

# DIVORCE

MAGAZINE

Handling your  
Four Divorces:  
the legal,  
financial,  
social, and  
emotional



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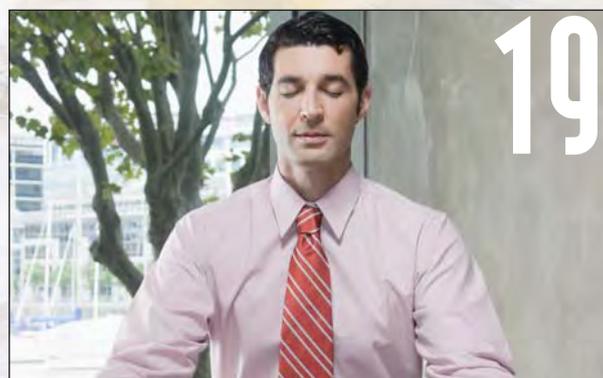
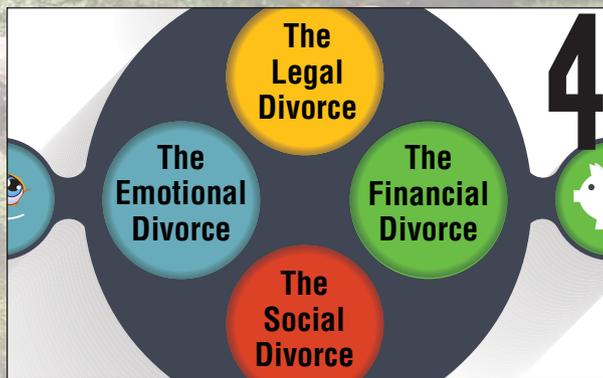
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# The Four Divorces



We think of divorce as a single event – you get divorced and you’re done. The truth is that you need to go through these four divorces: the Legal Divorce, the Financial Divorce, the Social Divorce, and the Emotional Divorce. Here’s how each will affect you.

By M. Marcy Jones

**M**ost people going through a divorce have certain expectations and end up surprised when things go off track. The reality is there is so much more involved in the divorce process than just the legal piece.

The truth is there are really four divorces happening all at the same time, and over a period of time. Everyone goes through each of these divorces differently and over different periods of time. The Four Divorces are:

- The Legal Divorce
- The Financial Divorce
- The Social Divorce
- The Emotional Divorce

As you and your spouse experience each of these divorces at your own pace, problems may come up that make communication difficult and disrupt attempts at settlement.

Let’s take a look at each of these divorces and examine how they affect your overall experience of divorce.

## The Legal Divorce

The Legal Divorce is what most people think of when they think of “divorce.” It’s simply the legal framework for

finalizing your divorce. Papers are filed in the court initiating the process, certain procedures have to be followed, and then a judge will sign a document stating that you are officially divorced. The process varies by jurisdiction.

A divorce is either contested or uncontested. A contested divorce is when both of you haven’t been able to reach an agreement on the issues involved and ends up in litigation with a judge making all the decisions.

An uncontested divorce is when both of you agree on how to resolve the issues regarding custody, support, and division of property, and you have a written agreement that both of you have signed. An uncontested divorce doesn’t take as long to complete, it’s less expensive, and less stressful than a contested divorce; in many cases, it can be finalized without going to court.

## The Financial Divorce

The Financial Divorce deals with your money, what you own, and what you owe. You need to make decisions about how to divide your marital assets and liabilities. These

decisions can be difficult, as now the income that used to support one household will be supporting two. This is a harsh reality for many divorcing couples.

Being open, honest, and cooperative about the marital assets and liabilities makes this part of the divorce go more smoothly. If you have trouble getting through one of the Four Divorces, it's unlikely you'll be able to make the financial decisions necessary to complete the divorce process.

What happens if you can't resolve your issues and have to take your divorce to court? You end up spending money on legal fees that should otherwise be going into your pocket and your spouse's pocket. On the other hand, if you work together – privately, or in mediation or collaboration – you can create your own custom solutions that set yourselves and your children up for the best financial divorce possible.

## The Social Divorce

The Social Divorce deals with how your friends and family adjust to the fact that you and your spouse are no longer together. Divorce is a family affair. Everyone around you is affected. Your friends, family, and co-workers have related to you and your spouse as a couple, and now they must learn to relate to each of you as single individuals. Each person reacts differently and on his or her own timetable. Be respectful and allow people to go through their own adjustments to the end of your relationship.

It's helpful to keep your family and friends out of your divorce and keep the focus on what is best for you and your children. Your family and friends likely have strong feelings and support you, but their well-meaning advice often makes things worse.

## The Emotional Divorce

This is the most difficult of the Four Divorces and the one that catches people off guard. Ending a marriage feels a lot like losing a loved one; it's a loss you must grieve. If you've ever lost someone close to you, you know what this is like. Everyone goes through the emotional phase of divorce differently, just like everyone grieves in his or her own unique way. Not only do you grieve the loss of your spouse, partner, lifestyle, and dreams, but now you also have to figure out how to keep walking around on the planet with your ex-spouse in a socially acceptable way.

It's difficult to think clearly and to make good decisions when you're in the early stages of this grief and recovery process. Being aware that it is a process – and knowing where you are in the process – is critical to you being able to make the best choices. Recognizing that your spouse is going through this process as well can help you understand his or

her behavior – which is especially important during settlement negotiations.

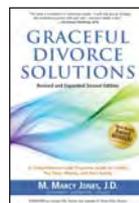
How you negotiate and communicate with one another during your divorce is always impacted by where each of you is in the Emotional Divorce. If the two of you are in very different places, you need to allow some time to pass before trying to negotiate anything except the most pressing matters.

## Working through the Four Divorces

Take some time to reflect on the following questions. Then take your journal (or a piece of paper if you don't have a journal) and write out your answers in as much detail as possible. Ask yourself:

- Where do I fall in the Emotional Divorce?
- If I initiated the divorce, do I need to slow things down and give my spouse a chance to catch up? What's going on now that would help me answer this question?
- If I'm the one who was left, what do I need to do to get the help and support I need to cope with what's going on in the best way possible?
- Am I willing to seek out the help I need? If not, why not?
- How am I handling other family members and the Social Divorce?
- Am I making efforts to maintain relationships?
- How do the Four Divorces affect the different areas of my situation?
- What can I take from this article that will help me in my own divorce situation?

By understanding where you and your spouse are in each of the Four Divorces, you'll be able to make conscious choices as you go along. You'll be better able to maintain your emotional balance, and to make informed and responsible decisions. ■



*This article has been edited and excerpted from Graceful Divorce Solutions, A Comprehensive and Proactive Guide to Saving you Time, Money, and Your Sanity (Balboa Press, 2014). M. Marcy Jones is an author, speaker, lawyer, and advocate for change. She has practiced family law since 1995, and is a settlement expert and conflict resolution advocate, specializing in collaborative practice. [www.GracefulDivorceSolutions.com](http://www.GracefulDivorceSolutions.com)*

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# Understanding the Divorce Process

Here's a basic primer on how the divorce process works.

**N**o two divorces are exactly alike. Every marital breakup has its own unique legal, financial, and/or parenting issues, which require their own resolution strategies. However, every divorce undergoes the same general journey from initiation to closure. Whether you and your spouse make this journey slowly or quickly, expensively or inexpensively, stressfully or peacefully 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 that you need to speak to a family lawyer to discover how the options vary in your state or province, as well as how the details and circumstances of your situation may affect your process.

## Temporary Orders and Filing Divorce Papers

Although it may feel like it sometimes, life does not come to a halt while you're negotiating your divorce. Whether your divorce case takes six months or six years from beginning to end, you have to keep food on the table and a roof over your heads, among other things. During this temporary period before a divorce is finalized, most people are able to reach an agreement about how to pay for their expenses. If they can't reach agreement, they might have to go to court to ask a judge to issue temporary orders.

A temporary order/agreement establishes quick decisions about the children, property, bank accounts, support, and other key issues during the separation period. 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? One of the most common temporary orders is for spousal support. To obtain this order, you must establish that one spouse needs the support and that the other spouse is able to pay it – which may require a Financial Affidavit or Statement detailing both spouses' living expenses and incomes.

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. The items you can request

By Jeffrey Cottrill and  
Diana Shepherd (CDFA™)

include: temporary custody and visitation arrangements; a restraining order (if there has been domestic violence); child or spousal support; and/or who gets the car and house.

## Filing the Petition

Next, you or your spouse will file a petition, application, or complaint for divorce with your local family court. The person who files (“the 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, spousal and child support, etc. The other spouse (“the defendant”) must answer the summons and, if they wish, can make their own claim.

## Collecting Information and Discovery

You must gather all relevant information for your lawyer and/or financial advisor, including:

- Full names, addresses, phone numbers, and Social Security or Social Insurance numbers for you, your spouse, and your children (if applicable).
- 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 last five 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 divorce lawyer will use this

as a starting point for the discovery process. Your lawyer needs as much specific information about the marriage as possible in order 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 divorce professionals (e.g., lawyers, mediators, financial advisors, appraisers, etc.) may have to retrieve documentation of every dollar value – including that of premarital assets.

## Contested vs. Uncontested Divorce

There are two general types of divorce: contested and uncontested. In a contested divorce, a judge will decide the outcome if you can’t come to an 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 than a contested one. However, the more issues you’re able to resolve on your own means fewer to resolve in court – which will help to reduce your expenditures of both time and money in a contested divorce.

## 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. 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 (aka *Pro Se*) route, you’ll 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?

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? Alternative Dispute Resolution (ADR) methods – such as arbitration, mediation, and Collaborative Divorce – have become popular means of resolving divorce-related issues in a cooperative environment. Some states and provinces have made mediation compulsory in the divorce process.

## Trial

If you and your spouse can’t reach an agreement, 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 in court. You take the stand, and your divorce lawyer asks you questions that prompt you to explain your side (“Direct Examination”), then your spouse’s divorce lawyer has the option of asking questions or challenging the validity of your testimony (“Cross Examination”). This process is repeated for your spouse. Finally, the judge or the jurors – who only know you through what they have heard in court – weigh all the evidence and make all the final decisions about your divorce.

## The Issues

- **Money and property.** Your property will be classified as either “marital” or “separate”. All marital property will go into the marital pot that will be divided between the two spouses, and separate property stays out of the pot. The rules are complicated, but generally speaking, separate property is anything that was brought into the marriage, inherited during the marriage, or gifted during the marriage – and kept in one spouse’s separate name. The goal of property division is “equitable distribution”

## Although it may feel like it sometimes, life does not come to a halt while you're negotiating your divorce.

– meaning a fair division of assets and debts. The more financially complicated your divorce, the longer this will take. You'll likely need an accountant, a Certified Divorce Financial Analyst® (CDFA™), and perhaps a business or pension valuator to help you make sense of all the assets.

- **Spousal support.** In family law, marriage is seen as a financial partnership. When that partnership breaks down, the partner with more income or assets may have to pay support to the other. Sometimes also known as “alimony” or “maintenance”, spousal support is based upon one spouse's need and the other person's ability to pay. For instance, you may “need” \$5,000/month to cover your expenses, but if your ex is making minimum wage (and is not independently wealthy), then you're unlikely to get that \$5,000/month. Spousal support is intended to cover living expenses while the financially-disadvantaged ex-spouse goes back to work or school to retrain for a higher-paying job. In the case of some long-term marriages, support may be ordered so that an ex-spouse can maintain his/her pre-divorce lifestyle indefinitely. Ask your lawyer whether you're eligible for or likely to have to pay spousal support.
- **Child support.** All parents are obligated to support their children. In a divorce, the non-custodial parent is usually ordered to pay child support to the custodial parent; the custodial parent is expected to use these funds to pay for the child's expenses. “Custodial parent” means the one that the children live with most or all

of the time; the “non-custodial” parent would have visitation or access rights. The amount of child support is based on a number of different factors, including the annual income of each parent, the total number of children in the family, and the custody arrangements for the children.

- **Child custody and visitation.** Child custody has two components: legal and physical. Generally speaking, sole legal custody means that one parent has the legal authority to make all major decisions involving his/her children, while joint or shared legal custody means that *both* parents have an equal say in all major decisions about their children's lives. Physical custody can be sole, split, or joint/shared (the terminology varies by jurisdiction, so make sure to become familiar with the correct terms for your area). One of the most important decisions you'll make during your divorce is where and with whom the children will live. 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 even more so for your children.

### 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 and provinces, but the

average waiting period is about six to twelve 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.

The divorce process is complicated, and this summary doesn't touch on what an emotional rollercoaster ride a divorce is. Divorce is never easy – and if your ex is uncooperative or downright adversarial, it can turn into a long, painful, and expensive process. 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 will lead to a respectful co-parenting relationship post-divorce. But once it's finalized, you're free to start over – so the sooner you reach the end, the better for all involved. Consult the necessary divorce professionals (family lawyers, divorce mediators, CDFAs, accountants, therapists, etc.) to find out how to reduce time, money, and emotional costs during your divorce process. ■

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Attorney J. Lindsey Short, Jr., one of the firm's founders, has over 40 years of family law experience, and is board certified in family law by the Texas Board of Legal Specialization since 1980. He is a past president of the American Academy of Matrimonial Lawyers, has been named a "Super Lawyer", a Thomson Reuter service appearing in Texas Monthly magazine, since the inception of that honor (2003-2014).

Patricia Carter has over 14 years of family law experience and is board certified in family law by the Texas Board of Legal Specialization. A fellow of the American Academy of Matrimonial Lawyers, Patricia Carter was named a "Rising Star" (2004-2014) and "Super Lawyer" (2008-2014), both services of Thomson Reuter appearing in Texas Monthly magazine.

Adam J. Morris is also board certified in family law by the Texas Board of Legal Specialization and has over 10 years of family law experience. Named a "Rising Star," a Thomson Reuter service appearing in Texas Monthly magazine (2005-2014), Adam J. Morris specializes in cases involving complex marital estates.

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# Choosing a Divorce Lawyer

How to find the right family lawyer for your unique needs.

By Diana Shepherd, CDFATM

Choosing which family lawyer will represent you may be the most important decision you'll make during your divorce proceedings. Begin your search by talking to those you know: ask for recommendations from close friends or family members (*your* friends and *your* family – *not* your spouse's) who have been through divorce themselves. If you can't get any personal recommendations, there are professional organizations that offer lawyer referral services, such as The American Academy of Matrimonial Lawyers ([www.aaml.org](http://www.aaml.org)), The American Bar Association – Family Law Section ([www.abanet.org](http://www.abanet.org)), and The Law Society of Upper Canada ([www.lsuc.on.ca](http://www.lsuc.on.ca)). Ask for two or three names of local lawyers who devote their practice to family law.

