

DIVORCE

GUIDE



THE LAW OFFICES OF
Deirdre A. Agnew

1450 E. Boot Road, Building 400A, West Chester, PA 19380-5300

610-738-4800

agnewlaw@comcast.net

www.dagnewlaw.com



THE LAW OFFICES OF

Deirdre A. Agnew

Compassionate Support & Strategic Legal Counsel



Since 1996, people throughout Southeastern Pennsylvania have trusted the Law Offices of Deirdre A. Agnew to get the compassionate support and strategic legal counsel they need during divorce, or for their other family law matters such as: separation, child custody & visitation, child support, spousal support, alimony and more.

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Serving clients throughout Southeastern Pennsylvania, including the counties of: Chester, Delaware, Montgomery, Berks, Bucks, Lancaster and Philadelphia

Our firm is led by seasoned attorney Deirdre A. Agnew, who has been practicing law since 1991. Ms. Agnew was born in Philadelphia and raised in Chester County, and earned her law degree cum laude from Widener University School of Law.

She is highly respected by the judiciary and among her peers in the legal community for her professionalism, integrity, honesty, ethics and client service commitment.

One of her cases was widely covered by the media as the first use of online conferencing (Skype) for testimony in U.S. courts.

To get the compassionate support and strategic legal counsel you need during divorce, or for your other important family law matter, contact:

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agnewlaw@comcast.net
www.dagnewlaw.com

The Law Offices of Deirdre A. Agnew is conveniently located minutes from the main courthouses, and our office has a friendly atmosphere where you'll feel comfortable.

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

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



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YOUR PARTING WORDS: How to Break the News Responsibly

This Divorce Expert and Counselor shares some wise advice on how to tell your spouse that your marriage is over, and it's time to move on.

By Susan Allison

Telling your mate you want a separation or divorce is the moment of truth, and every individual I interviewed remembers precise details about this instant. In my case, we were vacationing in Lake Tahoe when I told my husband. We sat looking at clear blue water, at our kayak tied to the dock, and ducks bobbing on the surface. And then I broke the stillness by saying, “I think we should separate for awhile and see what happens. I need my space to find out who I am and what I want. I need to leave when we get back home.” I said a few other things, to make it sound less final, less threatening, and hurtful. As I spoke, I felt strong and exhilarated to finally be saying these words. I felt terrified as well.

Candace, now divorced for seven years, says of her leaving speech: “I felt mixed emotions when I said to Lenny, ‘I’m leaving and taking the children with me,’ because I still loved him; I still love him to this day. But for three years I tried to get him to come to therapy with me. I tried to get him into rehab for his addictions, but he would not go. He wouldn’t look at his part. I feel I did



“I want a divorce.” This phrase has been used by millions of people, at times at the height of an argument, at others after months or even years of work on the marriage.

everything to try to make my marriage work. Finally, I had to get out of there. Right before I left I had a dream or vision that said I was going to die if I did not leave. I left to save my life in a way.” Ironically, Candace is now a therapist who works with people with addictions. As a therapist, her advice to those who are preparing to leave a marriage is, “Be honest. Tell the truth as long as you are safe to do so. Say: ‘I’m

leaving. This is what I need to do for me. I think it is the best thing for both of us at this time.’”

Words You Can Use

Depending on whether you are preparing to leave, wanting a trial separation, or a divorce, your choice dictates the degree of finality in your words. The following scripts make this progression clear:

1. Prepare to leave

“I’ve been thinking a great deal about our relationship and I think it might be best to separate for awhile. I don’t have any timeline in mind, but I’d like to talk about it.”

“Our relationship doesn’t seem to be improving. We’ve tried a lot of things, we have been talking more, and I’m not sure it’s better. What do you think about a separation?”

In an ideal situation, both parties are open and agreeable, very adult and willing to listen calmly. In a more realistic scene, one person is dissatisfied, and the other thinks things are fine, or is less invested in change occurring. It can be scary to tell your husband or wife that you have been thinking about leaving. This is why it’s good to write in your journal, talk with someone, and do some planning, before communicating with your partner.

2. Begin a Trial Separation

“I need some time and space to sort out my feelings about our relationship. I can’t seem to get this perspective while we’re living together. I just feel more confused. Maybe if we live separately for awhile, we can get centered, continue to go to therapy, and be able to sort things out.”

“For now, I think the best thing is to separate. It’s just not working while we live together. Maybe some time apart will help each of us sort out our feelings and what we want.”

