula, which then supplies a recommendation for the Court. In a divorce situation, the non-custodial parent is usually ordered to pay child support to the custodial parent, from which the custodial parent pays the child's expenses.

However, the child support formula does not take into consideration your child's actual expenses. For example, extra-curricular activities, private school tuition, and college funding are not factored into the formula. These are considered "extraordinary expenses," and they are often an area of great discussion and/or argument. It may be unrealistic to keep your child in Rep Hockey, horseback riding, and Kumon math; you and your soon-to-be-ex spouse will now have to start making decisions based on what is financially feasible.

Here's an example. My neighbor Cathy, who is in the process of getting a divorce right now, has an 11-year-old daughter who is a promising figure skater. Brittney's skating expenses are \$500 per month in training, competition fees, and costumes. Cathy tells me that the costs will increase as her daughter gets older. Unfortunately, these expenses will not be taken into consideration when the court calculates child support for her, and Cathy cannot afford to cover them on her current salary.

One of the ways in which a Certified Divorce Financial Analyst™ (CDFA™) can help their clients is to determine which costs may not be addressed by the guidelines and then to help them find

alternative solutions to cover these expenses.

Since child support is such a complex area of the law — and because it can be a very contentious issue between divorcing parents — you should ask your lawyer for guidance regarding the child support amount.

Spousal Support

Another source of income (or an expense) for many divorced people will be spousal support. Spousal support is based on different factors, and it's a very gray and subjective area. However, the two most heavily weighted factors are need and ability to pay; the length of the marriage is another factor that is considered when awarding spousal support.

Unless you have prepared an accurate budget, you will not know how much spousal support you need — or, if you're on the other end of the equation, how much you can afford to pay.

Aside from determining need and ability to pay, you need to understand some other important issues with regard to spousal support. With respect to the amount and duration, this can either be a negotiated amount between spouses or it can be court ordered. (In the US, spousal support can be set up as modifiable or non-modifiable; if it's non-modifiable, this means that neither party can ask for it to be changed for any reason at any time in the future.) In most cases, each party may revisit the amount and duration each year after filing a tax return. As well, there may be the ability to revisit the amount of support if there is a substantial change in circumstances for one or both of the parties. Here's an example: John is paying Mary, who currently has a minimum wage job, \$20,000 per year in modifiable spousal support. In the second year after the divorce, Mary finds a job that pays \$55,000 per year. Due to this change in circumstances, John may be able to have the spousal support reduced.

No two divorcing couples have identical circumstances. The standard is to give support to the spouse who needs it in order to keep the family on a equal setting — however, there is an underlying

- Pre-Divorce
 Post-Divorce
(check one)