Check out the online “Divorce Professionals Directory” at [www.DivorceMagazine.com/directory](http://www.DivorceMagazine.com/directory); all lawyers listed there practice family law, and some have detailed profiles about their practice. You can search for a lawyer that is close to home or work by selecting how far they are from your location. You can also go to Martindale-Hubbell ([www.martindale.com](http://www.martindale.com)) or Avvo ([www.avvo.com](http://www.avvo.com)), both of which offer lawyer profiles and ratings of lawyers categorized by state and ability. Read the biographies and make sure the lawyers you select specialize in matrimonial or family law.

“How much” lawyer do you actually need? The best (and most expensive) litigator money can buy, or someone who can handle the whole thing quickly and inexpensively? Is it



important to find a lawyer who's "compatible" with you: one who understands and respects your thoughts and feelings about your divorce? Your answers to these questions will be determined by your own unique circumstances, but here are some basic guidelines to help put you on the right track.

## Finding a Divorce Lawyer

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 falls into. The best lawyers will listen to your concerns, ask questions about what you hope to achieve, and give you an honest assessment of your chances of achieving your goals. At the end of your initial consultation, ask yourself whether you feel comfortable with this lawyer, and whether you respect each other's positions and opinions.

Look for someone who:

- **Practices matrimonial or family law.**
- **Will work with other professionals**, such as forensic accountants, CDEA professionals, business valuers, therapists, and custody/parenting experts.

- **Has a lot of relevant experience.** It is preferable to get a family lawyer who has worked on many divorce cases similar to yours. If your lawyer is fresh out of law school, make sure he or she has an experienced mentor at the law firm – one with an excellent knowledge of divorce law – to go over your case.
- **Is a skilled negotiator.** If your case can be settled without a protracted court battle, you'll save a great deal of time, trouble, and money.
- **Is reasonable.** You want someone who'll advise you to settle if the offer is fair, not encourage you to have the case drag on to satisfy your need for revenge.
- **Is compatible with you.** You don't have to become best friends, but you must be comfortable enough with your lawyer to be able to share with him or her some deeply personal aspects of your life. If you can't bring yourself to disclose information relevant to the case, you'll be putting your lawyer at an extreme disadvantage. Your lawyer isn't your therapist or confessor, but he or she *does* need to be aware of all pertinent facts in order to do a good job for you.
- **Is totally candid.** Your lawyer should be up-front about what he or

she thinks your divorce will cost, if there are holes or any problems with your case, and whether or not you have any aces up your sleeve.

- **Is not in conflict with your best interests.** Don't share a divorce lawyer with your spouse; don't hire your spouse's best friend, 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 involved, you'll have created enemies – and probably a whole new family feud – before your divorce settles.
- **Is more than a pretty face.** This may seem painfully obvious, but given our frail human nature, it bears noting here: don't choose a lawyer based on physical attractiveness. You're looking for competence – not for a date on Saturday night.

## Choose a Family Lawyer Well-Versed in your Issues

In each divorce, different issues come up that require special attention; so it's best to find a lawyer who concentrates on the specific issues that may arise in your divorce. Here are some examples:

- **Custody.** If you believe custody of your children will become a major battle, then choose a lawyer who concentrates on custody issues. Men may want to choose lawyers who are sympathetic to and experienced with men's/fathers' rights, and women need to find lawyers who are equally sympathetic to and experienced with women's/mothers' issues.
- **Small Business.** If one or both of you owns a small business, you should look for a divorce lawyer or a family law firm that has knowledge of businesses and corporations.
- **International or Out of State/Province.** If your divorce deals with property located outside your state/province or country, or if there is a threat of having your child removed from the country, hiring a lawyer who knows international laws and policies is essential.



The best lawyers will listen to your concerns, ask questions about what you hope to achieve, and give you an honest assessment of your chances of achieving your goals.

## Does Size Matter?

You also need to decide whether you'd like to be represented by a sole practitioner or a full-service law firm. Your choice will be partially dictated by your spouse's choice: if the divorce is relatively easy and friendly, you can probably agree on what kind of representation you need. If the divorce is very bitter; if there are children, money, or large assets at stake; or if your spouse is just plain "out to get you", consider hiring a "top gun" – whether that be a well-respected individual or a team of lawyers at a prestigious law firm.

The main advantage to hiring a sole practitioner is that you know exactly who will be working on your case; in bigger law firms, the lawyer you speak to initially may not be the one who does the bulk of the work on your case. You will get to know your sole practitioner well, which should make office visits or phone conversations a little more comfortable.

Law firms come in all types and sizes. A firm can be three lawyers and a few paralegals, or 100 lawyers and more than 20 paralegals. You can hire a general-practice firm that deals with various areas of the law and has a smaller department that handles divorce and family law, or a matrimonial law firm that handles only matrimonial matters.

A full-service firm can give you access to specialists in other fields if your case requires it, and they can handle complications such as shareholders' agreements, business organization or reorganization, tax-driven settlements (including asset transfers), establishment of family trusts, real-estate transfers, or estate planning. There may be a number of people handling your divorce at a big firm, which has its own set of pros and cons. One advantage is that you get the experience of a senior lawyer while lower-priced associates, paralegals, and legal secretaries handle some of the standard elements of your case, thereby saving you money.

## The Initial Interview

The outcome of your divorce proceedings will change the course of your life forever, so invest the time and money to find the lawyer who will do the best job for you. Interview two or three lawyers before deciding who'll represent you. Remember: it's your responsibility to retain a lawyer who's not only good at his or her job, but one whose personality and outlook are compatible with yours.

Here are the questions you should ask during your initial interview:

- **Do you practice family law exclusively?** If not, what percentage of your practice is family law?
- **How long have you been practicing?**
- **What is your retainer** (the initial fee paid – or, sometimes, the actual contract you sign – to officially hire a lawyer)? Is this fee refundable?
- **What is your hourly rate and billing terms?** You should know what you're paying for, how often you will be billed, and at what rates.
- **Approximately how much will my divorce cost?** The lawyer 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 attorney 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 pretty story.
- **If your spouse has retained a divorce lawyer,** ask your prospective lawyer whether he or she knows this lawyer. If so, ask: "Have you worked with him or her before? Do you think the lawyer will work to settle the case? And is there anything that would prevent you from working against this lawyer?"
- **What percentage of your cases go to trial?** You actually want to choose a lawyer with a low percentage here

– a good negotiator who can settle your divorce without a long, expensive court battle.

- **Are you willing and able to go to court if this case can't be settled any other way?**
- **How long will this process take?** (Again, the answer will be an approximation.)
- **What are my rights, and what are my obligations during my divorce?**
- **At a full-service law firm, ask who will be handling the case:** the lawyer you're interviewing, an associate, or a combination of senior and junior lawyers and paralegals?
- **Should I consider divorce mediation?** Ask if your case – at least in the initial stages – might be a good one for mediation. If there has been violence in the relationship, or one spouse is seriously intimidated by the other, this may not be a viable alternative.
- **Should I consider Collaborative Divorce?** In this dispute-resolution process, each client hires a collaborative lawyer to serve as his/her advisor. Both clients and lawyers sign an agreement that they will not go to court; if the process fails, the lawyers must resign and the divorcing couple start over again from square one.
- **What happens now?** Do I need to do anything? And when will I hear from you?

Finally, if there's something you really need to know, or if you don't understand something the lawyer said, don't be afraid to ask for clarification. ■

*Diana Shepherd, Divorce Magazine's Editorial Director, has been writing about divorce-related issues since 1996.*

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Just as every family is unique, so, too, is each divorce. The team at Loughmiller Higgins recognizes the importance of considering the needs and goals of each client to reach a workable solution. The strongest attorney-client relationships are based on trust, which is why Loughmiller Higgins openly discusses the realities of divorce as well as the various approaches and outcomes you may choose to pursue. They can help you find realistic resolutions for your complex divorce issues based on your personal objectives.

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# Divorce Dispute Resolution: Choosing the Right Method

There are many options to settle your divorce issues, including mediation, arbitration, collaboration, litigation, and *pro se*. But which one is right for you? Here's an overview of the options at your disposal.

**G**oing through a divorce requires making difficult decisions that will impact the rest of your life. One of the first items you and your spouse must decide upon is the type of dispute resolution that makes the most sense in your unique set of circumstances. Like many people experiencing divorce for the first time, you may not be aware of the options available for resolving your divorce. To help you make an educated decision, here's an overview explaining the options at your disposal.

## Mediation

Some divorcing couples enlist an independent third party, called a mediator, to help them reach a divorce settlement. Both private and court-ordered mediation are designed to encourage couples to voice their opinions and reach a balanced settlement in a neutral environment.

The two main benefits of mediation are lower divorce costs and a higher chance of reaching a balanced agreement that is acceptable to both parties. When divorcing parties reach a resolution together through mediation, they are

more likely to adhere to the agreement, which simplifies life during and after divorce. However, in order to remain neutral, mediators are unable to provide legal advice or recommendations to either party.

In mediation, both parties retain a lawyer to read over the mediated agreement and offer advice before the parties sign it. Even if the mediator is also a lawyer, both parties should still have independent legal advice to make sure they fully understand the legal ramifications of the agreement they've created.

If you would like to bypass a lengthy court case and are willing to negotiate fairly with your spouse, mediation may be a great choice for settling your divorce. On the other hand, mediation is usually not recommended in cases where there is a history of abuse or mental illness, if the parties are poor communicators, or if there is any question that the best interests of the children are not being protected. Additionally, mediation is not advisable for couples hoping to rely on a third party to make final decisions for them.

By Emily Bauer

## Arbitration

Unlike mediation, arbitration removes the task of decision-making from the two divorcing parties and hands it over to a third-party individual. The process of arbitration requires both spouses to meet with the arbitrator without their lawyers' present, describe their goals and priorities for the divorce settlement, and leave the final decision to the discretion of the arbitrator.

In most jurisdictions, the decision reached by an arbitrator is final and binding, meaning the couple has no choice but to follow whatever settlement is decided for them. The benefit of arbitration is that a neutral third party assumes control, ensuring that important choices related to the divorce are founded on fact and logic rather than based on the emotionally charged perspectives of the divorcees. Arbitration is also less expensive than litigation through the court system.

If you would prefer to retain the power to renegotiate and potentially challenge the divorce agreement, arbitration is not the best option for you. Nevertheless, many couples who are unable to agree on important issues choose arbitration as a means to overcome their stalemate. As long as you are comfortable accepting the resolutions prescribed by an unbiased third party, arbitration may be a viable approach to divorce dispute-resolution for you and your spouse.

## Collaboration

The newest dispute-resolution option for divorcing couples, collaborative divorce often engages an entire team of professionals to help resolve your case. Experts in the fields of law, finance, mental health, and, when necessary, child advocacy come together to help families through the challenging divorce process. This team approach to divorce allows both parties to retain their own specially-trained lawyer to act as coaches; all other professionals are shared by the divorcing couple, which helps keep costs down.

The lawyers on both sides aim to help their clients reach an equitable settlement. Both lawyers and the parties sign an agreement stating that they will settle without going to court; if the parties fail to reach an agreement, the entire collaborative team must resign, and the parties must start the process over from square-one with new litigation lawyers.

A variation on this theme is collaborative law, in which you hire collaborative lawyers without a full team to support you through the process.

Collaborative divorce can be a very effective approach to divorce, since there are professionals available to handle the legal, financial, emotional, and children's issues that will

inevitably arise during the process. The diverse perspectives provided by the collaborative team members facilitate a fair and respectful settlement process.

You should consider the collaborative approach to divorce if both of you are willing and able to negotiate in good faith, and spend the time and energy necessary to reach a mutually-agreeable settlement. However, collaborative divorce will not work well for couples who are unwilling to compromise, communicate, and commit to reaching a resolution. If one of you is not actually negotiating in good faith, or not interested in reaching agreement, the process will likely fail.

## Litigation

Although only about 5% of divorces go to court, you should understand the process if you are not good candidates for any of the Alternative Dispute Resolution (ADR) models described above – or if you fail to reach agreement during ADR. In divorce cases that go to trial, both sides have a chance to make their case (either as a *pro se* litigant or one who is represented by a lawyer); instead of crafting their own agreement, they rely on the knowledge and discretion of a judge to determine their future.

Litigation fees can be very expensive, especially in difficult, drawn-out divorce cases. Another unfavourable aspect of litigation is that couples who are unable to reach an agreement without the intervention of the court often struggle with the judgement delivered to them. Divorcing parties are more likely to honor a divorce settlement that they have contributed towards rather than the orders mandated by a judge.

If you would prefer to retain control over the outcome of your divorce, litigation is not an ideal method for resolving your dispute. On the other hand, if you are comfortable entrusting a judge with your divorce outcome or if other approaches to divorce dispute-resolution have been unsuccessful, litigation may be necessary.

## Pro Se/In Propria Persona

At the other end of the spectrum from litigation is *Pro Se* representation. Sometimes called "*In Propria Persona*" or "*Pro Per*" (from the Latin meaning "in one's own person"), in this approach to divorce, either one or both parties choose not to hire a lawyer to represent them. The Latin term *Pro Se* translates as "on one's own behalf", meaning that the litigant is acting as his/her own attorney in a lawsuit – including self-representation in court. A *pro se* party is responsible for properly completing all relevant legal paperwork, remembering important court dates, doing his/her own research

.../Continued on page 38

# FINANCIAL DIVORCE PREPARATION

Here are the “Lucky Seven” things you can do to help prepare yourself for your post-divorce financial future.

By Dr. Fadi Baradihi

**M**ore often than not, the standard of living of both spouses drops in the first few years after divorce. Why? Because the same cumulative income and pool of assets now has to support two households instead of one. Unfortunately, most people don't prepare themselves financially or emotionally for that consequence. So what can you do to better prepare yourself for this inevitability? The answer is simple, but it's not easy to put into practice.

Divorce is an inherently stressful process. To alleviate some of the stress, it's important to be proactive and in control. Here are the “Lucky Seven” things you can do to help prepare yourself for your post-divorce financial future.

## 1 Expect your income to drop after the divorce is final.

You should expect your income to drop after the divorce is final. Develop a budget based on needs – not wants – and keep in mind that your expenses need to stay within your post-divorce income. Consider all sources of income – including spousal and child support, keeping in mind that they won't last forever – as well as investment income. To develop a budget, use a detailed worksheet so you don't overlook any expenses. The best source for the expense information is your check register, if that's how you 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. (To help get you started, fill out the “Monthly/Annual Expenses Worksheet” on page 30.)

The last step in preparing a budget is to ask a critical friend or family member to review your budget and challenge the expenses that seem unreasonable. You have to agree to keep an open mind and not to get mad if he/she challenges one of your items; remember that this person is trying to help you.