“Living together right now is just not working. We don’t seem to have the perspective or ability to understand the problem or each other. It might be best if we live separately right now.”

How you say this depends on the desired outcome. Do you want the separation in order to eventually reconcile, or is the separation a stepping stone to divorce? You may not know the answer at this point. Some couples begin a separation in order to gain useful tools to negotiate reconciliation. Others buy time with

a trial separation because it's too hard emotionally or financially to file for divorce immediately. They are taking the first step towards dissolution. You just need to take one step at a time, consciously choosing from a place of inner truth.

3. File for Divorce

"I want a divorce." This phrase has been used by millions of people, at times at the height of an argument, at others after months or even years of work on the marriage.

If you are being asked for a divorce, and the two of you have not communicated, have not talked with a counselor, have not tried some of the other options such as an in-house separation, then suggest to your husband or wife that it is premature. If your spouse will not negotiate and insists on leaving and filing for divorce, there isn't much you can do to change his or her mind. You can ask for a trial separation, for time to try

to re-negotiate, but you can't change anyone. Jessie, separated from her husband Mel after four years of marriage, is in this situation. Mel will not return her calls, and when she finally reached him recently, he said, "I don't want to be with you. I want a divorce."

If, on the other hand, you are the person who wants the divorce, and you are certain that this is what you need to do, then you can say something like: "We have exhausted every option. We have tried to make this marriage work, but I don't see any other choice but to divorce."

Striving for "Right Relations"

As a free individual, you have the option to do whatever you want. You don't have to be conscious. You don't have to explore all options. You can just say you want a divorce. My belief, however, is that as human beings we have a higher consciousness; we have

choices, and every action has a corresponding reaction. If we want "right relations" with others, then we need to think carefully about our choices, and strive to harm no one in the process. I believe we should attempt to be conscious every moment, for the choices we make in the present will affect our lives in the future.

Part of my reason for writing about "right relations" is that I didn't always behave responsibly during my divorce, and it has taken a few years to rectify my behavior. After making amends to my former husband at several junctures, showing kindness to him in words and deeds, our relationship is again based on trust and friendship. But to be honest, while leaving my marriage, I often deliberately hurt his feelings; I was not tactful when telling him I was leaving; I was greedy about what I wanted from the house, and I left him with the responsibility for our son, and the upkeep of our large home. In other words, I behaved selfishly. This doesn't mean I should have taken full responsibility for our marital problems, nor that I should have stayed in the marriage. His treatment of me, especially his absence and neglect, in part, caused me to be cruel out of anger and retaliation. However, I wish I could have been more aware of the effect of my actions and words on everyone. You, hopefully, can learn from these mistakes. ■

This article was excerpted and edited with permission from the book Conscious Divorce: Ending a Marriage with Integrity by Susan Allison, Ph. D., published by Three Rivers Press 2001. Dr. Susan has a Ph.D. in Transpersonal Psychology and a private practice with individuals and groups to bring about healing, using traditional therapies, hypnosis, process therapy, shamanic journey, and energy medicine. Learn more at www.empoweredhealer.com.

STEPS TO DELIVERING UNCOMFORTABLE COMMUNICATIONS

PURPOSE: To allow both parties to feel complete and bring the relationship into present time, so that each is free to choose to have the relationship in the present form, or a new form, or not at all. You may repeat steps if necessary to better facilitate the process.

BEFORE COMMUNICATION

1. Clean the emotional slate of feelings such as: judgment/guilt, fear, pride, anger
 - a. Responsibly express and release feelings with a confidant or in your journal before talking with the person.
 - b. Write forgiveness is for the other person or for your own specific behavior; (whatever you are able to forgive at this time; the more you can forgive, the more the communication can be delivered from a loving, present time place).
2. Review all the above steps outlined here for the communication.
3. Review what you want to communicate, and assess the time it may take for the process.

DURING COMMUNICATION

1. Tell the person:
 - a. You want to deliver a communication.
 - b. How much time you desire.
 - c. Ask: "Is this a good time?" If not, see "d."
 - d. Set up mutually agreed upon time.
2. Tell them your greatest fears about delivering the communication.
3. Tell them what you want from them ideally during the communication.
4. Tell them the whole truth, and deliver your communication from a loving place until you feel complete.
5. Hear their response without interrupting. Acknowledge their position and whatever response they give. It may not be your ideal, but it is their truth.

For more articles on health and well-being during and after your divorce, please visit www.divorcemag.com/articles/Health_Well_Being.

Understanding the DIVORCE PROCESS

A guide to the legal process of divorce.