EXPENSE WORKSHEET

	Monthly Expenses	Annual Expenses		Monthly Expenses	Annual Expenses
Home Expenses			Transportation		
Rent/Mortgage	\$ _____	\$ _____	Auto Payment	\$ _____	\$ _____
Homeowners/Association Fee	\$ _____	\$ _____	Fuel	\$ _____	\$ _____
Home Equity Loan	\$ _____	\$ _____	Repair/Maintenance	\$ _____	\$ _____
Property Taxes	\$ _____	\$ _____	License	\$ _____	\$ _____
Telephone	\$ _____	\$ _____	Taxis & Public Transit	\$ _____	\$ _____
Cellphone/Pager	\$ _____	\$ _____	Total Transportation Expenses	\$ _____	\$ _____
Internet	\$ _____	\$ _____	Miscellaneous		
Security System	\$ _____	\$ _____	Postage	\$ _____	\$ _____
Cable/Satellite	\$ _____	\$ _____	Gifts/Holiday Expenses	\$ _____	\$ _____
Electricity	\$ _____	\$ _____	Vitamins/Non-Prescription Drugs	\$ _____	\$ _____
Gas	\$ _____	\$ _____	Toiletries	\$ _____	\$ _____
Water/Garbage	\$ _____	\$ _____	Beauty Salon/Hair/Nails	\$ _____	\$ _____
Landscape Maintenance/Lawn	\$ _____	\$ _____	Pet Care (food, vet, etc.)	\$ _____	\$ _____
Snow Removal	\$ _____	\$ _____	Books/Newspapers/Magazines	\$ _____	\$ _____
Exterminator	\$ _____	\$ _____	Donations	\$ _____	\$ _____
General Home Repairs/Maintenance	\$ _____	\$ _____	Memberships/Clubs	\$ _____	\$ _____
Home Improvements/Upgrades	\$ _____	\$ _____	Miscellaneous	\$ _____	\$ _____
Housecleaning	\$ _____	\$ _____	Credit Card	\$ _____	\$ _____
Miscellaneous Household/Pool	\$ _____	\$ _____	Total Miscellaneous Expenses	\$ _____	\$ _____
Total Home Expenses	\$ _____	\$ _____	Other Payments		
Food			Quarterly Taxes & Add'l Tax Payments	\$ _____	\$ _____
Groceries	\$ _____	\$ _____	Spousal Support Payments	\$ _____	\$ _____
Dining Out	\$ _____	\$ _____	Child Support Payments	\$ _____	\$ _____
Total Food Expenses	\$ _____	\$ _____	Eldercare Expenses	\$ _____	\$ _____
Clothing Expenses			Professional Fees (Accounting, Financial Planning, Legal, etc.)	\$ _____	\$ _____
Clothing	\$ _____	\$ _____	Service Fees (Banks, Investments, etc.)	\$ _____	\$ _____
Laundry/Dry Cleaning	\$ _____	\$ _____	Total Other Payments Expenses	\$ _____	\$ _____
Total Clothing Expenses	\$ _____	\$ _____	TOTAL EXPENSES (Excluding Children) \$ _____ \$ _____		
Entertainment/Recreation			Child-Related Expenses		
Entertainment (Excludes Dining Out)	\$ _____	\$ _____	Education/Tuition	\$ _____	\$ _____
Videos/CDs/DVDs	\$ _____	\$ _____	School Lunches	\$ _____	\$ _____
Hobbies	\$ _____	\$ _____	Counselor	\$ _____	\$ _____
Movies and Theater	\$ _____	\$ _____	Sports/Camps/Lessons	\$ _____	\$ _____
Vacations/Travel	\$ _____	\$ _____	Hobbies/Field Trips/School Activities	\$ _____	\$ _____
Classes/Lessons	\$ _____	\$ _____	Toys/Games	\$ _____	\$ _____
Total Entertainment/Recreation Expenses	\$ _____	\$ _____	Boy-Scout/Girl-Guide Dues	\$ _____	\$ _____
Medical (After or not covered by insurance; excludes children)			Clothing	\$ _____	\$ _____
Physicians	\$ _____	\$ _____	Medical	\$ _____	\$ _____
Dental/Orthodontist	\$ _____	\$ _____	Dental/Orthodontics*	\$ _____	\$ _____
Optometry/Glasses/Contacts	\$ _____	\$ _____	Optometry/Glasses/Contacts*	\$ _____	\$ _____
Prescriptions	\$ _____	\$ _____	Prescriptions*	\$ _____	\$ _____
Total Medical Expenses	\$ _____	\$ _____	Allowances	\$ _____	\$ _____
Insurance			Miscellaneous/Haircuts	\$ _____	\$ _____
Life Insurance	\$ _____	\$ _____	TOTAL CHILD-RELATED EXPENSES	\$ _____	\$ _____
Health	\$ _____	\$ _____	<i>* Not Covered by Insurance</i>		
Disability	\$ _____	\$ _____	<hr/>		
Long-Term Care	\$ _____	\$ _____	TOTAL EXPENSES (Including Children)	\$ _____	\$ _____
Home	\$ _____	\$ _____	<hr/>		
Auto	\$ _____	\$ _____	NOTE: Make two copies of this budget, one for "Pre-Divorce" and one for "Post-Divorce" expenses.		
Other (Umbrella, Boat, Cottage, etc.)	\$ _____	\$ _____			
Total Insurance Expenses	\$ _____	\$ _____			

duty for each spouse to work towards being independent of each other.

Property

The third potential source of money in a divorce is property. Many states and provinces call for an equitable division of property. “Equitable” does not always mean “equal” — it is, however, supposed to mean “fair.” If the spouses can’t agree, the judge is the final arbiter of what constitutes fair. Although most divorces settle 50/50, it can make a huge difference which 50% you get; in other words, all assets are not created equal.

The first thing to know is that there are two kinds of property: Marital and Separate. Anything that is marital will go into the marital pie that’s going to be equitably divided; anything that’s separate property will not. The distinction between the two is a gray area and should be discussed with your lawyer, but here’s a short explanation of how the courts typically define property.

Separate Property

Separate property is anything that was gifted during the marriage, inherited during the marriage, or brought into the marriage and kept in either spouse’s separate name. Let’s take a look at some

examples. My friend Karen got married 10 years ago. She was in love, so she told her husband, “What’s mine is yours and what’s yours is mine”. So she changed the title on her cottage from her name alone to both of their names. This is called making a presumptive gift to the marriage. The cottage will likely be part of the marital pie and up for division now that she’s getting divorced.

How about the inheritance that Karen received five years ago from her Aunt Millie? She left it in a trust account in her name, which means that it’s her separate property. What if Karen had taken her \$15,000 inheritance and used it to renovate the kitchen in the marital home? She could ask her lawyer to try to subtract \$15,000 from the marital portion, but the courts are likely to rule that the inheritance became marital property when she invested it in the home.

Here’s another tricky part: any increase in value on the inheritance left in the trust account (or any other separate property) is considered marital, so if that \$15,000 grew to \$20,000 at the time of Karen’s divorce, the \$5,000 in growth could be considered marital property.

Marital Property

Everything that’s not considered separate property is considered marital. As long as it accumulated during the marriage, it’s going into the pie to be divided — no matter whose name it’s in. So, starting at your date of marriage, the contribution to your retirement plan that comes out of your paycheck and goes directly into the XYZ fund account in your name is marital property; ditto for your spouse’s pension.