## 2 Consider whether you can afford to keep the house.

Here are the traditional options for the matrimonial home:

- i. One spouse stays in the house (with the children, if any) and buys the other spouse's share by:
  - Cash-out refinance
  - Giving up another asset
  - Property settlement note
- ii. The spouses sell the house during or after the divorce process and split the proceeds.

In many cases, one spouse – usually the wife – wants to keep the house. Though this might be emotionally satisfying, it usually makes little or no financial sense. The equity in the house is illiquid, meaning it won't pay the bills.



In today's housing market, sometimes the matrimonial home can't be sold in a reasonable amount of time – or for a reasonable amount of money. Today, many couples own houses that neither spouse can afford to maintain on his/her own, and that they cannot sell for what they owe on their mortgage. If the house can only be sold at a loss, divorcing couples have a few options, such as:

- Renting the house to a third party – or having one ex-spouse stay in the home and pay rent to the other
- “Birdnesting”: the ex-spouses retain joint ownership of the home, they also rent a small apartment nearby, and each one alternates living in the house with the kids and in the apartment on his/her own
- Agreeing to sell the home at a loss, share the loss, and move on with their lives.

If one spouse wants – and can afford – to keep the house, that spouse should

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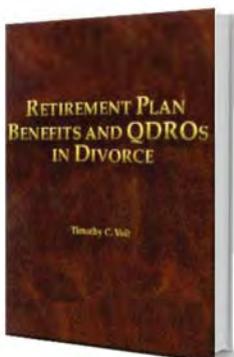
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pre-qualify for a mortgage *before* the divorce is final. Sometimes, a divorcing couple will decide that one spouse is going to keep the house. They take the other spouse's name off the deed – and then the spouse who wants to keep the house gets turned down for a mortgage because he/she doesn't make enough money to qualify to refinance in his/her name alone. The spouse who is leaving the marital home ends up being on the hook for the debt, has no reciprocal asset, and can't qualify for his/her own mortgage because he/she doesn't make enough to support both mortgages.

### 3 Know what you have.

Account statements have a way of disappearing when divorce proceedings start. When contemplating divorce, start by collecting statements for all your financial holdings and put together a list of your assets. When negotiating your divorce settlement, this step will prove helpful as a starting point. Here's an example of items you'll need to list on an Asset Worksheet; remember to note the value of each asset, and who owns what portion of it:

- Retirement Assets
- Liquid Assets
- Real Estate
- Personal Property
- Cash Value Life Insurance
- Business Interests

As you work your way through the asset split negotiations, each asset can be moved to its appropriate column: "Husband" or "Wife". To figure out the percentage split, divide the total for each spouse by the grand total.

### 4 Consider the after-tax values of your assets.

Accounts with pre-tax contributions and tax deferred growth come with a tax liability. Know what the after-tax equivalent value is before agreeing to take an asset. Having \$100,000 in an IRA or RRSP is not the same as having a \$100,000 in a checking account. The spouse with the retirement savings

plan will end up with the account value minus the tax liability, and the other spouse will have the whole amount to spend.

### 5 Understand your financial needs.

You need to make sure that the liquidity of the assets you're getting matches up to your needs. Let's suppose you want to keep the marital house, which is worth \$300,000 or 50% of the marital estate, as your share of the settlement. Until you take a close look at your long-term financial forecast, you won't know whether you can *afford* to keep it. Suppose, for example, you've factored child-support payments into your income; after the payments end, how are you going to pay the mortgage? If you have to put the house up for sale in a few years, you may be solely responsible for paying all the capital-gains taxes from the time you and your spouse acquired the property until you sold it – which could be bad news indeed.

### 6 Don't overlook the value of a future pension.

Any portion of a pension that was earned during the marriage should be included in the marital pool of assets. Pensions can be handled in three different ways:

- i. The non-employee spouse can receive his or her share of a future benefit
- ii. The pension can be present valued and offset
- iii. A combination of (i) and (ii).

Your particular situation should determine which option makes the most sense for you. For example, a 32-year-old wife with two young children and limited resources will have different needs than a 55-year-old wife with a career and her own pension. Make sure you're not left with a great pension that will pay in 15 years – but you have no money to pay the bills today.

### 7 Hire a good team of divorce professionals.

Personal recommendations from a trusted friend, business associate, or trusted professional can be a great source for referrals. However, you need to do your homework before hiring anyone. Research candidates on the Internet: read their personal and corporate profiles, and check their ratings and reviews (if available). Your team should consist of a divorce lawyer and a Certified Divorce Financial Analyst® (CDFA™) at a minimum. If needed, other members or the team could include a mediator, an accountant, a business or pension valuator, or perhaps a child or individual therapist. Although you may think that the more professionals you hire the more costly your divorce will be, this is not necessarily true. In the long run, having the appropriate help will cut down on litigation costs, and it may save you from making costly blunders regarding your settlement. ■

*Fadi Baradihi (DBA, MBA, CFP®, ChFC®, CLU, CDFATM) is the former president of the Institute for Divorce Financial Analysts (IDFA). For more information about how a CDFA professional can help you with the financial aspects of your divorce, call (800) 875-1760, or visit [www.InstituteDFA.com](http://www.InstituteDFA.com).*

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## Monthly/Annual Expenses Worksheet

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

# Staying Calm WHILE NEGOTIATING WITH YOUR EX

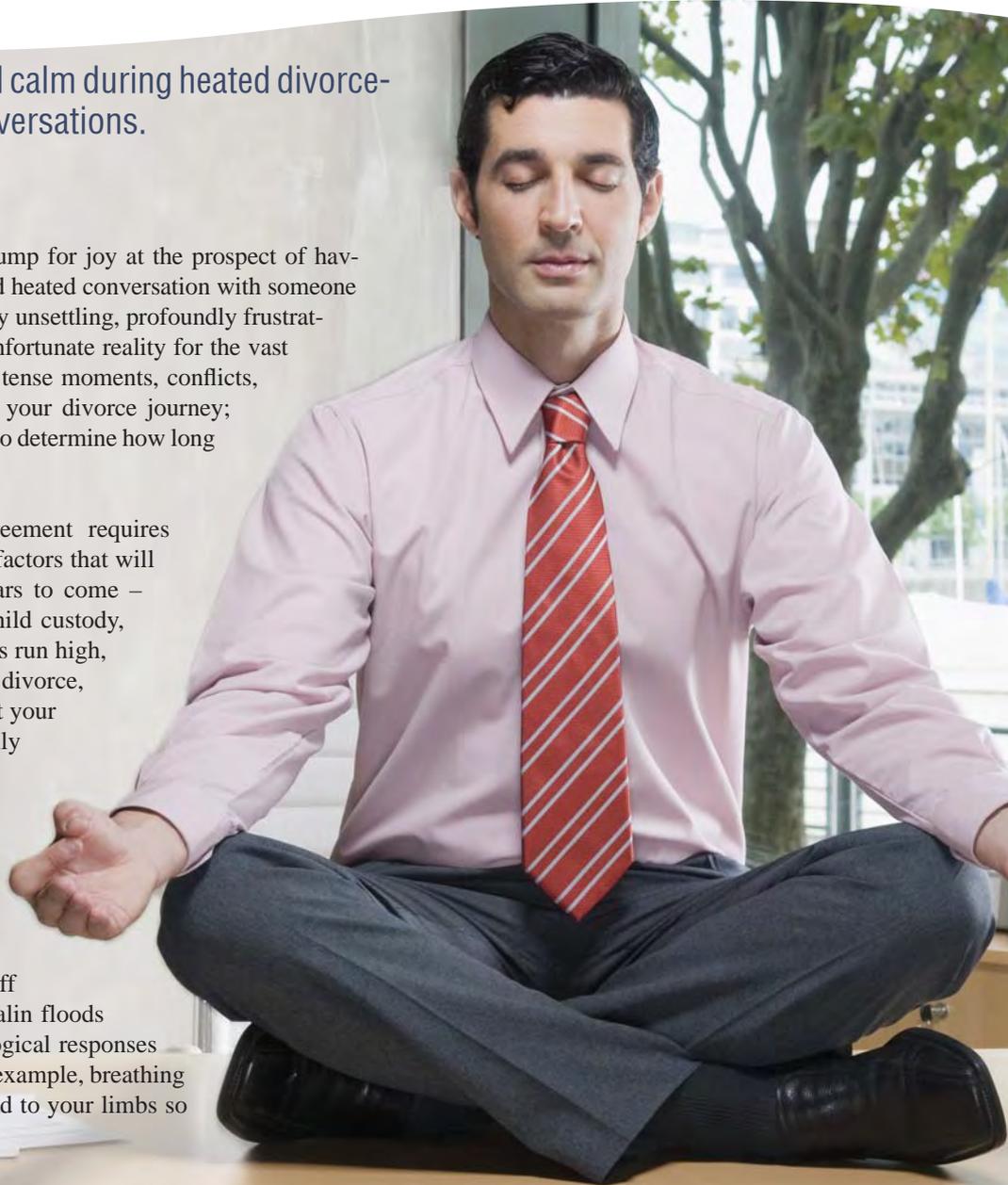
Ten tips for staying cool and calm during heated divorce-related negotiations or conversations.

By Carolyn Ellis

There aren't many people who jump for joy at the prospect of having a potentially contentious and heated conversation with someone they are divorcing. It can be very unsettling, profoundly frustrating, and deeply disappointing. The unfortunate reality for the vast majority of divorcing couples is that tense moments, conflicts, and arguments are inevitable during your divorce journey; how you handle the conflict will help to determine how long and how difficult the process will be.

Negotiating your separation agreement requires you to make decisions about crucial factors that will impact you and your family for years to come – such as division of marital assets, child custody, and financial support. When emotions run high, intelligence tends to run low. During divorce, you're asked to make decisions about your life when you're least emotionally equipped to do so.

Brain science helps to explain why it's so hard to make complex and challenging decisions when you're in a place of emotional upset. When faced with situations that create fear or insecurity, the brain sets off the "flight or fight" response. Adrenalin floods through your body, creating physiological responses to ensure your physical survival. For example, breathing and heart rates increase sending blood to your limbs so you can run or go into battle.



Use these ten simple tips to help you keep your cool when the conversations get heated.

## 1 Take a Deep Breath

To help you stop spiraling into emotional reactivity, nothing beats taking a few deep breaths. This strategy is free, easy, and something you can do anywhere and anytime.

Studies show that taking deep, conscious breaths for even one minute can help you feel more grounded immediately. Breathing like this helps to dial down the amygdala response that triggers the “fight or flight” response so you can better access the part of your brain that governs rational thought.

Most of us tend to breathe shallowly, using primarily the chest cavity. It can take a bit of adjustment to learn how to breathe more deeply, using your full lung capacity. To help you get the deep breaths going, place your hand on your navel and breathe deeply right down into your diaphragm. When you inhale, imagine you’re sending your breath right down to your hand. You’re on the right track when you see your hand moving outwards with your inhale, and then back in towards your body on the exhale.

## 2 Release Negative Emotions

Before you sit down to negotiate, let go of negative thoughts and emotions. Past upsets and grievances, unexpressed emotions, worries about the future, or feelings of anger, sadness, guilt, or fear create static that can make it harder to get your point across effectively.

If you’re feeling angry, write an angry letter (don’t send it, however!), write about your feelings in a journal, take your dog for a walk, or work up a sweat at the gym. If you’re feeling sad, spend time with people you love or do some yoga. To get a fresh perspective, take a nature walk or get creative in the kitchen or with a hobby. Finding ways to move and release pent-up emotions before you have your tough conversations makes it easier to speak your truth when it really counts.

## 3 Create the Big Picture

When you’re deep in the trenches of negotiating your divorce settlement, it’s so easy to lose perspective: everything feels urgent and high-stakes. You must take the time to create the big picture.

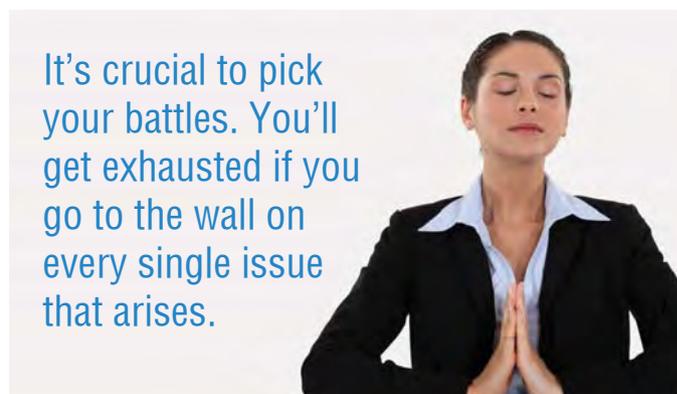
One of the most effective ways to do this is to look out into the future: imagine what you want your life to look and feel like 20 years from now. Do you want to be upset and still resentful about your ex, or do you want to have more peace and clarity in your life from all the wisdom you’re getting from this divorce experience? If you have children, what do

you want the day when they graduate college or get married to be like? Keep the big picture in mind and do your best to let it pull you through the stress and conflict you might feel today.

## 4 Don’t Give Away your Power

When it comes to a divorce, everyone has an opinion for you. We hire lawyers; we talk with therapists or coaches; we poll friends, family, and neighbors for their experiences and suggestions. We devour self-help books and attend workshops to try and find our way through the divorce maze. But at the end of the day, you are the world’s best expert on you and what’s right for your life.

When you decide to take responsibility for your choices, you put yourself in the driver’s seat of your life. When the heat is on and the conversation gets tough, it’s tempting to give your power away to others in order to avoid conflict. Your lawyer may be an expert on the law, but you and your family are the ones who will have to live with the consequences of your legal decisions. Your ex-partner will know what buttons to push to upset you. During your marriage, you may have backed down when he/she pushed those buttons; today, don’t take the bait. You have both the power and the responsibility to give input on decisions that will affect the rest of your life.



## 5 Pick Your Battles

Most people are surprised at how grueling it is to actually implement the decision to end your marriage. Especially if you have children, there are a lot of major issues that need to be negotiated, such as child support and custody, spousal support, and division of assets and debts.

It’s crucial to pick your battles. You’ll get exhausted if you go to the wall on every single issue that arises. Brainstorm a list of all the issues that you can think of – holiday schedules, education choices for the kids, what happens when one of you loses a job or when a new partner comes on the scene, and how to handle it when your teenager wants to get tattoos and a few piercings. What’s negotiable for you? What’s a deal-breaker for you?

Get clear on your core issues and set some priorities. You'll need to have some give and take in your relationship with your ex, particularly if you are co-parents. Learn to become strategic and identify where you're willing to get creative or compromise in order to build good-will for the long run.