By Jeffrey Cottrill, edited by Josh D. Simon

No 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 the process.

Temporary Orders and Filing Divorce Papers

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

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

You should hire a divorce lawyer and/or mediator, and financial advisor, as soon as possible. You'll set your temporary order/agreement in a brief, relatively informal hearing before a judge — so prepare a complete list of what you want



☞ If your divorce is contested, you and your spouse must decide how to resolve your divorce. Will you fight it out through adversarial litigation, or can you set aside personal feelings long enough to negotiate outside of court? ☞

to request. The items you can request include: temporary custody and visitation arrangements; a restraining order so your spouse won't contact you; child or spousal support; and/or who gets the car and house.

Next, you or your spouse 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, support, etc. The other spouse ("the defendant") must answer the summons and, if they wish, can make their own claim.

Check DivorceMagazine.com for information on the grounds for divorce in your state or province. Most states and all Canadian provinces are "no fault" jurisdictions, so you don't have to justify filing for divorce by accusing your spouse of wrongdoing.

Collecting Information and Discovery

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

- Full names, addresses, phone numbers, and Social Security or Social Insurance numbers for you, your spouse, and your children
- The date of marriage, date of cohabitation, county or region where the wedding occurred, the wife's maiden name, and any information about prior marriages of either spouse (including the names and prior names of ex-spouses)
- A copy of your premarital agreement (or other domestic contract) and information about any prior legal proceedings, separations, or marital counseling during the marriage

- All available financial data, including: income-tax returns from the past several years; a recent pay slip; the major assets and liabilities of both you and your spouse; budget worksheets; insurance policies; credit-card statements; wills; and any credit or mortgage applications.

Unless you create a separation agreement, your lawyer will use this as a starting point for the discovery process. 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 planners, accountants, appraisers, etc.) have to retrieve documentation of every dollar value — including that of premarital assets. For articles on preparing for a deposition and separation agreement, visit www.divorcemag.com/articles/Divorce_Settlement_Preparation.

Contested vs. Uncontested Divorce

There are two general types of divorce. If you and your spouse can't agree on the divorce terms — or if one of you doesn't want the divorce — it's a contested divorce, and a judge will decide the outcome if you can't come to agreement on your own. In an uncontested divorce, both of you agree on how to divide your assets and debts, who gets custody and pays child support, and whether one spouse needs to pay spousal support to the other. Obviously, an uncontested divorce will be faster and simpler. But even a divorce that starts with major disagreements can be worked out if you choose to

make it that way, and the majority of cases do settle.

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

Motions

If you need to readjust certain arrangements during the divorce process — such as custody, visitation, or support — you can initiate this by filing a motion with the court. Next, a short hearing takes place in which the lawyers representing you and your spouse present their cases before the judge. In most cases, only the lawyers are permitted to speak. However, if you are going the Do-It-Yourself route in your divorce (a path that's only recommended for very simple divorce cases), you will be able to represent yourself in this hearing. Once the judge makes a decision on the matter, the regular process continues as before.

Litigation or Negotiation?

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

made mediation compulsory in the divorce process.

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

Trial

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

Generally, you and your spouse each tell your respective side of the story before the judge (and the public). You take the stand, and your own lawyer asks you questions that prompt you to explain your side — and then your spouse's lawyer has the option of cross-examining you or challenging the validity of your perspective. The same goes for both sides' witnesses (both personal and professional): each of you duking it out through conflicting testimony and attempts to make your respective case look more believable. Finally, the judge — a stranger who only knows you through what he or she has seen in court — weighs all the evidence and makes all the final decisions.

The Issues

- **Money and property:**

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

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

to you and which ones you would be willing to let go.

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

- **Child and spousal support:**

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

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

- **Child custody and visitation:**

One of the most important decisions is where and with whom the children will live. Is joint custody in their best interests, or should they live with one parent full-time with regular visits with the other? Unless your spouse is abusive, both of you should work together to create an agreement in which you both get a fair share in raising your children.

Custody battles in court are usually full of character slurs and accusations that are emotionally traumatic for you — and more so for the children. For more articles, go to www.divorcemag.com/articles/Child_Custody.

The Waiting Period

There is usually a set minimum waiting period between the divorce petition and the final decree. Even if your process is very quick, the waiting period must elapse before the judge officially grants the divorce. Lengths vary between states, but the average waiting period is about six months.

The Divorce Judgment

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

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

Jeffrey Cottrill is the former Managing Editor of Divorce Magazine. Josh D. Simon is a writer for Divorce Magazine.