In many divorces, the biggest question is who gets the marital home. Should the wife get it, should the husband, or should they sell it and split the proceeds? What if the house is “underwater” — meaning that the householders owe more on their mortgages than their houses are worth? The answer is not always easy or clear. In a normal economy, couples typically build

equity in their homes; if they decide to divorce, they would usually divide the equity they had built by selling the house or by one partner buying out the other’s share. But after the recent boom-and-bust cycle, many couples own houses that neither spouse can afford to maintain on his/her own, and that they cannot sell for what they owe.

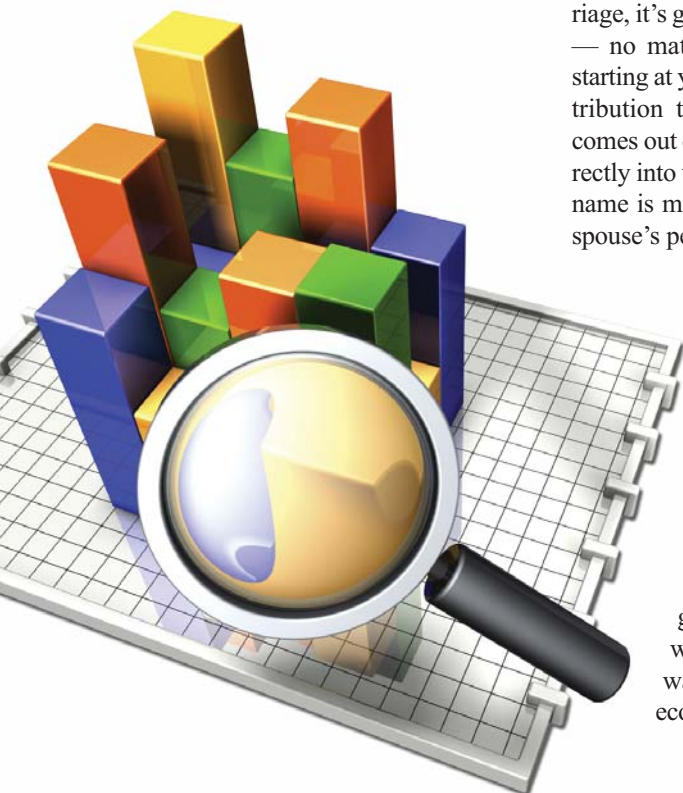
According to a recent survey of CDFAs in the US and Canada, 73% of respondents stated that the current housing market has forced them to come up with creative solutions to property-division problems when the matrimonial home fails to sell — or would sell for less than what clients still owe on the mortgage. The most common solution is for ex-spouses to retain joint ownership and continue to live in the house (often, he moves into the basement and she lives upstairs) until the market improves, agreeing to postpone final division of assets until after the house is sold.

The Last Word

You need to create an accurate budget today, and you need to understand how child support, spousal support, and property division will impact your ability to cover your cash-flow needs. This is where a CDA™ comes in: we analyze and illustrate the short- and long-term implications of different settlement proposals by factoring in expenses, investment earnings, taxes, and inflation. Our clients are then able to make educated decisions about their financial futures. Remember, you only get one chance to negotiate your property settlement. Can you really afford to make a mistake? ■

Co-founder and former Editorial Director of Divorce Magazine, Diana Shepherd is the Director of Marketing for the Institute for Divorce Financial Analysts™. For more information about how a CDA™ can help you with the financial aspects of your divorce, call (800) 875-1760, or visit www.InstituteDFA.com.

To download more useful worksheets, visit www.divorcemag.ca/worksheets. For more articles on divorce financial issues, visit www.divorcemarketinggroup.com/pdf/monthly_expense_worksheet.pdf.





Stronger Day by Day

A collection of quotes, insights and affirmations to help you face the challenge of divorce.

By Susan Pease Gadoua

Moving Through your Anger

“Holding onto anger is like grasping a hot coal with the intent of throwing it at someone else; you are the one who gets burned.” ~ The Buddha

Anger, one of the five stages of the entire grief process (along with denial, bargaining, depression, and acceptance), is normal and healthy. Anger is not only healthy, it is even considered to be an essential part of grieving. As uncomfortable as it can be to feel heightened levels of anger for an extended period, it is crucial to allow yourself to go through this phase.

Anger can be a very scary experience, regardless of whether it's your own anger or anger that is directed at you. For this reason, many people try hard to avoid it. Yet feeling angry is not wrong. It's what you do with your anger that determines whether it is constructive or destructive.

Using anger to stand up for yourself and to take care of yourself and your children can actually serve you well.

That is constructive. Screaming and raging can damage relationships and self-esteem and is, therefore, destructive.

Different Kinds of Anger

Another expression of anger not discussed as often as screaming and raging is the kind of anger in which someone seethes for years. This is the person who cannot get over the wrongs that have been done to her or him, and self-identifies as a victim. Although it may feel powerful to wield your anger over someone, it is actually quite disempowering, because you are spending your valuable time and energy thinking about the person with whom you are angry. The act of focusing on that other person is sometimes called “giving your power away.”