## 6 It's Not Personal

One big trap that's so easy to fall into is taking interactions and choices made by your ex-spouse personally. Especially in situations of conflict, people will inevitably have different opinions and strong emotional reactions. Doing your own emotional homework with a therapist or coach can help you defuse some of those "hot buttons" that ex-partners are so skilled at pushing.

Realize that what your ex-partner thinks of you is no longer any of your business. The degree to which you continue to respond and react to what your ex thinks, says, or does is the degree to which you help create your own suffering. In the words of spiritual teacher Matt Kahn, "What others think of you is their journey. What you think of yourself is yours."

## 7 Own Your Part

We are human beings, not saints. Particularly when under stress, we're likely to do or say things that we'll regret later. Help keep your negotiations moving in the right direction by taking responsibility for your actions and how you may have contributed to the conflicts you're trying to resolve.

In negotiations, take ownership for your feelings when you speak. Avoid blaming statements such as: "You're being unfair!" Instead, take responsibility for your feelings by using "I" statements, such as: "I feel upset when XYZ happens."

When you find yourself making a misstep or losing your cool, show yourself compassion. See these "mistakes" as enormous learning opportunities. To really own your part, you should acknowledge the mistake and apologize to your ex if necessary. You'll be surprised at how a genuine apology can transform an angry conversation into a cooperative one.

## 8 Get Support

Einstein said that problems cannot be solved at the level of thinking that created them in the first place. Learn to ask for help and support; if you don't ask, there won't be any help or support. If you do ask, chances are that you'll be able to resolve whatever problem is keeping you stuck.

If you reach an impasse with your ex-spouse, get help; you may need to enlist a third party (counselor, mediator, lawyer, etc.) to help you resolve difficult issues. It's critical you find effective support in your social network during your divorce

process. Find a trusted friend or divorce "buddy," a divorce coach, therapist, or a community support group.

## 9 Talk It Out

When you have big stakes on the line, don't just "wing it" and hope it all turns out the way you want. Taking time to prepare yourself in advance helps give you confidence and clarity that can make all the difference.

One way to do this is to write down all the key points you want to make. Get some of those nervous jitters and hesitations out of the way before the meeting even starts by practicing out loud. You can even do this in front of a mirror to take your "talk it out" strategy to an even deeper level.

## 10 Surrender and Center

Anyone who has ever tried to swim upstream can confirm that going against the current can be exhausting. When you make the choice to surrender, you let go of needing to know or control everything all the time. Surrendering complete control isn't a sign of weakness: it doesn't mean you're giving up your position or your beliefs.

Before you head in to your next tough conversation, take a moment to close your eyes and get centered. Create an intention to center yourself that you can come back to when you feel challenged or unsettled, such as: "Let this be resolved in the best interests of all involved" or "Let me speak my truth powerfully and clearly today." You can even anchor this intention by holding a small object, such as a small crystal or stone, in your hand. Bring this object with you to your meeting to help you stay centered and remind you of your intention to surrender your desire to control every aspect of the negotiation. ■



*Carolyn Ellis is an award-winning coach, transformational expert, and author of the award-winning books *The 7 Pitfalls of Single Parenting* and *The Divorce Resource Kit*. Combining her intuitive abilities with her Harvard-trained brain, Carolyn specializes in helping individuals navigate change by tapping into their own inner brilliance. [www.thriveafterdivorce.com](http://www.thriveafterdivorce.com)*

### Related Article

#### Managing Anger

Divorce-related anger can literally make you crazy – causing you to say and do things you'd never dream of if you were thinking clearly. Here's how to cope.

[www.divorcemag.com/articles/managing-anger](http://www.divorcemag.com/articles/managing-anger)

# Managing your Reputation during Divorce

The emotions that come at the beginning of your divorce – including fear, sadness, and numbness – tend to cause paralysis and depression. As time passes, these paralyzing feelings recede and others – such as anger, euphoria, and sometimes even a desire for revenge – take their place.

Anger is an emotion that tends to lead to acting out and euphoria is an emotion that tends to lead to going out – both of which can lead to big trouble during your divorce. Acting in a way that appears irresponsible, inappropriate, or antagonistic can have a negative impact on your case, leaving you with both less money and less time with your kids. So, at the exact time that you are likely to act inappropriately due to poor judgment, you're also more likely to be caught and suffer negative consequences as a result.

By Christina Pesoli

Acting in a way that appears irresponsible, inappropriate, or antagonistic can have a negative impact on your case, leaving you with both less money and less time with your kids. Here's how to manage your reputation by ensuring your behavior is above reproach.

It's important to have strategies in place to help you manage your reputation. Otherwise, you might create messes that damage your chances of getting what you want from the divorce. Following the guidelines in this article will help ensure your behavior is above reproach.

## Follow the Two-Sentence Rule

Because people love juicy gossip, you will be queried about how your divorce is going by folks who have no business asking and zero need to know. And because you are not your normal, sensible self right now, you might find it surprisingly hard to resist the invitation to spill your guts to anyone and everyone. Although you don't have a duty to protect your ex's reputation, there's no reason to ruin your own by telling everyone about all the ways he/she has done you wrong.

The two-sentence rule is the best defense against saying too much when someone other than a close friend asks you how your divorce is going. Have a two-sentence answer scripted, rehearsed, and ready to go – something like, "It's been hard, but

.../Continued on page 23

# SKILL *effort* STRATEGY WISDOM

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# Common Divorce

# Questions



## Answers to some of the more frequently asked questions about the divorce process in Texas

### Legal Issues

#### "What information do I need to bring to an initial consultation with my divorce lawyer?"

*J. Lindsey Short, Jr., a family lawyer in Houston, answers:*

The first trip to a lawyer's office can be quite uncomfortable; however, knowing the information and documents that you should bring to an initial meeting or consultation will make matters more clear for you and your attorney.

First, you should be prepared to give your lawyer a background of your relationship with your spouse, such as:

- How long have you been married?
- Do you have any children together,

and are there any children from a prior marriage?

- What types of assets have you accumulated during the marriage?
- Are there debts, including credit-card debts?
- Do you or your spouse have any property that was acquired prior to marriage or acquired during marriage through gift or inheritance?

If there are children of the marriage, will there be a "custody" battle between you and your spouse? Be prepared to be candid regarding the caretaking of the children. For example, which parent routinely handles particular responsibilities and daily care of the children? Don't approach the initial consultation with an unrealistic picture of your involvement, or an exaggerated story

of your spouse's lack of involvement, with the children. Be ready with honest answers regarding parenting styles and skills, including strengths and weaknesses of both you and your spouse. A lawyer's evaluation of your chances of success in a custody case will only be as accurate as the facts that you present.

Prior to the initial consultation, you should gather documents that would be helpful to the lawyer in rendering advice to you. At a minimum, you should bring to the initial consultation the previous two years' tax returns and several recent pay-stubs for you and your spouse, if available. If any particular issues regarding interests in property exist, you should be prepared

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with minimal documents and records such as trust documents, Articles of Incorporation, partnership agreements, and the like.

Finally, if you have been served with a Petition for Divorce or other documents by your spouse, it is imperative that you bring copies of all documents that have been served upon you. You should also make an organized list of questions for your attorney.

Being prepared for an initial consultation with an attorney with the appropriate information and documents will greatly assist him or her in advising you and providing you with the necessary guidance to successfully make it through the divorce process.

**"My spouse has a health plan through his work; will I still be covered by the plan after we divorce?"**

*John Grubb, a family lawyer in Houston, answers:*

In most cases, you can remain covered on the existing plan for 36 months after divorce.

The Consolidated Omnibus Budget Reconciliation Act (COBRA) requires most employers with group health plans to offer the divorced spouse of an employee the opportunity to continue temporary coverage for 36 months after divorce.

Virtually all group health plans maintained by employers who have 20 or more employees are subject to COBRA rights – including group health plans of corporations, partnerships, tax exempt organizations, state and local government.

The federal government, certain church plans, and group health care plans where the employer has fewer than 20 employees are not required to offer a continuation of coverage. However, even though many such plans are not required to offer it, you should check with the individual plan because some plans do offer some type of continuation of coverage.

A divorce triggers your right to elect to continue COBRA coverage.

Upon divorce, you must notify the

group health-care plan as well as the Human Relations Department of your spouse's employer. The employer is also supposed to notify the plan administrator within 30 days of the date of divorce. The group health-care plan administrator is then supposed to notify the divorced spouse within 14 days of right to elect to continue what is called COBRA coverage. You must elect to continue coverage within 60 days of the date of divorce, and you must pay for the insurance yourself. If you exercise COBRA rights, then your insurance will remain in effect from the day of divorce.

COBRA rights can be extremely important: if you have a pre-existing condition, they allow you to continue treatment, and they also give you a 36-month period to locate other coverage. Many private plans exclude pre-existing conditions unless you have had continuous coverage. Also, private plans are hard to find, and you need time to look around and select the right insurance plan for you.

A word of caution: put everything in writing. While the phone is convenient, people do forget to follow up or fail to keep records. I suggest that you put all of your notices in writing, send them by regular mail, and email them as well.

## Financial Issues

**"What happens in a case where there is a business or property owned by the couple, but one of the spouses has no involvement in the financial affairs? How does the non-involved spouse make sure he/she gets a fair share in a divorce?"**

*Brian Loughmiller, a family lawyer in McKinney, answers:*

Especially in a situation where a spouse has not been involved in the operation of the business or the acquisition of assets, the non-involved spouse must ensure that he/she has all the information regarding the assets. To assist with this, our firm does a lot of discovery, request for production of documents, will hire forensic accountants

and business appraisers, and other experts that can review the operation of the family business.

Your divorce attorney may recommend bringing in an expert – a business valuator or forensic account, for instance – if necessary to assess the business and ascertain value. You are literally hiring somebody to go to that business, sit down with the other side, and have them explain how the business operates. Your expert will look at the profit-and-loss statements, the tax returns, cash flow, receivables, and cash payables.

Make sure you understand what you're trying to get out of the divorce. Realistically, if you have not been very involved in the business during the marriage, then you are unlikely to be very involved in the business post-divorce. Rather than asking for a percentage of ownership in the business post-divorce, you should consider getting bought-out with cash or other assets of equal value to your portion of the business.

I just finished a case where we had multiple business entities. My client had never really been involved in the accounting practices of these multiple entities, and she was facing a situation where she would have to maintain a partnership interest and several limited partnerships – even though she didn't have any knowledge about the business.

From a trust standpoint, she wasn't comfortable with having her ex-husband continue to run the businesses in which she still held a partnership stake, so we stipulated that her ex had to bring in another party to operate and manage the accounting of those businesses.

In this situation, we had to create a new partnership agreement as well as a divorce agreement.

**"I'm a custodial parent and I'd like to keep the house so my kids can stay in the same home after the divorce. My husband has said I can keep the house if he can keep his whole pension. Is this a good deal for me?"**

.../CONTINUED



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## *Experienced Divorce Attorneys Dedicated to Helping You Navigate Your Legal Roadmap*

### **Built On A Foundation of Noble Hallmarks**

A merger between two talented attorneys, Loughmiller Higgins, P.C., is an experienced law firm providing services to families and individuals throughout North Texas. Partners Brian Loughmiller and Eric Higgins have built their firm on a foundation of five hallmark principles: integrity, compassion, advocacy, community involvement, and quality legal representation. It is with these cornerstone values in mind that Loughmiller Higgins approaches the practice of law and advocates for each of their clients.

### **Solutions Tailored To Your Individual Goals**

Just as every family is unique, so, too, is each divorce. The team at Loughmiller Higgins recognizes the importance of considering the needs and goals of each client to reach a workable solution. The strongest attorney-client relationships are based on trust, which is why Loughmiller Higgins openly discusses the realities of divorce as well as the various approaches and outcomes you may choose to pursue. They can help you find realistic resolutions for your complex divorce issues based on your personal objectives.

### **Success Fuelled By Preparation & Effective Negotiation**

There is more to successful divorce negotiation than being well versed in the law. The attorneys at Loughmiller Higgins believe a combination of thorough preparation and effective negotiation is essential to obtaining results for their clients. Loughmiller Higgins understands the value of mediation or collaborative divorce as methods of alternative dispute resolution, especially in cases involving children; however, the team is always prepared to take your case to trial if necessary.

### **Over 47 Years of Combined Legal Experience**

With an impressive track record and more than 47 years of combined experience, the legal team at Loughmiller Higgins knows how to solve tough problems and resolve difficult disputes. Mr. Loughmiller is a certified family law specialist\* and has authored legal articles on the subjects of child custody and divorce. However, the attorneys at Loughmiller Higgins do not rest idly on their past accomplishments; they actively research any legislative changes that may impact your divorce case. (\*Certified by the Texas Board of Legal Specialization.)

### **Financially Savvy Attorneys Equipped To Deal with Complex Divorce Matters**

Property division is one of the many complex aspects of divorce that you should only trust with an experienced legal professional. The attorneys at Loughmiller Higgins deliver an accurate valuation of your marital assets, property, debt, and other factors that may impact your property settlement, such as employee benefits, stock options, pensions and retirement accounts. They work with various experts, including investigators, real estate appraisers, business valuation specialists and accountants, to ensure an accurate analysis of your marital assets. Their meticulous eye for financial analysis sets Loughmiller Higgins apart from other law firms in the DFW Metroplex area.

Loughmiller Higgins, P.C. is a Texas law firm focused primarily on family law and divorce-related concerns, offering outstanding services to clients in the North Dallas area and throughout the DFW Metroplex including Collin County, Dallas County, Denton County, Grayson County, and Tarrant County, and cities such as Plano, Frisco, Allen, The Colony, Denton, Lewisville, Carrollton, Dallas, Flower Mound, Prosper, Garland, Richardson, Sherman, Addison, Coppell, South Lake, Grapevine, Fairview, and Fort Worth.

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**Tim Satre, a Certified Divorce Financial Analyst® in Beaumont, answers:**

Well, it's certainly a tough decision to make. There are two issues here: what's right for your children, and what makes financial sense for your situation. Everybody wants to do what's best for their children; if staying in the same home is what's best for them, we would try to figure out a way to accommodate that. From a financial standpoint, however, you need to evaluate the pension and find out how much it's really worth. A CDFA™ can help you by providing a net present value of a future benefit to get an actual fixed dollar amount of what a future benefit would be worth; then you could compare that to the value of the house.

If the house is worth \$170,00 and the net present value of the future benefit is worth \$165,000, is that really fair? The two amounts look similar, but you have to remember that there's no income from the house and there will be expenses (repairs, maintenance, taxes,

etc.). You need to figure out whether you can you afford to keep the children in their existing home. Perhaps child support and maintenance can cover your current home expenses, but what is your plan for when the payments end?