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



Selecting your Professional Divorce Team

How to get the best possible advisors during your divorce

By Diana Shepherd, edited by Josh D. Simon

Divorce is a complex process that affects just about every aspect of your life: financial, emotional, physical and legal. Unless you've been married for only a short time and have no property, assets, or children, you'll probably need the advice of more than one divorce professional to help smooth the road ahead of you. You will need expert services from one, some, or all of the following professionals: lawyer, mediator, accountant, divorce financial specialist and therapist. While each of these professionals can help you through a challenging transition period, finding the right ones can be stressful.

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

questions to ask these professionals when you interview them.

Selecting a Divorce Lawyer

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

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

written books or lectured/mentored other family lawyers.

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

interest, you'll likely create enemies and spark a family feud before your divorce settles.

Selecting a Divorce Mediator

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

Mediation isn't an option in all divorce cases. However, when both parties are willing to look at the issues instead of the emotions that cloud the issues, mediation is worth a try. Statistics show that when a case is negotiated through a mediator, the parties tend to stay out of court in the future. Another benefit of a mediated settlement is that you and your spouse will learn powerful new communication techniques, which is particularly important if you have children or share business interests.

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

Selecting an Accountant

A Certified Public Accountant (CPA) can handle many of the financial matters of your case. His or her responsibility is to calculate you and your spouse's net worth, and to produce figures that are agreeable to both you and the courts. There are a number of different accreditations given to accountants, and you'll find these designations after their name.



Wading through the differences between someone who is a CFE (Certified Fraud Examiner) or a BCFE (Board Certified Forensic Examiner), or a member of the ASA (American Society of Appraisers), or a member of NACVA, (National Association of Certified Valuation Accreditation) may seem a daunting task, but by doing a little research, you'll come to understand what you need to know. If you think your spouse is hiding assets, a forensic accountant could be helpful. If you and/or your spouse own your own one or multiple businesses, a business valuator will be important to value company assets and company goodwill.

You could ask to be introduced to an accountant through your lawyer. These two members of your divorce team may have to work in tandem from time to time, so it's beneficial to find someone with whom your lawyer is familiar. You can also ask your personal accountant (if you have one) to suggest someone who has a matrimonial background, but be sure to check his/her prior experience.

Selecting a Divorce Financial Specialist

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

Certified Divorce Financial Analysts (CDFA™) tend to be financial planners or accountants who have completed the Institute of Divorce

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

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

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

Basically, your accountant or divorce financial specialist needs to see any major paperwork that involves the

transaction of money for both you and your spouse.

Selecting a Therapist

A therapist can help you deal with the various emotions that could get in the way of negotiating a divorce settlement. During your separation, you may experience grief, anger or depression. Also, until you achieve an “emotional divorce,” you won’t truly be free to create a fulfilling new life. A qualified therapist can help you work through the issues that are holding you back and keeping you stuck in the past.

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

Setting realistic limits and goals is an important part of the therapist’s services. Good therapists are willing to listen, but they don’t always have to agree with you. A good therapist will encourage questions that indicate you’re interested in your own recovery. As you glance around the therapist’s office, try to imagine yourself coming here every week for several months.

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

What to Ask Your Prospective Lawyer

- What percentage of your cases go to trial? (You may want to choose a lawyer with a low percentage here: a good negotiator who can settle your

case without a long, expensive court battle. A good trial lawyer may be necessary if every indication is that nothing could possibly be settled outside of a courtroom.)

- Are you willing and able to go to court if this case can’t be settled any other way?
- Who will be handling my case: you, an associate, or a combination of senior and junior lawyers and paralegals?
- Should I consider alternative dispute resolutions, such as mediation?

What to Ask Your Prospective Accountant, Financial Advisor, Mediator, and Therapist

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

- What is your training, experience, credentials and affiliations?
- How long have you been working in this field?
- Do you serve divorcing people exclusively? If not, what percentage of your work involves divorcing people?
- How much direct experience do you have dealing with cases like mine? (This is an especially important question if there are aspects that make your divorce unique.)
- How many times have you been to court? These professionals may be testifying on your behalf, so you want someone who has experience in the courtroom. If possible, find out how these cases turned out.
- Have you worked with many family lawyers? Ask for a few references, and call them.
- What is your approach? Do you have any biases? (We all have certain viewpoints, which cloud our judgment, and professionals are not exempt. If you have children, you should ask if this professional has any strong views about the role of mothers or fathers, or about the care of children.)
- Will you keep our communications confidential? Can I call you between scheduled meetings? If so, do you charge for these calls?
- Do you require a retainer, and if so, what is it? Is this fee refundable?