Because divorce is such an intense experience, fraught with feelings of rejection, failure, and mistrust, it is a situation in which people have the potential to stay angry for years. They may resent the fact that they have had to return to work, or that they now have the burden of child care responsibilities, or that they have no hope of having children anymore and feel

that they “wasted” valuable years with their ex-spouse. Perhaps they trusted someone who was untrustworthy and now their anger is directed at themselves as well as at their spouse.

There are endless scenarios and reasons why people can become — and stay — angry, but if you do stay angry, you should know that the toxic emotion is in you and the other person may have no clue that you are feeling the way you do. It is always in your best interest to move beyond feeling high levels of anger.

AFFIRMATION

“I am moving through my anger today.”

Divorce Isn't Easy, but it's Doable

*“Divorce is the psychological equivalent of a triple coronary bypass.”
~ Mary Kay Blakely*

Getting a divorce is terrifying for the average person under average circumstances. Unlike other aspects of life, it does not necessarily get easier once you start the process. In fact, as you learn more about the legalities and finances, and as you get deeper into tasks such as dividing assets and debts, negotiating child custody, and addressing home, money, and job issues, it usually gets more difficult.

Just as you turn your life over to a surgeon when undergoing an operation, in a divorce you are asked to turn your well-being over to a number of different professionals, such as accountants, lawyers, and counselors. Having to trust these people with your financial and emotional welfare can certainly feel as though your life depends on their performance.

Support is the Key

However, as daunting as it is, thousands of people divorce every day. The key to having a better divorce is to make sure you get all the support you need. For many people, this support is a divorce team that addresses their legal, financial, and emotional needs.

Although the process is not a linear one (meaning that it doesn't necessarily get better or easier with time), keep in mind that this ordeal will end, life will return to "normal" again, and you will regain your strength.

Just as we physically recover from surgery, our minds, hearts, and spirits recuperate from marital dissolution. It's a difficult process, even under the best of circumstances, but you will survive, and there is a new life awaiting you on the other side.

AFFIRMATION

"I will survive this ordeal."

Roller-Coaster Ride

"Feelings are much like waves, we can't stop them from coming but we can choose which one to surf."

~Jonatan Martensson

In this tumultuous time of financial, legal, and familial upheaval, you may experience many different (and extreme) emotions simultaneously. You may feel as though you are all over the emotional map and that your feelings have a life of their own — with you at their mercy. Some people going through divorce have told me they think they are "losing it," because they are experiencing so many new and intense emotions that their lives feel out of control.

"Holding onto anger is like grasping a hot coal with the intent of throwing it at someone else; you are the one who gets burned." The Buddha

The process of divorce can be much like riding a roller coaster. There are so many emotional highs and lows, and just when you think things are calming down and the ride is over, you get thrown for another loop.

Be patient, fasten your seatbelt, and expect the unexpected. If you know that the ride will be long and bumpy, you are less likely to be upset when life takes you down instead of up or left instead of right.

Get some support and go with the flow. Although this is good advice at anytime in life, it is especially true during the ending of a marriage and the changing of a family unit.

It may also help you to remember that life will eventually calm down again and you will return to a sense of normalcy. It might just take a while.

AFFIRMATION

"I am patient on this roller-coaster ride. I wait for things to calm down, knowing that I can't rush the process."

If Only...

"One's real life is often the life that one does not lead."

~ Oscar Wilde

One of the most common thoughts people share when their marriage ends is the loss of the hope they once had. Ideas like these are often stated: "If only she'd gotten sober." "If only he could have stayed faithful." "If only the therapist could have reached him." "If only someone had intervened."

It's difficult to move on from such types of thoughts, especially when you

feel that several relatively minor issues or just one major issue caused your marriage to fail.

One woman told me recently she had loved her husband and had wished only that he had been more mature. In her mind, their marriage could have worked if her husband had simply grown up and stopped acting like a bachelor. ■



This article was excerpted by Divorce Magazine with permission from the book Stronger Day by Day by Susan Pease Gadoua, published by New Harbinger Publications, Inc. ©2010. Susan Pease Gadoua is the founder and Executive Director of the Transition Institute of Marin, specializing in meeting the needs of separating and divorcing men and women. She is a Licensed Clinical Social Worker with more than twenty years of experience.

For the complete article and more excerpts from this book, visit our website:

- "Denial": www.divorcemag.com/articles/Health_Well_Being/Denial.html
- "Tears": www.divorcemag.com/articles/Health_Well_Being/Tears.html
- "What will People Think?": www.divorcemag.com/articles/Health_Well_Being/People-think.html
- "Feeling Hatred": divorcemag.com/articles/Health_Well_Being/Feeling-hatred.html

Getting Over It

By Len W. Stauffenger

This lawyer and divorced father encourages people to embrace change, have faith, take risks and get over their divorce.