Everything's negotiable in a divorce. A lot of people want to know what the law says, or what's the code, but the code doesn't matter unless you go to court and ask a judge to decide. You can figure out and negotiate the best thing for you. Different assets have different after-tax values and before-tax values, and some are cost items, like a house. Even though the house has value, unless you rent out a room, it's not providing you with any income. But sometimes, the home you're in is the cheapest place to live – especially if the mortgage payments are low, or if the house is paid off. You need to compare the cost of staying in the house to the cost of selling, moving, and buying or maybe even renting a new place: the rent may be just as high as the mortgage payment. A CDFA can help you do an

apple-to-apples comparison.

You have to weigh the financial aspect against what's best for the children. Parents often gloss over the financial part because they want what's best for the children. It can be a hard decision because it's not all just financial: there are the children's wants and needs as well. I can put a number on a pension plan and a number on a house, but there may be circumstances associated with your children that makes staying in the house right for your family – even if it's not the best financial decision for you.

**"If I file for divorce, how can I protect certain assets (family heirlooms, etc.) from my ex-spouse?"**

**J. Lindsey Short, Jr., a family lawyer in Houston, answers:**

When filing for divorce, there are several steps that can be taken to protect assets from your spouse. First and foremost, if you are concerned that

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## Which Half You Get Makes All the Difference

As a seasoned Certified Financial Analyst, Tim Satre knows not all assets to be split in a divorce are equal. Which half you get makes all the difference.

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your spouse may attempt to liquidate accounts or hide or destroy tangible assets, you should talk to your lawyer about obtaining a temporary restraining order (TRO) and having it served on your spouse at the same time that he is served with your original petition for divorce. A TRO is a court order prohibiting your spouse from performing a laundry list of items, which generally includes damaging, destroying, liquidating, or transferring assets. Beforehand, you should attempt to get copies of the most recent statements of any financial accounts, in order to ascertain what is in place when the TRO is signed, in order to verify that those accounts have been left intact.

If the bulk of the marital assets are maintained in an account standing solely in your spouse's name, and you fear that he may ignore the court order and attempt to liquidate that account anyway, you may want to consider faxing a copy of the TRO to the financial institution in question. You should be aware, however, that this may result in the financial institution putting a complete freeze on the account; in some cases, the financial institution may not lift the freeze absent a court order. Since this could prevent your spouse from accessing these funds for legitimate expenditures, it is something that should generally be done only in cases where there is a clear and present danger that the assets will disappear.

If you are concerned about your spouse damaging, destroying, or hiding personal property, then a few basic steps can be taken. You can take those items most precious to you with you, if you move from the house. Photographs can be taken of all the belongings in the house to establish that they existed as of a certain date. Additionally, you may wish to investigate renting space at a storage facility, where larger items that you fear may be damaged can be kept until final resolution.

## Children's Issues

**“It sounds like in the best interests of the children is the primary criteria**

**for determining primary custody. Is there anything else that affects who will get the primary custody of the children?”**

*Eric Higgins, a family lawyer in McKinney, answers:*

The best interest standard is obviously very broad, so our courts can consider a whole host of factors in determining where they believe the children should live primarily. A lot of times, these cases focus on the history of what each parent's role has been within the family. For example, do we have a parent who has assumed the primary role of raising these children, of waking them up in the morning and feeding them, getting them to school and to the doctors' appointments, dental appointments, and participating in the school activities?

In some families, there has naturally been one parent who has assumed the role as primary caretaker, so this history of caring for the children needs to be considered. Other issues considered include anger-management issues, whether there are mental-health problems on one side or the other, whether there are substance-abuse problems or a criminal history, or whether one of the parents has engaged in some activity causing the divorce or breakup of the relationship. There's a very broad spectrum of topics and issues that a court can consider as it determines what it believes would be in the best interests of the children.

**“My ex-spouse exercises visitation with my kids, but I want to move with them to another state. Can I go?”**

*John Grubb, a family lawyer in Houston, answers:*

In the vast majority of states the answer is no, you may not go.

When you refer to the parties children as “my kids”, you're implying that your ex-spouse does not have kids. Children have and deserve two parents. Frequently, one parent feels that they are the better parent, and therefore marginalize the other parent's role.

Study after study has shown that

children who have frequent and continuing contact with both parents do best after divorce. These studies show that children raised by one parent do not do as well in the future as those who have frequent access to both parents post-divorce. Therefore, most states have enacted laws that either limit the ability of the custodial parent to move, or provide that the judge may restrict the geographical residence of the child.

In Texas, the geographical restriction is often limited to the county where the parties are getting divorced, or an adjacent county if it is close by. In some of the larger cities where transportation can be extremely difficult during rush hour, many of the courts are restricting the geographical residence of the child to a particular quadrant of the city.

Probably the most important thing that you can do to benefit your children after divorce is to remember that your child has a right to two parents – and that you have a duty to see that the other parent is actively involved in the day-to-day life of the parties' child. ■

**For more FAQs and answers by divorce professionals, please visit [www.divorcemag.com](http://www.divorcemag.com).**

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# Dividing Retirement Plan Assets in a Divorce



By Howard M. Phillips

The first or second largest asset in a marital estate is one or both spouses' retirement plans, so a mistake made in dividing these assets in a divorce could be very costly for one of the spouses. Here's what you need to know about dividing retirement plan assets in divorce.

Typically, along with the property or real estate you own, this will be the largest or second largest part of your marital estate. This is why understanding what may or may not be your fair share is so important. Here's an introduction to retirement plan assets: what they include, how they're valued, and how they're typically divided in divorce.

## Q: What do Retirement Assets Include??

Retirement plan assets come from a variety of employer-sponsored plans. These include:

- 401(k) plans
- Profit-sharing plans
- Pension plans
- 403(b) plans
- 457 plans
- Deferred compensation plans, which are sometimes called SERPs. This stands for Supplemental Executive Retirement Plan.

Funding for these plans comes from contributions made by you, your spouse and your employer, and will include investment experience as defined in the Plan.

It is also possible that you or your spouse have former employer plan assets that have been transferred into an Individual Retirement Account or IRA.

## Q: How are Retirement Plan Assets Shared?

While there are some differences from state to state, most states consider retirement plan assets to be marital property (or "community property" if you live in a community property state). This means that retirement plan assets will be divided between a married couple when they divorce. Retirement plan assets, whether they come from retirement plan benefits or specific retirement plan accounts, can be divided up in several ways. Your advisor should typically consider four key questions when deciding how to best divide up these assets:

1. How much money is the retirement plan benefit or account worth to each of you? In addition to accurately appraising the value of each retirement plan benefit to which each of you is entitled, other factors may be considered. For example, retirement plan benefits that were earned prior to the marriage will probably not be included when determining its shared value.
2. What does the Property Settlement Agreement (PSA) document say about dividing your retirement plan assets? Sometimes, retirement plan assets are inadvertently overlooked when dividing marital assets. The PSA should address the specifics of how and when these assets will be divided.
3. What does the Domestic Relations Order (DRO) require? A DRO is a legal document that describes in detail how and when retirement plan assets will be shared after the divorce. The DRO will be used if the valuation method of retirement plan asset division is rejected.
4. What is the end-point for determining the value of retirement plan assets? Prices in the stock market as well as other investments in retirement plans vary from day to day, and so can the value of many retirement-plan accounts. For this reason, it's important to determine the final date for deciding the value of these assets. For example, is that the day on which you and your spouse separated? Is it the date when you filed for divorce (which is also called the date of complaint)? Or is it the date of your divorce?

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### Q: What is the Valuation Method of Dividing Retirement Benefits?

The valuation method simply uses one date for determining the value of all your marital assets: retirement plan benefits, home, jewelry, and so on. Let's say we use October 1 of this year as the date; this means we would determine the value of all your marital assets as of October 1. It is possible that on October 1 the stock market may have been higher than usual, but property values and the price of gold could have been low. So although it may be beneficial for assessing the value of some portions of your marital assets, it may not be for others. Once the value of your retirement plan assets is determined, these assets will be divided in a similar way as your other marital assets. It is worth noting that there is a big difference between obtaining an appraiser's value of a home and obtaining the value of one's retirement plan assets (this value is much more complicated).

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### Q: My Spouse has a Defined Contribution Plan; how will it be Valued and Divided?

Some examples of defined contribution plans include a 401(k), 403(b), and profit sharing. If some of the plan account(s) accrued before the marriage, there are different methods of valuing and dividing these assets. Depending on the particulars of a divorce, selecting the wrong method could

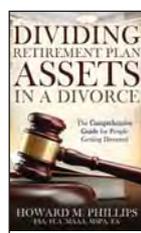
make a big difference – possibly tens of thousands of dollars – to the amount that you either receive from or have to share with your spouse.

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### Q: My Spouse has a Defined Benefit Plan; how will it be Divided?

First, we need to find out if your defined benefit plan is a cash balance type. A cash balance plan is a defined benefit plan that maintains individual accounts for participants. If it is, it may be easy to determine how to divide the assets (the defined contribution plan method is an option). If it is not, certain actuarial assumptions must be made in order to determine the lump sum value of the plan's benefit as of the agreed upon end date (e.g., the date you filed for divorce).

The key is to find an advisor who is knowledgeable about dividing retirement plan benefits/accounts in divorce. Since retirement plans can be worth more than houses, it is crucial for you to understand what you may be entitled to. For more information on this topic, visit [DivorcePensionRights.com](http://DivorcePensionRights.com), where you'll find additional information, tips, and guidance to help you understand and protect your financial rights – and learn the right questions to ask to make sure you get your fair share during your divorce negotiations. ■



*This article has been edited and excerpted from Dividing Retirement Plan Assets in a Divorce (Tax Sheltered Annuity Partners LLC, 2013) by Howard M. Phillips (FSA, FCA, MAAA, MSPA, EA). In Q&A format, this booklet will help you to understand your rights in the event of a divorce – especially when dividing up retirement plan assets. Phillips is a pension actuary who has been helping companies and their employees with their tax-qualified retirement plans for more than 40 years. [www.DivorcePensionRights.com](http://www.DivorcePensionRights.com)*

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I'm getting through it. Thanks for asking." Then, when a casual acquaintance asks you what's going on, you'll know exactly what to say. Recite your two sentences and quickly change the subject by asking them a question ("How are things with you?"). Following the two-sentence rule to avoid saying too much to anyone other than your A-Team will go a long way toward protecting your reputation from self-inflicted wounds.

## Don't Have Egg on your Facebook page

The first place your ex's divorce lawyer is going to look for embarrassing evidence to use against you is your social media accounts, such as Facebook, Twitter, and Instagram. You must assume that everything you say on social media will be read by everyone – including your ex and his/her lawyer. This means you should never, ever dish about your divorce, make snarky comments about your ex (no matter how true), or post photos of you and your BFFs doing Jello shots at Coyote Ugly. No matter how liberating it feels to post those pictures at 1:30 a.m., you will only feel humiliated at 1:30 p.m. when you're answering deposition questions about the episode. And if you're fighting for custody, you just bought your ex a round of evidence.

It's not just what you write on your own page that can be scrutinized: any comment you make on anyone else's page is also fair game. Plus, any

remarks your friends post about you can also come into play. Sometimes the most troublesome comments are from well-intentioned friends who are simply trying to be supportive: "Missed you at happy hour on Friday! Ran into that former student of yours there. He asked where you were. I think he's hot for teacher!" Whether the statement is true or not isn't the issue; they create an impression of you and what you're saying and doing, and you may have to answer for all of it.

Because there are so many ways to go wrong, most lawyers advise their clients to shut down all social media accounts until their divorce is final. Short of that, you can maintain your accounts but restrain yourself by acting as if you have "view only" privileges. In other words, you can get on Facebook, Twitter, and Instagram only to see what everyone else is saying and doing, but not say a single word yourself. If you take this approach, your first order of business should be to change your Facebook page to get rid of your wall. This will eliminate the possibility of people posting comments that might be inappropriate.

## Crazy Isn't your Best Color

Your ex's number-one objective right now might be to convince everyone that you are completely crazy. (And since divorce doesn't bring out the best in people, that can be remarkably easy to do.) Your number-one objective is

to make sure you don't provide your ex with a paint-by-numbers sketchpad and a fresh supply of paint. Don't set his classic rock album collection on fire in your front yard; don't drunk-dial her and leave crazy messages on her cell phone in the middle of the night; and don't secretly attach a GPS tracking device to his car (even if you're sure that he's been cheating).

These actions will only make you look crazy, which in turn will make his/her jerky behavior appear somehow justified and put you on the defensive. The narrative will change from one in which you're struggling to do your best to make it through your divorce to one in which you're the crazy wife who eventually drove him to leave.

## Don't Buy Yourself Problems

Every dime you spend will be subject to scrutiny during your divorce. You will be required to provide copies of all your bank account and credit-card statements to your ex, and all your spending will be carefully reviewed. That means every time you make a purchase while your divorce is pending, you're buying a conversation piece for your ex and his/her lawyer.

Be mindful of the picture you're painting. Charges on your credit-card statement to spas, clothing boutiques, and bars create one image, and charges to grocery stores, bookstores, and kid-friendly pottery painting studios create

**Following the two-sentence rule to avoid saying too much to anyone other than your A-Team will go a long way toward protecting your reputation from self-inflicted wounds.**



quite another. You don't have to live as if you've taken a vow of poverty, but you should live within your budget so you don't buy yourself more trouble.

In addition to the picture you create for your ex and his/her lawyer through your spending records, keep in mind how your spending choices make you come across to people in general. It's one thing to update your wardrobe, especially if you've lost or gained a lot of weight and your current clothes don't fit you anymore, but don't buy a bunch of new clothes that scream "cocktail waitress" (unless you are actually a cocktail waitress).

## Don't Manufacture Evidence Against Yourself

Protecting your reputation during your divorce isn't rocket science. Not interested in answering embarrassing deposition questions about your sex life? Then don't have a sex life. Don't want your ex's lawyer telling your lawyer that you need to stop texting him/her at 2:00 a.m.? Then don't text your ex at 2:00 a.m. Not looking forward to explaining what you and your kid's smoking-hot tennis coach talked about for an hour on your cell phone late Saturday night? Then don't talk to your kid's tennis coach for an hour on your cell phone.

I understand you might really, really hate your ex right now. I'm not saying you have to somehow magically or instantly get over it. But you have to make sure that you don't let your anger double-cross you and start working as a double agent. Every chance you get – which is pretty much every minute of every day – make the conscious choice to be better and smarter than your anger would have you be. Use your anger to fortify, rather than weaken, your resolve to avoid making mistakes that will benefit your ex.

## Use the Headline Trick

Here's a foolproof trick that can help you double-check your judgment

at any given time. Let's say you see your neighbor as you're pulling into the driveway at the end of the day. He's divorced himself and has a couple of kids who go to school with your kids, but his children are with their mom for the evening. He asks you to grab a quick glass of wine. He is friendly and normal and this wouldn't be a date, just a couple of neighbors having a quick drink. Your six-year-old son and ten-year-old daughter are with you.

Your first instinct is to say no. After all, it's a school night and you don't have a sitter. Your neighbor suggests you just pop in a DVD of their favorite movie and the two of you will zip over to the closest place with a full bar, TGI Fridays. You've never left the kids at home alone before, but the notion of having some adult conversation over an adult beverage sounds pretty good.

To figure out whether this is a good idea or not, imagine something going wrong while you're gone, like a house fire. Then imagine how the headline would read in the paper the next day: "Firefighters Rescue Children from Burning Home while Mom Drinks at TGI Fridays."

Now the answer is crystal clear, isn't it? Leaving your kids home alone while you grab a drink with your neighbor isn't worth it. It puts you in a bad light as a mother and provides your ex and his lawyer with all kinds of fodder to use against you.

The headline trick can help you arrive at sensible answers even after your divorce is final. If you'd feel embarrassed to read about the situation in the newspaper, or if there's anything about it that seems questionable or makes you defensive, then it's probably a bad plan.

## If at First you Don't Succeed...

No one gets everything right 100% of the time. Although your success rate counts, how you handle your failures matters at least as much and perhaps

even more. You should never go into a divorce with the idea that the stress of it all entitles you to a meltdown or two, but you also shouldn't go into it expecting that you will behave perfectly, either. You're human; you'll make mistakes.

When you realize that you've handled something in a less-than-ideal manner, own up to it rather than beating yourself up. Take an honest look at how you blew it. Try to pinpoint what triggered your poor judgment or bad behavior. Learn what you can from your mistakes so you can avoid making similar ones in the future. Then put them behind you and move on. ■



*Adapted excerpt from Break Free from the Divortex: Power Through Your Divorce and Launch Your New Life (Seal Press, September 2014) by Christina Pesoli. With permission from Seal Press, a member of the Perseus Books Group. Copyright © 2014. Packed with no-nonsense advice and practical survival tips, this book offers advice from someone who can do more than settle your case. A professional divorce coach and an attorney, Pesoli's book acts as therapist, lawyer, and best friend, all rolled into one relatable guide.* [www.emotionalhardbody.com](http://www.emotionalhardbody.com)

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# Post-Divorce Financial Checklist



*Here are 20 financial “must dos” after divorce. Once you’ve completed this list, you’ll be on the right track financially, and can rest assured you’ve done everything possible to take control and make the most of your finances.*

By Robert Pagliarini, CDFA™

Newly divorced people are typically concerned about their finances: they want to make sure they have enough money to live on now and during retirement. Even very wealthy people have nagging questions and fears that keep them up at night.

Once your divorce is final, you may want a break from paperwork, lawyers, or even thinking about your finances. Although that’s a normal reaction, there are a few things you should consider to make sure you’re on the right track

financially. I developed this checklist to ensure nothing slips through the cracks post-divorce. Once you’ve completed this list, you should have financial peace of mind.

## **1. Cancel/suspend joint accounts.**

If you haven’t already done so, cancel and close all joint accounts you have with your ex-spouse immediately. Joint accounts that remain open are liabilities that could come back to haunt you. The last thing you need is to be on the hook after your ex-spouse runs up

charges on credit cards or overdrafts a bank account. If there’s a balance on an account that you can’t pay off immediately (credit-card charges, for example), instruct the bank or credit-card company that you want to suspend the account and not allow any future charges. Confirm that the account cannot be re-opened or unsuspended.

**2. Open new accounts.** Depending on the situation, it may make sense to apply for new credit cards before you cancel joint accounts. If you have



## Completing this post-divorce checklist will put you on the right track financially.

marginal credit and do not have an emergency reserve of cash, getting access to a credit card should be a priority. I'm not one who advocates using credit cards, but I've seen what can happen in the short-term if someone does not have sufficient assets to cover their rent, buy food, or pay for healthcare. Sometimes, you need a small bridge loan after a divorce while you get on your feet; a credit card can be that temporary bridge. And it's not just new credit cards you need to open: you'll also need to open new bank accounts, investment accounts, etc. Make a list of the accounts you had while married and seek to replace these as soon as possible.

**3. Change beneficiaries.** I cannot overstate the importance of changing the beneficiaries on your accounts. If you fail to do this, your ex-spouse could end up with your retirement and other

assets when you pass away. Changing beneficiary designations is an easy process that can usually be done with a simple form. Most forms will list a primary beneficiary and a contingent beneficiary. If you have a new living trust, ask your estate lawyer who should be listed as primary and contingent beneficiaries on your accounts.

**4. Update your personal insurance coverage.** Contact your insurance broker and update your automobile, homeowner's, and umbrella liability coverage. Pay particular attention to the list of assets you scheduled on your homeowner's policy: it may list jewelry, collectibles, artwork, and other valuables your spouse received in the divorce settlement. There is no sense in paying insurance premiums for assets you do not own. For asset protection purposes, make sure you have an umbrella liability policy on yourself. This is cheap asset protection and a must-have.

**5. Create an emergency reserve.** After your divorce, it's more important than ever to have a cash safety net. Set aside six months of living expenses in cash in a bank account – or, because interest rates are so low, consider putting the money in an ultra-short-term bond fund to get a 2% to 3% yield on your money.

**6. Create an income safety net.** One of the most common fears I hear from both men and women after a divorce is that they feel financially vulnerable – that they don't have anyone to turn to if they get laid off or suffer a financial setback. One solution is to consider getting a disability and/or critical-illness insurance policy on yourself. These policies provide you with a monthly "paycheck" if you become injured or ill and cannot work, providing peace of mind that your financial life will not be ruined if you suffer from a long-term disability or illness.

**7. Check your credit score.** During and after a divorce, you should check your credit score. You can receive a

free credit report at [www.usa.gov/topics/money/credit/credit-reports/bureaus-scoring.shtml](http://www.usa.gov/topics/money/credit/credit-reports/bureaus-scoring.shtml) (USA) or [www.equifax.com/ecm/canada/EFXCreditReportRequestForm.pdf](http://www.equifax.com/ecm/canada/EFXCreditReportRequestForm.pdf) (Canada). If you see errors or other issues on the credit report, contact the bureau immediately and get these discrepancies resolved; errors can impact your credit and cause you to pay more for loans and insurance, and they can even make it difficult for you to get a new job or rent a new home.

**8. Create a new estate plan.** There's no better time to think about your estate plan than after a big life event like divorce. If you have children, you may need to update your will – but even if you don't have children, there are many estate-planning issues to consider. Update or create a power of attorney for healthcare and finances, a living will, and other documents. If you had a living trust, work with your estate lawyer to create a new trust.

**9. Retitle assets in your name.** Post-divorce, there may be many assets that need to be retitled. For example, if you owned your house in a trust with your spouse, you should retitle the house in your name personally or in the name of a new living trust you create.

**10. Run new tax projections.** Immediately after a divorce, work with your accountant and do a new tax projection based on your income and deductions. Based on your new tax liability, you may need to change your withholding, pay more or less estimated taxes, and change your investments. For example, if you were in a high tax bracket with your spouse and owned tax-free municipals, after your divorce your taxes may be low enough that you'd do better financially by selling the municipals and investing in taxable bonds. Run the analysis to make sure.

**11. Analyze your investments.** If your spouse did the investing, you may now own things that you aren't familiar with or that are not right for you.

Do a thorough analysis of each investment to see if it is prudent and makes sense for your risk tolerance and goals. Work with an independent investment advisor to help you create a new asset allocation that's appropriate for you, to analyze the tax consequences to sell, and to look for replacement investments.

## 12. Create a new financial plan.

Analyze your financial situation post-divorce so you know how much you should be saving for retirement, what your budget should look like, and how to make the most of your new financial situation.

**13. Create a new budget.** If you cannot afford a full-fledged financial plan, create your own budget. List your income sources (e.g., work, spousal support, child support, investments) and list your new expenses. Track what is coming and going so you can see how much you have to save and invest and how much you have to spend on non-essentials.

## 14. Set up a new filing system.

Since you'll have all new accounts, policies, and documents, there is no better time to create a new filing system. The time you spend designing the system in the beginning will pay off by helping you locate things quicker and by giving you the data and documents you need to make the best financial decisions.

## 15. Consider using an online budgeting and tracking system.

If you want to be able to see where you stand financially at any time, considering using a website such as Mint.com to track your expenses, income, assets, and liabilities in real time. The financial insecurity many newly-divorced people feel can be lessened or eliminated by having access to their financial world at a moment's notice.

**16. Hire a new financial team.** If you don't have a relationship with an accountant, financial advisor, estate

lawyer, insurance broker, etc., then you'll need to create your own team. Some of the professionals who assisted you during your divorce may be able to continue helping you post-divorce; others may be prohibited from doing so by their professional organizations. Ask your CDFA or family lawyer for referrals, and use AdvisorFit.com to help you evaluate financial advisors you find.

## 17. Update your Social Security/Social Insurance card.

If you change your name after a divorce, you must update your information with the government. Americans should contact the Social Security Administration: <https://faq.ssa.gov/ics/support/KBAnswer.asp?questionID=3749&hitOffset=24&doCID=12828>. Canadians should contact Service Canada: [www.ServiceCanada.gc.ca/eng/sin/apply/how.shtml](http://www.ServiceCanada.gc.ca/eng/sin/apply/how.shtml).

## 18. Check your safe deposit box.

You'd be surprised how often divorcing couples forget about their safe deposit box at their bank. Remove the contents (if any) from your old safe deposit box and then close the account. If some of the contents belong to your ex-spouse, then you should leave those items and tell your ex that he/she is now solely responsible for the box. Inform the bank that you wish to have your name (and financial responsibility) removed from the old box, and consider getting a new one, if necessary.

**19. Buy a new shredder.** Identity theft is all too common and it can cost you thousands of dollars to resolve in addition to countless hours. Buy a good cross-cut shredder so you can destroy old credit cards, credit-card offers, and other items you don't want to fall into the wrong hands.

## 20. Strip your computer of valuable information.

If you shared a computer with your ex-spouse but are not taking it with you, use a program such as Eraser or Permanent Eraser (for Mac) to destroy personal files and be sure to delete personal information from Internet browsers.

Whew! It's a long list, but just tackle one at a time until you've addressed each of them. Completing this post-divorce checklist will put you on the right track financially – and you can rest assured you've done everything possible to take control and make the most of your finances. ■



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# Happier Holidays During and After Divorce

If you're newly separated or divorced, you may be dreading holidays. But with planning, creativity, and courage you can cope with – and even enjoy – holidays throughout the year. Here's how.

If you're going through a divorce or separation, you probably haven't even thought about the holidays. But experts stress that it's important for people who are in transition to develop coping strategies well in advance of the major calendar events. Holidays like Thanksgiving, Passover, Hanukkah, Christmas, and New Year's Eve can intensify feelings of sadness, loss, and failure. For newly separated and divorced people, the holidays can really emphasize how much their lives have changed.

If you've spent every significant holiday with your children, being apart from them for the first time can be devastating. Ted, a Chicago-based architect, remembers his first Thanksgiving away from the kids. "I went to see a movie alone and all I could think of was my kids around the table without me," he says. "It was pretty well the lowest point in my life."

Adjusting to the holidays as a single person without children can be just as stressful. After her divorce, Anne spent the first few Thanksgiving and Christmas holidays with her parents at their home in upstate New York. The 37-year-old legal secretary felt like she had regressed into a second childhood. "I love my parents," says Anne, "but the whole me, Mom, and Dad thing was just too much." Roberta, a separated PR

consultant from San Diego, tried to escape her loneliness and depression with shopping trips to local department stores. "I couldn't believe my credit-card bill in January," she says. "But the worst part was that I kept seeing happy families everywhere. I couldn't help but wonder, 'why can't that be me?'"

Even if your life isn't exactly where you'd like it to be right now, the good news is that we all have choices about how and where we spend our holidays. Look at it as an opportunity: by being proactive and exercising these choices, you can create new and meaningful

By Jane Zatylny



traditions for you and your family. Here are some strategies and tips for enjoying – rather than avoiding – the upcoming holiday season.

## Take a Positive Approach

Dr. Wayne Dyer is the author of *No More Holiday Blues*, an inspirational little book that offers positive suggestions

in a quick-read format. He maintains that as adults, “we’ve come to believe that the holiday season is really only for children... thus only children can enjoy the holidays; adults must suffer through them.” To illustrate his point, Dyer has included a chart that compares child-like attitudes (“I can’t believe it’s over already, it seems like it just started”) to “neurotic” adult attitudes (“Thank God it’s over. If it lasted one more day I’d have a nervous breakdown”). Sound familiar? This year, try to recapture some of the joy you experienced as a child during the holidays.

## Start Planning Now

Don’t wait until the week before the holiday to decide who gets the kids or to blow the dust off your address book. If you have children, it’s important to get some sort of communication happening with your former spouse well in advance; if they’re old enough, get the kids involved in the decision-making process as well. Be fair in deciding where the children will spend their time, and remember that generosity breeds generosity.

There are many non-confrontational strategies you can use to navigate scheduling issues for the holidays. You can avoid stress by planning well in advance and being flexible: you can plan a fun Christmas celebration with your kids a day before or after December 25 if they’ll be with your ex on the actual day.

It will be very difficult at first not to have your children on a particular day, so you should plan ways to avoid falling into a blue funk. If your ex has the kids on a particular day, you can feel lonely or seize the opportunity to have lunch with an old friend, book a day at the spa, or lounge in a bubblebath with a glass of wine – whatever makes you feel happy.

If you don’t have children, or if your ex has them for this holiday, gather up your courage and reach out to your

friends and family. Let them know that you’re going to be on your own. You can’t always count on them to approach you first. People can be intimidated by divorce. They may not know how to deal with your situation, or they may be afraid to take sides. You’ll be surprised how receptive they’ll be once you break the ice.

Even though you may be apart, there are so many ways to communicate with your children and other loved ones over the holidays. Get technology on your side: send a warm text or email, call, or arrange to Skype with them. Be mindful of not infringing too much on their other parent’s holiday time with the kids – especially if you’ll be seeing them soon. Also, make sure your text message, emails, tweets, videos, Facebook posts etc. reinforce your reputation as a great co-parent. This means no criticizing the other parent, and no pictures of you doing tequila shots at a swim-up bar! (For more information about this, read “Managing your Reputation during Divorce” on page 22.)