Embrace Change

People generally don't like change. We resist it, even though we know it's inevitable. Someone once said we're all a little bit insane. That's sort of a dramatic way of getting your attention, but you do have to admit that we all do irrational things. We know that change is inevitable. We know that it will come into our lives, and yet we resist it.

We resist change because we believe it will be painful or we're afraid it's going to be painful. But resisting it is, in itself, painful. So we resist the unknown because it might be painful. To avoid something that might be painful, we create a situation that is painful. That is a little nuts. It all boils down to the fact that we're afraid of the unknown and most of our actions are based on fear or love.

We know change is coming into each and every one of our lives, constantly. And we're good at telling other people not to fear change, but we still fear it. Divorce is certainly a huge change and it causes all kinds of fear of the unknown. But how do we overcome that fear? Let's talk about specific steps you can take to overcome the fear of change.

Have Faith

You could start with a little faith. There really is a higher power. You really are here to learn and to grow.

Maybe that sounds all well and good but it's a little too abstract and New Age for you. So let's talk about the practical side of how all this works and say it as increasing your faith. No doubt, there are many examples in your life of

something painful or unknown that you went through that turned out to be a positive thing for you.

If you don't want to look at it from the spiritual point of view, at least we'll look at it from the practical perspective. So the first question I would ask you is "Who is important in your life now that you didn't know ten years ago?" If you truly could stop change from happening, you wouldn't know that person because they never would have come into your life.

Take Courageous Risks

I can think of many examples of taking courageous risks in my life. I left a nice safe job with a good salary to start my own business. Most people in my industry are afraid to do that even though they're not that happy in the jobs they have. Leaving a job that's safe and secure causes a certain amount of upset in your life, a certain amount of insecurity.

I struck out into the unknown, which meant finding new office space, finding new employees, answering a bunch of questions, literally dealing with the fact that I didn't know what I was doing. The result is that I now have a thriving business working with people I like and I trust. But there's only one way to get there. I had to let go of the past, go through the turmoil of the unknown, and have faith that things would work out.

Maybe one of the things that gave me confidence that it would work out was going through my divorce. Talk about big changes and big opportunities!

I felt as if I was a failure. Everyone in my family had a successful marriage. All of my college roommates had successful marriages. I was the one failure. I would have done almost anything to save my marriage. Lived a lie, or so I thought. My wife concluded that our marriage was over well before I did, so I resisted the change. Talk about pain! Talk about stormy seas! I went from being a young professional in suburbia with the picture-perfect family to being a single dad who had to try to figure out how to raise two girls on his own and keep his business running. At first, I didn't see the opportunity. But what an incredible opportunity it became.

I'm not blaming her. Remember it is not about blame, but about what an incredible opportunity our divorce became. Because we were two fundamentally different people, we weren't happy together and we could never be happy together. That meant if we had stayed together, our children would have grown up in an unhappy household. There is no doubt in my mind that can be more harmful than growing up in a divorced household.

So my children did go through trauma and pain, but it passed, and they adjusted to the fact that Mom and Dad had separate houses. And they grew up in a house with me that no longer had strife and tension. What a difference that made! It changed everything for all of us. You don't see that while you're struggling through a divorce, but in hindsight, it was perfectly clear. Because

of who we were and how fundamentally different we were from each other, the break up, in the long run, was the best thing for my children.

Create a Stable Environment

The first thing I did after I got a divorce was to set up a stable home for my children. They lived with me, but they spent every other weekend with their mom. I began to date, and for two years I just dated for fun. But then, believe it or not, I got tired of dating for fun, and I decided to go out and find a good woman.

I remember very clearly sitting in the bleachers watching one of my daughters cheer for a Peewee football game. My parents had come up for the game and I remember telling my mom that I knew what I wanted.

I wanted to find the girl with the biggest heart. Six months later, I met her. Call it faith, call it coincidence, call it God. But I repeat, you've got to have faith.

Be the Best You Can Be

Stop comparing yourself to others. Stop feeling sorry for yourself. Be a great parent and give your children the tools that they'll need to be successful in life. Have the strength and courage to always do the right thing where your children are concerned. Make a

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Shared Parenting

By Jill Burrett and Michael Green



Co-parenting doesn't stop when you divorce your spouse — it just changes, and requires more sharing.

parenting in shifts, in which you are completely on or off. You may have to go for days without seeing your kids, and you might not have bargained on making that adjustment until they were much older. Now the kids are off to their other home for parts of the week, leaving you feeling stranded and unsettled.

The scene is set for you both to start worrying about potential grievances and uncertainties: what's fair, how to juggle everything so you don't lose touch, whether the kids will love you less if you're not there all the time, who's paying for everything for the kids, how a parent who's never been around much for them can look after them properly, and so on. Research on children of divorce has produced varied results. However, there is agreement that separation can put children at serious risk in a number of ways. Currently, about 80 percent of the children whose parents are separated live in sole-mother custody arrangements, and around a third of them have little or no contact with their fathers. The common arrangement for parenting children after divorce — living with Mom and visiting Dad — often leaves everyone dissatisfied. There is evidence that it does little for parent — child relationships and can reduce one parent to onlooker status. Children cared for mainly by

Separation always disrupts the familiar patterns of family life. Routines and responsibilities that had been established as the family grew and developed have to be renegotiated. How your family operated probably came about without a lot of proactive planning. It's unlikely that either parent worried too much, especially in happier times, about who did what and how much actual time each spent doing the hands-on stuff of day-to-day family life.