## Change your Expectations

Give yourself permission to enjoy this holiday any way that you choose. You don’t have to be lonely, even if you happen to be alone. “Loneliness is an attitude that can be changed, and aloneness is nothing more than a temporary absence of other people,” says Dr. Dyer. “If you allow yourself to indulge in self-pity or fantasies of how your holidays ought to (or used to) be and then permit yourself to become depressed, you’ll be defeating yourself and bringing on the holiday letdown.” If you think you’re going to be alone over the holidays, seize the opportunity to do something you’ve always wanted to do.

## Create new Traditions

The holiday season is steeped in sentiment and tradition, which is why

people who are in transition sometimes choose to ignore the holidays altogether. “I just couldn’t face unpacking the ornaments from our first Christmas together, from our fifth anniversary, or from our trip to Germany,” says Roberta. “I may never be able to bring them out again.” Fortunately, there’s no rule that says you have to keep any of the trappings or traditions from the past. Decide what works for you and what doesn’t – and edit accordingly.

Jamie, a divorced mother of two from Toronto, suggests that families of divorce be adventurous and design new rituals and traditions for their families. She turned to her Celtic heritage and developed an elaborate holiday ritual centered around the “cloutie dumping,” a traditional Scottish cake that



she used to make with her ex-husband’s great-grandmother. “Jean and I used to get together and make this dumpling in November,” remembers Jamie. “We’d sit up until two in the morning and she’d tell me stories of Scotland.” Your cultural background is a good place to start when creating new traditions. “Nothing fascinates kids more than stories of your background,” says Jamie.

“Through your heritage, children experience a sense of continuity, a sense of who they are as human beings.”

There are many opportunities for newly-single people without children, or parents without custodial access, to create their own traditions. Just remember that it's important to know your limits. If you can't bring yourself to join a dinner party where you know the other guests will be couples, invite your friends and family to celebrate with you at your home. You can also create a new “constellation” of family or friends for the holidays. Judy, a mother of three from Chicago, created a “friend family” by making Christmas dinner at her house for five of her closest friends.

If you belong to a support group, get to know one another socially. If you find yourself in a situation where you're going to be alone over the holidays, you can get together with people who understand what you're going through, even if it's just for a walk or a cup of coffee.



### Make Gift-Giving more Pleasurable

Gifts are an integral part of the holiday season. Unfortunately, the gift-giving experience is too often accompanied by high prices, commercialism, and heavy crowds – factors that can cause great stress for separated or divorced people.

Try giving gifts from the heart rather than the mall: for instance, consider giving a family heirloom to your child as a gift this year. Write a card or note about the heirloom, explaining that it has been in the family for several generations, and what it means to you. A gift of a personal belonging can have great significance, too. Bob, an artist who lives in New York City, gave his daughter his leather backpack, a worn and cherished possession that she had admired for many years; she was thrilled with the gift.

You might also consider supporting your favorite charities and arts organizations, or ordering gifts from mail-order or museum catalogues. Visit local merchants, buy gift certificates from a favorite restaurant or from a greenhouse, rent an indoor skating rink for an afternoon, give concert or theater tickets – the options are limitless, so just use your imagination!

One of the best non-monetary gifts you can give your children is the gift of good will towards your former spouse. Agree to a ceasefire, at least during the holidays.

If you must venture into the shopping mall this holiday season, try to enjoy the experience of being out in the world – the decorations, the lights, the music.

### Relieve Stress with Diet and Exercise

In her book *Anxiety and Stress*, Dr. Susan Clark suggests that individuals who are under major life stress gradually eliminate (or at least limit) foods that intensify anxiety symptoms. These foods include caffeine, sugar, alcohol, food additives, dairy products, red meat and poultry, and wheat and gluten-containing grains. Foods that are believed to have a calming effect include vegetables, fruits, starches, legumes, whole grains, seeds and nuts, and fish. (For more about nutrition to help you think more clearly and be calmer during

divorce, see “Nourishing your Stressed-Out Brain” on page 36.) Be realistic about your diet during the holiday season. Face the fact that you're going to have that eggnog, but try to exercise regularly; it really helps with your emotional state.

### Be Proactive

If your family or friends are not around this holiday season, you might want to consider helping out with the festivities at your church, synagogue, or community organization. Reaching out to a neighbor, a shut-in, or someone less fortunate than yourself this holiday season will take courage, but it can give you back your sense of place in the world.

Remember that there is nothing inherently depressing about the holidays. “If you anticipate that things will be depressing, you will rarely disappoint yourself,” says Dr. Dyer. “You must look within yourself and resolve to have a positive attitude, regardless of the tasks that lie ahead of you, or the fullness of your holiday schedule.” This year, look beyond the ghost of Christmas Past. Live in the present and plan for the future, and you're sure to discover the true meaning of the holiday season. ■

*The former Editorial Director of Divorce Magazine, Jane Zatylny is the Editor of British Columbia Magazine. She has first-hand experience dealing with holidays post-divorce – including negotiating their son's holiday schedule with her ex.*

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# PROTECTING CHILDREN FROM CONFLICT

It's impossible to avoid conflict completely, but you *can* learn to control it. Here are nine useful tips for reducing the harmful effects of conflict during and after divorce.

By Donald A. Gordon (Ph.D.) and Jack Arbuthnot (Ph.D.)



There are several things parents can do to protect their children from conflict and reduce the harmful effects of long-term conflict during and after divorce. Some solutions require the aid of others, including the court. A parenting coordinator can help work out a plan as well as reduce conflict between co-parents.

**1. Remove the Cause.** Obviously, this is the best course of action, but it may require counseling or therapy. You

need to examine your own role in feeding conflict; if there's nothing you can do to end the dispute, you need to structure your life to decrease the violence. You should avoid fighting and playing mind-games. Children copy their parents' behavior: they can become aggressive and show poor control of emotions.

**2. Learn New Skills.** Often, just going to a class will motivate parents. They will learn about the harmful effects of conflict. Hopefully, they'll

want to change – but to change, they must learn new skills. They must learn how to communicate without causing anger and how to listen to what is being said without judging. Parents need to work together and cooperate for the child's sake. Books or videos about divorce and parenting can also help, and parenting skill classes are offered in many communities. These skills will help with many aspects of raising children post-divorce.

**3. Keep Children Out of the Middle.** Parents need to keep their child out of their disputes. Being caught in the middle between Mom and Dad is very stressful for children: the most powerful reason for a child to be maladjusted is conflict between the parents. Parental disagreements cause stress and suffering in a child; children often emerge in good shape from low-conflict break-ups, and they do better than those in an intact family with high conflict. Parents in conflict are poor role models, inconsistent with discipline, and inattentive – all of which creates stress for their children. Negative emotions between co-parents are carried over into their interactions with their children. After the conflict, parents are suffering, too; involvement with their child decreases and they cannot respond to their child's emotional needs.

**4. Control Your Emotions.** Many parents go through regular cycles of emotion, from conflict to detachment. Feelings of anger, frustration, and resentment come and go – as do sadness, loneliness, and despair. Feelings of love, anger, and sadness have different effects, and some parents get “stuck” in one of these three feelings. Parents stuck in anger may endlessly seek revenge; those stuck in love may continue to hope to reconcile; and those stuck in sadness may become depressed, blaming themselves for all of the problems of the marriage. Parents need to learn to use non-violent language; most people respond well when given a positive message (something to do) and poorly when given a negative message (not to do something). *Nonviolent Communication*, by Marshall Rosenberg, explains this strategy (see the Center for Nonviolent Communication at [www.cnvc.org](http://www.cnvc.org)). Good communication skills enable parents to react less emotionally in tense situations.

**5. Prepare for Long-Term Conflict.** Disputes continue for a long time post-divorce for most families, so parents should develop a plan that shields the

child from conflict. The child will benefit if kept out of parents' angry arguments. Co-parents should work hard to maintain their own and the other parent's bond with the child, and they need to accept each other's different values and parenting styles.

**6. Contain Your Anger.** Being cordial and formal will help keep your emotions in check. High conflict is usually temporary, so it is best not to decrease the child's access to the other parent; it is more harmful for a child to lose a relationship with a parent than it is for them to be exposed to conflict for a short period of time. Decreasing contact between one parent and the child can lead to complete loss of contact over time, and children *never* get over the loss of a parent relationship – even as adults. There are good online programs that can help, such as Children in the Middle ([www.divorce-education.com](http://www.divorce-education.com)); parents can also work with a therapist



Parents in conflict are poor role models, inconsistent with discipline, and inattentive – all of which creates stress for their children.

or counselor. Mediators can also help reduce conflict by teaching parents to find ways to cooperate and agree.

**7. Children as a Cause of Conflict.** Sometimes, a child can make the fighting between parents worse. If a child has serious behavior problems or emotional problems, it adds to the burdens of the parents. If parents have trouble handling these issues, conflicts can arise or be aggravated. Of course, the child's problems may be caused by the break-up or by the parents' conflict; it can be difficult to know just what is causing what. The best solution is for the parents to agree on how to deal with the child's problems: they need to be consistent across households, and they should support each other in front of the children.

**8. Avoid Loyalty Conflicts.** Loyalty conflicts, where a child feels pressure to choose sides, are the most damaging aspect of parental conflict. Most parents do not think they put their child in the middle of their dispute, but children say that they do. Some parents criticize the child for not hating their other parent, or act hurt when the child wants to be with their other parent. A child may not be allowed to talk about the other parent or to bring things back from the other house. The child may be quizzed about time spent with his/her other parent or about the other parent's personal life.

A child will try to resolve loyalty conflicts in several ways, including:

- having a separate but equal connection with each parent
- trying to get the parents to be nice to each other
- acting out, getting into trouble, or getting sick
- becoming angels
- retreating from both parents and turning to their peers
- seeking comfort in alcohol, drugs, or risky sex.

Being caught in the middle is too great a burden for most children. The video, *Children in the Middle*, teaches parents to reduce the number of loyalty

conflicts and the number of times the child is exposed to their arguments. The child learns to speak up when caught in the middle of parental disputes.

**9. Arguing Constructively.** It is impossible to avoid conflict completely, but you *can* learn to control it. Controlled conflict often leads to positive, constructive changes. Parents can learn to manage conflict, learn to compromise, and become more effective parents. When they do this, their child's behavior improves. ■



*This article was adapted with permission from What About the Children? A Simple Guide For Divorced/ Separated And Divorcing Parents (CDE, eighth edition, 2011) by Donald A. Gordon (Ph.D.) and Jack Arbuthnot (Ph.D.). Based in Athens, OH, the Center for Divorce Education (CDE) is a non-profit corporation founded in*



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## TIPS FOR KEEPING KIDS OUT OF THE MIDDLE

- A child should not carry messages between parents.
- A child should not hear you “trash” or “put down” their other parent.
- Do not ask the child to confront the other parent about money issues.
- Do not quiz the child about the other parent's private life.
- Do not burden a child with parents' emotional needs and weaknesses.
- Do not force a child to choose which parent attends special events. (In most cases, both should attend.)
- Do not threaten that a child will not have access to one of their parents.

## TIPS FOR ARGUING CONSTRUCTIVELY

- Let out only part of your anger.
- Don't heap one stored-up frustration on another. Strong hostility will be returned.
- Don't hold all your anger in; it will come out in other ways. Instead, tell your ex what you are angry about.
  - Tell them in the form of an “I” message and ask for a change. For example, sometimes the other parent is late with the child. You might say, “I feel worried when you don't call if you're going to be late. I'd like you to be on-time in the future, or call me if a late arrival can't be avoided.”
- Avoid name-calling and blame. Instead, say what you want or need.
- Resolve arguments. Apologize or compromise so the anger subsides.
- A child benefits from seeing conflict resolved through talking; they will learn to do the same in their lives.
- When conflict is resolved out of the child's view, explain the solution to them. Children need to see conflict be resolved (or at least hear about the resolution). This will help erase the negative effects of the conflict.

# Warning Signs

All children of divorce suffer some emotional pain as a result of their parents' split: minor for some, and all-consuming for others. Here's how to recognize the warning signs that your kids are not coping well.



By Teri Morrison

When Linda and Steve decided to divorce, they worried about how their eight-year-old daughter Shannon would react to the news. They quickly and amicably finalized the divorce to avoid dragging their child through an emotional battleground. To keep her life from having too many major upheavals at one time, they decided that Shannon and Linda would remain in the family home while Steve moved to an apartment across town. Steve and Linda hoped that if her school routine and social connections weren't disrupted, the transition to a new family situation would be easier on her emotionally.

Eight months later, Shannon seems to have adjusted well to the divorce. "Sometimes, I think Shannon is coping with our new living arrangements better than I am," says Linda. "She never causes a problem for either me or her father. In fact, she seems more helpful around the house than before the divorce – I never have to remind her to clean her room anymore, for example, or that it's her turn with the dishes."

Jennifer wishes she were half as lucky with her eight-year-old son, Sammy. She and her ex-husband's divorce proceedings mirror those of Linda and Steve, yet Sammy's reaction to the divorce is almost the exact opposite of Shannon's. "I can't seem to reach Sammy," says Jennifer. "His grades are slipping in school, he lashes out at both me and his father over the smallest things, and he often refuses to do his chores. The hardest

part for me is watching my bright, happy-go-lucky son turn into a moody, angry little boy."

You'd probably agree that Sammy – and probably his parents – need some counseling to help him adjust to his parents' divorce. You'd probably also agree that Shannon is every divorcing parent's dream: a child who seems to accept her parents' divorce with little or no fuss. However, while Sammy might seem as if he's headed to detention hall for life, Shannon may be the one who's more in need of counselling.

Generally speaking, children of divorce fall into three basic categories:

1. "Angels" (who hope that their parents will get back together if they're on their best behavior)
2. "Devils" (who are acting out to draw attention to themselves and to give their parents a common cause: fixing the kid's problems)
3. "Normal Kids" (who keep their heads down, don't ask questions, don't act up during or immediately after the divorce).

Parents often overlook kids in the third category because they want to believe that their kids are fine with the divorce. However, some of these kids could be in either shock or denial: they don't know what to say, so they don't say anything. They maybe like slow-burning fuses that blow up eventually.

Of course, there are exceptions. Some kids are more resilient than others, and with love and support from and frequent access to both parents (who have

established a cooperative, respectful co-parenting relationship), they cope with divorce really well.

## “Normal” Adjustment

Experts say that it should take about a year for children to come to terms with their parents’ divorce; they may still have feelings of sadness or anger, but they should be coping well with those feelings. Although the progression will vary depending on their ages, by the end of the first year after the divorce, your children should have:

- dealt with their feelings of loss due to the divorce
- dealt with any feelings that they were rejected or deserted by one of their parents
- accepted that the family will no longer be living together
- accepted that you won’t be reuniting with their other parent
- removed themselves from adult conflicts
- returned to a normal interest in themselves and their activities
- stopped blaming themselves for the divorce.

If you moved as a result of the divorce, they should have:

- adjusted to your new home and their new school, and have made some new friends.

## When to Get Help

One bad grade on a school test doesn’t mean you need to make an appointment with a family counselor. Not all of your kid’s problems are going to be a result of your divorce: one temper tantrum, one fight at school, or one incident of bed-wetting isn’t necessarily linked directly to the divorce. These kinds of things can happen to any child in any family situation. So before you start panicking that your child has become psychologically damaged for life, Google “normal child psychological development” and read some relevant articles. Then go to [www.DivorceMagazine.com](http://www.DivorceMagazine.com) and search the “Divorce and Children” category; these resources will help you

understand the difference between normal and problematic behaviors.

Discipline problems are usually what spur parents to seek professional help for their kids. These problems can stem from your child’s inability to sort out his/her feelings or to adjust to the divorce – or it might just mean that your child lacks good coping skills. A child’s bad behavior can result from fear, hostility, or insecurity, and it’s a sign that your child needs more positive attention. Children who don’t receive positive parental attention try for *any* kind of attention, even if it’s negative: they would rather misbehave and get yelled at than not get any attention at all.

Any extreme deviation from a child’s normal behavior may be a sign that he or she has been affected by the divorce: wild behavior in a previously quiet child, or a once-sociable child who now refuses to come out of his or her room, for example.

Although you shouldn’t wait forever to seek professional help, if their adjustment problems aren’t severe, you should give your kids six months to a year to get over the divorce.

Consider seeking professional help if your child is:

- doing uncharacteristically badly in school for three or four months, even after you’ve consulted his or her teachers and/or school counselors
- losing friends because he or she is acting in an unusually aggressive manner
- showing uncharacteristic, intense anger towards others; this could be anything from temper tantrums to overreacting in minor situations
- developing prolonged mood swings that range from extreme hostility to extreme affection
- showing unrestrained grieving for an absent parent or for “the way things used to be”
- showing other radical changes in behavior, such as truancy or fighting at school, cheating, lying, or stealing
- developing physical ailments, such

as stomach or headaches, sleep problems, eating disorders, or alcohol or drug abuse.

If a child internalizes his or her feelings about the divorce, then it’s much more difficult to know if he or she is having problems coping. In fact, a child in this situation may not show any outward signs of trouble until years later. In cases like this, a school teacher, guidance counselor, family doctor – someone your child likes and trusts – may have more luck than you in trying to discern what’s really going on with your child.

## Helping Children Cope

While some children make it through their parents’ divorce relatively easily, others can feel the after-effects of a divorce for months and even years later, suffering socially, emotionally, and academically. The reasons some children cope better than others are as varied as the children themselves. However, research indicates that the lasting effects of divorce on children usually occur when a divorce is particularly difficult. If parents are fighting and are filled with anger and hurt, they generally don’t supply their kids with the kind of consistent care they need – especially at emotionally trying times.

The best way to help your children cope is to agree to keep the hostility and bitterness to a minimum before, during, and after the actual divorce proceedings. Reassure them that although there are going to be changes in their lives, the changes won’t all be bad.

You can’t force your kids to feel happy, and you shouldn’t try to short-circuit their grieving process. Provided with support, love, and consistent care, most children eventually adjust to divorce by themselves. ■

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# Nourishing your Stressed-Out Brain

These nutritional tips can help you think more clearly and make better decisions as you navigate your divorce.

There are hundreds of studies that show the effects of stress on our bodies and our brains. Humans are innately capable of handling a single stressful incident without much residual effect on long-term health – but what about the chronic stress that comes as part of the lead-up to and aftermath of a divorce?

A Yale University research team has proven that stressful life events can change the shape and size of critical regions in the brain that help us navigate emotional situations, make decisions, and retain important information. You can see how that could be a problem when you're in the midst of maneuvering through a breakup.

But the good news is that the brain is elastic, and even a stressed-out brain can re-form and re-shape itself if given the right raw materials – meaning nutrient-dense foods that feed these critical brain cells.

That's why taking time to plan and include the right foods in your diet during this taxing time can make such a critical difference in your coping skills today and your ability to thrive post-divorce.

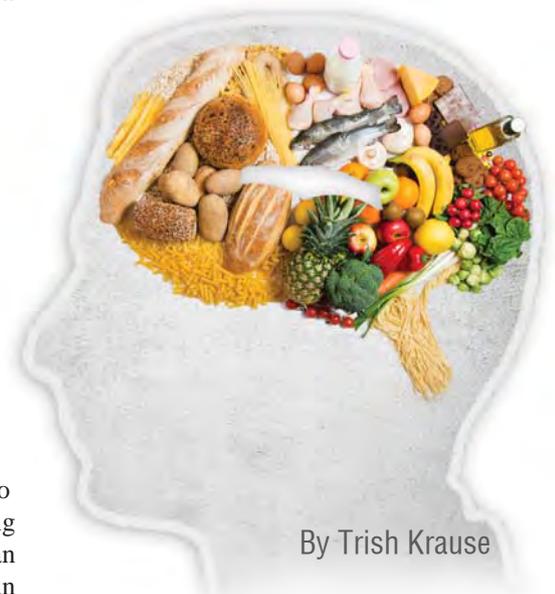
First, a little brain anatomy: your brain, which weighs about three pounds, is nearly 60% fat. Your brain

can actually continue to grow neurons throughout your life in response to the right stimulation – including what you feed it. Your brain's favorite food? Glucose.

## Glucose? Isn't that Sugar?

Your brain is a sugar-hog and demands a steady stream of carbohydrates (which metabolize into glucose) in order to keep it running smoothly. But that doesn't mean that gobbling candy bars on the run between meetings or while chauffeuring kids to soccer practice will give you what you need to stay sharp. When levels of sugar in the blood fluctuate, the brain doesn't get its steady fuel supply, and behavior and decision-making becomes more erratic. Your brain performs best without the highs and lows, and that means choosing the right carbohydrates to avoid those spikes and crashes.

To ensure sustained release, never skip a meal. Eating something small every three hours is critical. Choose carbs from whole foods: vegetables, fruits, nuts, beans and legumes, or fiber-rich grains found in oats or quinoa. Whole-wheat products can be a good choice, but read the labels carefully to ensure that it's 100% whole wheat and not a product that's mostly made of refined wheat flour. The more



By Trish Krause

refined a grain is, the less fiber it will have in it, and the faster it will spike your blood sugar – something you want to avoid to keep your brain healthy.

**TIP:** *An apple dipped in some nut butter is a portable on-the-go snack that will help level your blood sugar. So is a handful of almonds, a cup of yogurt, or some raw veggies with hummus.*

## Is Fish Really Brain Food?

Mom was right: eating fish can make you smarter! Feeding your brain with the right fats can strengthen the synapses related to memory as well as nourish the membranes of the brain cells, keeping them supple and strong so they can keep out toxins. This is crucial during the divorce process, when you need to make so

many decisions that will affect the rest of your life in such a short period of time.

Fatty cold-water fish such as salmon, mackerel, herring, cod, or halibut are excellent sources of omega-3 fatty acids. Studies have shown that people with high levels of omega-3s reduce their risk of dementia and slow mental decline, so plan to eat fish at least three times a week for optimal brain health.

You can also find omega-3s in walnuts and flax seeds; use the oils as salad dressing or stir-ins to yogurt or smoothies, or grind the flax seeds and include them in baked goods, meatloaf, or oatmeal. Both cauliflower and Brussels sprouts also contain very good levels of omega-3s.

**TIP:** *Just a quarter-cup of raw walnuts a day will give you your daily requirement of omega-3s.*

### The Building Blocks of Calm

Staying calm through the process of working out divorce details can be a challenge. Proteins in your diet can greatly affect your ability to stay even-keeled because they're made up of amino acids from which neurotransmitters are made. These neurotransmitters are biochemical messengers that carry signals from one part of the brain to another – for cognition, reasoning, creativity, problem solving, etc. The more you nourish these neurotransmitters, the better your judgment will be when it comes to analysing the financial data and facts about your divorce.

One particular amino acid – tryptophan – is especially critical. Tryptophan is a precursor to serotonin, the hormone that helps keep us calm, balanced, and happy. Given the emotionally-charged scenario of most divorce negotiations, staying calm under pressure is imperative if you want to make the best decisions for your future.

Turkey, chicken, salmon, yogurt, eggs, and cacao are all good sources of tryptophan. For those who prefer to eat a plant-strong diet, dark leafy greens – such as kale, spinach, and chard – as well as mushrooms, pumpkin or sunflower seeds will also feed your neurotransmitters.

**TIP:** *Chocolate can indeed help to calm a stressed-out brain. It contains a compound called theobromine, which increases blood flow – exactly what a hard-working brain needs. So enjoy*

*your daily bite of dark chocolate as long as it's made from raw cacao and is at least 70-85% cacao. ■*



*Trish Krause (CNP, NNCP) is a certified holistic nutritionist. She specializes in teaching busy, stressed-out people how to navigate their nutrition journey while juggling the demands of families, work, and life at Bite Out of Life Nutrition & Lifestyle Coaching. [www.bite-out-of-life.com](http://www.bite-out-of-life.com)*

## SNACK SMART WHEN UNDER PRESSURE

Don't let stressful times drive you to the chips and chocolate cupboard and derail your health. If you're searching for a snack, this one is fast, easy, and will satisfy you whether you have a sweet tooth or a salty or crispy craving.

### Sweet and Salty Chickpea "Popcorn"

Makes 2 cups, 4 servings

#### Ingredients:

- 1 (19 fl oz) can organic chickpeas, drained, rinsed, and patted dry
- 1/2 tsp ground cinnamon
- 2 tsp coconut oil (melted)
- 1/2 tsp sea salt (you can use regular salt if you can't find this)
- 1/2 tsp coconut sugar

#### Directions:

- Preheat the oven to 450F and line a baking sheet with parchment paper.
- Mix cinnamon, salt, and sugar in a bowl.
- Toss the chickpeas in the melted coconut oil and add the seasonings. Toss to coat evenly.
- Spread the chickpeas out evenly on the baking sheet.
- Bake for 20 minutes, stirring/shaking the pan once halfway through to avoid burning.
- When ready, the chickpeas should be golden and mostly crisp. Note: you may need to bake a little longer as some chickpeas are more moist than others.
- Keep in a paper bag no more than two days – they start to soften. However, you can re-crisp them under a low broiler for 1-2 minutes.

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Dispute Resolution / Continued from page 15

and discovery, and assuming any other responsibilities otherwise handled by a divorce lawyer.

Many people who opt for self-representation do so for the financial benefit of avoiding lawyer fees and to maintain complete control of their case; however, *pro se* parties face risks not shared by their represented peers. In addition to the extra stress of representing yourself at court appearances, you may struggle to understand the tax and legal implications of a property settlement, and may also fail to grasp the long-term consequences of the support agreement you're negotiating. Pensions and retirement accounts are high-value marital assets, some of which have complex rules about how – or even if – they can be divided requiring expert advice and assistance.

If your divorce is straightforward, uncontested, you have no children or significant assets, and you are capable of doing thorough research and court preparation without assistance, *pro se* representation may be an appropriate option for you. However, if your divorce involves child custody or support, spousal support, significant property or pension division, then *pro se* is probably not the right choice for you. ■

*Emily Bauer is a staff writer at Divorce Magazine.*

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Jeff is currently serving as President of the American Academy of Matrimonial Lawyers, Illinois Chapter. He is a Principal of the family law, forensic accounting and business valuation practice Levin & Brend, P.C in Chicago, Illinois. He is the only person in the country who is a fellow of the American Academy of Matrimonial Lawyers, a Senior Appraiser with the American Society of Appraisers, Accredited Business Valuator with AICPA and a Certified Fraud Examiner. Mr. Brend is also an AAML Certified Family Law Arbitrator, Collaboratively trained, and a Certified Divorce Financial Analyst. Jeff currently sits on the IDFA Board of Advisors and will be teaching two seminars at the IDFA fall conference in Seattle.

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Contact Us for Your Free Initial Marketing Consultation • 866.803.6667 x 124  
DanC@DivorceMarketingGroup.com • www.DivorceMarketingGroup.com

# Marketing Experts for Family Lawyers and Divorce-Industry Professionals

## OUR PRODUCTS

### Divorce Magazine

We've been publishing *Divorce Magazine* since 1996. It was the first and is still the only magazine that targets people who need your expertise. Market your services in the digital edition for your state (available in every state) or in the print edition (CA, IL, and NY/NJ).

### DivorceMagazine.com

With more than 4,000 articles and answers to FAQs, [www.DivorceMagazine.com](http://www.DivorceMagazine.com) is one of the most comprehensive divorce-related websites ever built – and it's a great place to promote your practice. Rates start at just \$195 a year for a listing in our Professional Directory.

### Divorce eNewsletter

Our monthly eNewsletter for divorcing people will keep you top-of-mind with your clients and professional referral sources on a regular basis. The newsletters will also make your website a better resource for visitors to revisit and recommend to others.

### BlogsOnDivorce.com and MarriageAndSeparation.com

Establish yourself as an authority on the subject of divorce and get extra exposure as our Expert Guest Blogger on our blog site and our social network for married and separated individuals.

### Ten Divorce Guides

Each *Divorce Guide* contains 32 pages of professionally-written and designed articles. They can all be customized with your firm's branding. They make a great addition to your website – or use them as handouts to your clients and prospective clients.



## OUR SERVICES

### Our Clients Rave About Us

Some of our clients have been with us since 1996 because they find us to be responsive, creative, and well-priced marketing experts. We're big enough to offer the complete range of marketing options you need, and small enough to always be there for you. Call us if you're tired of poor service or high fees from your current provider. We're the *only* marketing agency that specializes in promoting family lawyers and other divorce professionals to the divorcing public.

### Website Design and Content

We know what divorcing people want and need, and we can provide you with relevant content that you cannot get anywhere else. With our design, your website will automatically adjust to display properly on all computers and mobile devices.

### Special Smartphone Website

If your website isn't smartphone friendly, you could be missing out on new business. With our smartphone website design, visitors can call, email, text, or locate your office with just one touch.

### Lead Generation

We'll generate quality prospective clients for you through a Pay-Per-Click advertising campaign.

### Podcast and Video Promotion

Be found on Google.com, Youtube.com, and iTunes with videos and podcasts.

### Logo and Firm Brochure

We'll design your logo, then write, design, and print your firm brochure to match your website design.



**Focus on your practice.  
Trust the marketing to us.**

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