Why Families Work Well

Traditional family life has its own built-in efficiencies that work well for children, if not always for parents. Children can see both of the most important people in their lives every day.

Busy parents can feel connected with everyone on very little time. Each parent takes on responsibilities that fit their skills, availability, and interests, and a natural division with common-sense delegation of domestic activities develops. Whatever partnership frustrations and disappointments you are struggling with, the family you have created is the only one your children know and is what they depend on for their security. It's an effective and uncomplicated arrangement for your kids that meets their growing needs even if it doesn't always work for you.

Why Separating Means Big Changes

Because you're living separately, you have to adjust to a system of

mothers can too easily lose contact with their fathers. Mothers can find parenting on their own a tough task and need relief and support. Fathers who experience difficulties maintaining contact often withdraw from their children's lives, with negative consequences for themselves and for the children.

But recent research brings us good news: children in shared-care arrangements appear to be better adjusted on several levels; and many studies show that most parents with majority care want their ex-partners to see more of the children.

What Should Parents Do?

Because families are all different, no one post-divorce arrangement can be in the best interests of all children. It's how you parent, not how many hours you put in, that matters, although quantity of time is relevant because it supports quality parenting.

Parenting takes patience, self-sacrifice, and self-analysis. Separation is an opportunity to rethink your parenting priorities. Your children need time — meaningful time — with both of their parents. They need to feel you

emotional commitment and active participation from both of you, however their time with you is divided, provided you both have plenty of time with them.

Shared Parenting Can Produce Happier Children and More Satisfied Parents

Shared parenting allows both parents substantial time with their children, during which they have full responsibility for day-to-day decisions about them. There is no “major caretaker” or “custodian” of the children, no “part-time” or “visited” parent. Time-sharing may be equal, or something approaching that. Both parents share responsibility and authority for their children's upbringing; both are acknowledged to be equally important for the lives of their children; both have the duty to foster their own and each other's healthy and meaningful relationships with their children.

Consider a Radical Overhaul

“Equal time-share,” “fifty-fifty,” “joint custody” — whatever you call it — may not be the most practical, desirable, or affordable one for all

angry or resentful you might feel about it, your kids need you both.

So start thinking about parenthood continuing as fully as possible for both of you, about the scope for engaged parenting developing in new ways, and about what changes (in attitude and output) you're going to have to make if shared parenting is to work well for your children:

- Put your children's welfare ahead of your own feelings
- Believe that your children love and need two parents
- Recognize and accept that everyone is different, and different in their parenting
- Work out a parenting plan that is creative and flexible
- Keep at it through thick and thin

Shared parenting can work, and children today will benefit enormously if there's more of it.

7 Popular Myths about Shared Parenting

Sometimes separated or divorced parents are keen to work out a good shared parenting arrangement but are discouraged by the prejudices of friends or professionals. We will

**Parenting takes patience, self-sacrifice, and self-analysis.
Separation is an opportunity to rethink your parenting priorities.
Your children need time — meaningful time — with both of their parents.**

are available. They need you to give them guidance, sympathy, discipline, and supervision. They need you to convey a strong sense of their importance to you despite your other priorities. Quality parenting takes time, but having time with your children is no guarantee that your parenting is going to be meaningful and constructive, unless you make sure it is. What your kids want, need, and deserve is

sorts of reasons. But there's no reason why your starting point for planning how you organize yourselves shouldn't be a level playing field. Your children are your equal responsibility. This was your starting point for family life as you planned and expected it to be, and separating shouldn't and doesn't need to change this. Whatever has happened between you two that caused you to separate, and however

unravel some common myths about shared parenting in order to help those parents get past such objections.

- MYTH #1: Kids need to spend most of their time in one home.
- MYTH #2: Kids need to know where they live and not be going back and forth.

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Keys to a Successful Divorce Mediation

By Jake S. Duessa

What is Divorce Mediation?

Mediation is an out-of-court dispute resolution method. It's normally used by divorcing couples to clarify and resolve issues such as asset allocation, child and spousal support, child custody, co-parenting plans, and so on.

Mediation is led by a professional and certified mediator, who can also be a divorce lawyer. The mediator works with you and your soon-to-be-ex spouse and negotiates issues in an impartial manner. All meetings are confidential (provided that a child's safety is not threatened, or criminal behavior is not identified).

During mediation meetings, the mediator offers suggestions, advice, ideas and options, with the goal of enabling both spouses to arrive at detailed agreements. Agreements are typically reviewed and subject to endorsement or modification by each spouse's divorce lawyer.

Mediation Rules Differ in Various Jurisdictions

It's essential to "do your homework" and determine how the practice of mediation applies to your jurisdiction. In some jurisdictions, mediation is voluntary; in others, it's mandatory. Furthermore, different jurisdictions follow different rules. For example, in some

jurisdictions, both spouses are brought into the same room to discuss matters (though there can also be one-on-one sessions with the mediator). In others, spouses are placed in separate rooms and the mediator goes back and forth trying to narrow issues and settle matters. Additionally, in some jurisdictions, a mediation agreement is irrevocable and binding; in others, it's not.

Benefits of Mediation

The most valuable benefit of mediation is also the most obvious: it's not court! That is, it's a way to potentially help spouses resolve their divorce issues without litigation. As such, when it works, mediation can be a relatively swift, low-stress and affordable route. It can also help you and your spouse preserve your dignity, your relationships, and avoid the lingering and destructive bitterness and animosity of litigation – which is vital to any co-parenting duties you may share in the future. And even when mediation cannot resolve all issues, it can potentially take care of some of them, which lowers the number of issues for litigation if that becomes necessary at a later date.

Another benefit of mediation is that you can enter into unique agreements that a Court cannot, or will not, do. For example, in some jurisdictions, spousal

maintenance is limited to a specific duration (e.g. three years), and to either a percentage of the obligor's gross income, or a fixed amount (whichever is less). However, mediation allows spouses to shift a greater percentage of the assets to the obligor in exchange for more spousal maintenance.

Time is another big advantage of mediation. When you're in Court, you must operate on the Judge's schedule. And that means if the Judge asks you a question, you must make a relatively quick decision, because you don't have the time to explore all of the options available to you. In mediation, you have as much time as you want to get the information you need to make an informed and comfortable decision, and advance towards the resolution of your case.

Overcoming the Barriers to Successful Mediation

As described above, mediation seems like an ideal option; but it's not without potential barriers, any of which can undermine and render the process ineffective, and send both spouses marching angrily into court. Below, we look at the common barriers to successful divorce mediation, and how to overcome them before they turn a potentially ideal option into a costly and regrettable nightmare.

Barrier # 1: Inability to look past the hurt and anger

Mediation requires separating subjective opinion from objective issues — which is something that some couples cannot manage in the first few weeks, or even months, after their divorce is filed. However, you do yourself and any children involved a tremendous service if you can put aside your hurt and anger, and focus on resolving issues. Therapy and counselling can play a beneficial role here, as can a break from mediation sessions, so that both of you can step back, cool down, and re-focus on what matters the most: resolving issues as fairly, quickly and affordably as possible, given the realities of your unique case.

Barrier # 2: Spouses not at the same emotional phase

It's common for spouses to be at different emotional phases or stages during mediation. The spouse who first filed for divorce is typically further emotionally along than the other. And a spouse who now has to enter/re-enter the workforce on a full-time basis likely won't be as secure as the other. Then there's the complex problem that arises when one spouse doesn't want the divorce, and feels that things can still be worked out. In order for these factors not to undermine the mediation process, the mediator will need to use a variety of techniques, such as reality-testing, to help both spouses get on the same "emotional page," and focus on resolving issues instead of opening and re-opening new wounds. You and your spouse must commit to being realistic and accepting that divorce is a process you must go through, one way or another.

Barrier # 3: Not disclosing required information

One of the key causes of marital breakdown is a lack of trust. However, mediation requires that both spouses fully disclose their financial information, and anything else that the courts deem relevant. Unfortunately, due to the lack of trust noted above, plus the stress and trauma of divorce, honest spouses can do dishonest things during divorce, and fail to make full disclosure. It's easy to see how this can severely undermine

mediation and add more fuel to the fire. A skilled mediator, however, will educate you and your spouse on your legal obligation to make full disclosure (if they are dealing with legal related issues), and help you understand the consequences of dishonesty — both in terms of how it will render the mediation session useless, and how it will be handled by the (very unimpressed) Judge.

Barrier # 4: Thinking of litigation as a smart back-up option

Some spouses believe that litigation is a kind of "trump card," which they can pull out if the mediation sessions don't go their way. This is a myth! According to family lawyers, Judges and especially divorced people who have gone through the expense, stress and uncertainty of court, litigation should be viewed as the last resort. A skilled mediator will try to help you and your spouse understand the realities involved; especially with regards to litigation. You should seek out quality information from credible sources, and reject well meaning "advice" from friends and others, which could put you on the wrong road — which is towards court.

Barrier # 5: Not knowing one's priorities

Mediation requires that you and your spouse discuss your priorities and, indeed, make concessions in order to achieve consensus on as many issues as possible. Unfortunately, many spouses don't know what their priorities are when it comes to allocating assets and other divorce-related decisions. They either dig deep on issues that are simply not as important as others in the bigger picture (such as fiercely demanding certain assets for sentimental value), or they want everything — and won't budge. When this happens, the mediator's task is to try and help you and your spouse to articulate your individual priorities. Various tools and tactics can be used here to achieve this goal. Spouses can also avoid this pitfall by making a list of priorities and by understanding that, regardless of their feelings, they must learn to talk things over and "give and take" with each other — if for no other reason than it's in their self-interest to do so.

Barrier # 6: Not being prepared

It's up to you and your spouse to be prepared, and to understand how your decisions today will impact your lives tomorrow. Unfortunately, preparation is easier said than done during divorce for two reasons. Firstly, the severe emotional stress of divorce makes "being organized" a challenge, compared to a less stressful time. Secondly, because you may simply not have the facts (e.g. financial documents, etc.) you need on-hand, you may need time and help to gather, organize and understand them. While both of these factors are understandable and for many people unavoidable, it remains a fact that not being prepared can undermine what could otherwise be successful divorce mediation; even if both spouses genuinely want to make it work.

Mediation: It's worth a Look

The most compelling argument for making your mediation process work is to consider the alternative: a fractious, confrontational litigation process is going to cost thousands (or more likely, tens of thousands) of dollars, and cause stress and emotional wounds that may not heal for years. And since court by its very nature is an adversarial process, the damage you inflict upon your spouse, and receive in return, can make co-parenting or any other future co-operation painful; or maybe even impossible.

The bottom line? Alongside other alternative divorce resolution options, mediation can be a beneficial choice for you and your spouse if you have the ability to work with your mediator and, to a meaningful extent, work together.

If you and your spouse can avoid the pitfalls described above, you could be on a path to your new, post-divorce lives as quickly, painlessly and affordably as possible. ■

For more articles on mediation and divorce, visit www.divorcemag.com/articles/Mediation.

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your divorce through other means, such as negotiation, mediation or other out-of-court settlement options. Therefore, it's critical that you choose a divorce lawyer who has the intent, experiences, knowledge and attitude it takes to help you settle without going to court.

Tip #5: Wisely Choose the Issues to Dispute

Separating the emotional issues from the practical ones during divorce can seem impossible; especially since it can all seem like a battlefield with a hundred different skirmishes, each one demanding that you run around and “fight.” However, the road to a peaceful divorce isn't a battlefield — it's a dialogue. And that means your job is to reflect and, with a calm and level-head, decide which key issues are worth disputing, and which ones you can just “let go.” For example, you may place high sentimental value on a piece of furniture or the family car, but fighting for these assets will not only cost you more in legal fees, but add needless conflict and stress to your divorce.

Tip #6: Consider Therapy

The idea of needing therapy during divorce can be, in itself, a source of stress; as if you're somehow broken and need some professional to “put you back together.” This perception is simply untrue. Therapy is not for weak people; it's for people who realize, clearly and objectively, that they need professional assistance during a traumatic time. An experienced therapist will provide you with valuable tools and strategies to help achieve a peaceful divorce. If you aren't sure of how to get in touch with a therapist, ask your divorce lawyer for a referral.

Remember, this Too Shall Pass

Understandably, when you marched down the wedding aisle, the idea that you might one day divorce was the furthest thing from your mind. And now that you're facing divorce, the idea that one day you'll laugh and, yes, even love again, may be even further from your mind. Use this thought, and the tips

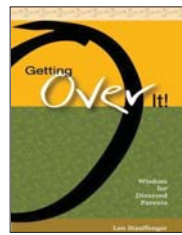
offered above, to keep you committed to the peaceful divorce that you want, need and deserve. ■

For more articles on how to have a peaceful divorce, visit:

- www.divorcemag.com/articles/Relationships/mediation-peaceful.html
- www.divorcemag.com/articles/Relationships/saygoodbye.html

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commitment now to simply be the best that you can be. The great thing about that is there is no end to it. You just keep getting better and better. You keep evolving to a higher plane. ■



This article was excerpted by Divorce Magazine with permission from the book *Getting Over It: Wisdom for Divorced Parents* by Len W. Stauffenger, Published by MacKenzie Publishing LLC, ©2009. Len, a lawyer and business owner, is also the divorced father of two daughters, both of whom are now independent, secure, happy young women. He is also a Reiki master who uses his skills to heal and help countless others. Learn more at www.wisdomfordivorcedparents.com.

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- MYTH #3: Infants under three should not spend nights away from their mothers.
- MYTH #4: The more homey, hands-on parent is better equipped to do most of the childcare.
- MYTH #5: It's not the quantity of time that counts, it's the quality.
- MYTH #6: Where there's conflict between parents, there should be little or no contact.
- MYTH #7: Shared parenting works only when parents can collaborate. ■



This article was adapted by Divorce Magazine with permission from *Shared Parenting: Raising Your Children Cooperatively After Separation*. Copyright © 2009 by Jill Burrett and Michael Green, Celestial Arts, an imprint of Ten Speed Press, a division of the Crown Publishing Group, Berkeley, CA. Jill Burrett is a psychologist with more than 30 years of experience helping parents manage challenging family changes. Michael Green is a London-based writer who previously taught economics at Warsaw University and was a senior official in the British government.

For the complete article and more excerpts from this book, visit our website:

- “Parenting After Separation”: www.divorcemag.com/articles/Parenting_and_Step-Families/Parenting-after-separation.html
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