- What is your hourly fee? What are your payment terms?
- Approximately how much will your services cost? (The professional will only be able to provide an estimate based on the information you provide and your realistic estimation of how amicable you and your spouse are. If you think your case is extremely simple, but your spouse’s lawyer buries your lawyer in paperwork, you can expect your costs to increase.)
- What do you think the outcome will be? (Remember, you’re looking for truthfulness here, not to be told a happy story.)
- If your spouse has retained professionals of his or her own (and you know who they are), ask if they are familiar with any of them.
- How long will this process take? (Again, the answer will be an approximation.)
- What are my rights and obligations during this process?
- What are your hours? Do you work any evenings or weekends?
- How accessible is your office (close to parking, public transport; wheelchair accessible; etc.)? Is it located in a safe neighborhood?
- What happens next? Do I need to do anything? And when will I hear from you?

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

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

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



By Diana Shepherd, CDFATM

SAFE HARBOR

Here's help navigating the financial dangers of divorce so you'll reach safe harbor: a financially sound future.

While you were married, you and your spouse were both co-owners of the “business” called your marriage. Like any business owners, you accumulated both assets and liabilities. Maybe you bought a house, a car, a cottage, some furniture. One or both of you earned income, maybe put some money aside for retirement. In addition to mortgage and car loans, you might also have accumulated some credit-card debt. Maybe one or both of you had a bad year — you got sick, or your spouse was laid off — and your financial troubles were the final straw in an already troubled relationship.

Whatever your own reasons were for ending your marriage, money is going to play a big part in your divorce process. Since property division on divorce is a state or provincial matter, there are regional differences when it comes to dividing the marital pie. You’ll need to ask your lawyer about the rules governing property division in your area, but here are some general rules to get you started.

Marital vs. Separate Property

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

Separate property is anything that was gifted during the marriage, inherited during the marriage, or brought into the marriage and kept in either spouse’s separate name. Everything that’s not considered separate property is considered marital — no matter whose name it’s in. Let’s take a look at some examples.

Eight years ago, Susan’s Aunt Virginia passed away and left Susan \$150,000 in her Will. Susan placed the money in a bank account in her separate name, which means that the money she inherited is her separate property and not up for division now that she’s getting divorced. But what if Susan had taken her \$150,000 inheritance and used it to pay off the mortgage on the marital home?

She could ask her lawyer to try to subtract \$150,000 from the marital portion, but the courts are likely to rule that the inheritance became marital property when she invested it in the home. As a general rule, separate property can become marital property if it is “commingled” (e.g., if Susan had put the inheritance into a joint account with her husband Bill rather than one in her name only), or by making a “presumptive gift to the marriage” (e.g., using the inheritance money to renovate the kitchen, or to take the family on vacation, or to buy a motor-boat that the family all enjoyed at the cottage).

So if Susan kept her inheritance completely separate, it remains her separate property. But what about the interest the

The general rule is that everything that either of you earned, purchased, or saved during your marriage is marital property, which must be divided with your spouse when you divorce.

original inheritance earned — is that her separate property, too? Probably not: any increase in value on the inheritance (or any other separate property) is considered marital in most areas. So if that original \$150,000 had grown to \$175,000 at the time of her divorce, the \$25,000 in growth might be considered marital, depending on local law.

When Sara and Frank got married 10 years ago, Frank moved into the house Sara had inherited from her parents. She was in love, so she told her husband Frank: “What’s mine is yours and what’s yours is mine.” So she changed the title on her house from her name

alone to both of their names. Even if Frank husband never contributed a dime to the upkeep or maintenance of the house, in most areas, the house will likely be part the marital pie and up for division now that they’re getting divorced. In some areas, the marital home is treated differently than other assets; even though Sara owned the house before she got married, the mere fact of Frank’s moving in would have turned the home into a marital asset — whether or not Sara had put his name on the title. This is not true in all states and provinces, so make sure to ask your lawyer about how the marital home is treated in your area.

Let’s look at one more example. Don was the saver in the family, and during his marriage to Joan, he automatically deducted \$100 from each paycheck and placed it in a high-interest account in his separate name. Do you think the money in that account is marital or separate property? It’s marital, because everything Don earned during his marriage is marital property regardless of whose name is on the account.

The general rule is that everything that either of you earned, purchased, or saved during your marriage is marital property, which must be divided with your spouse when you divorce.

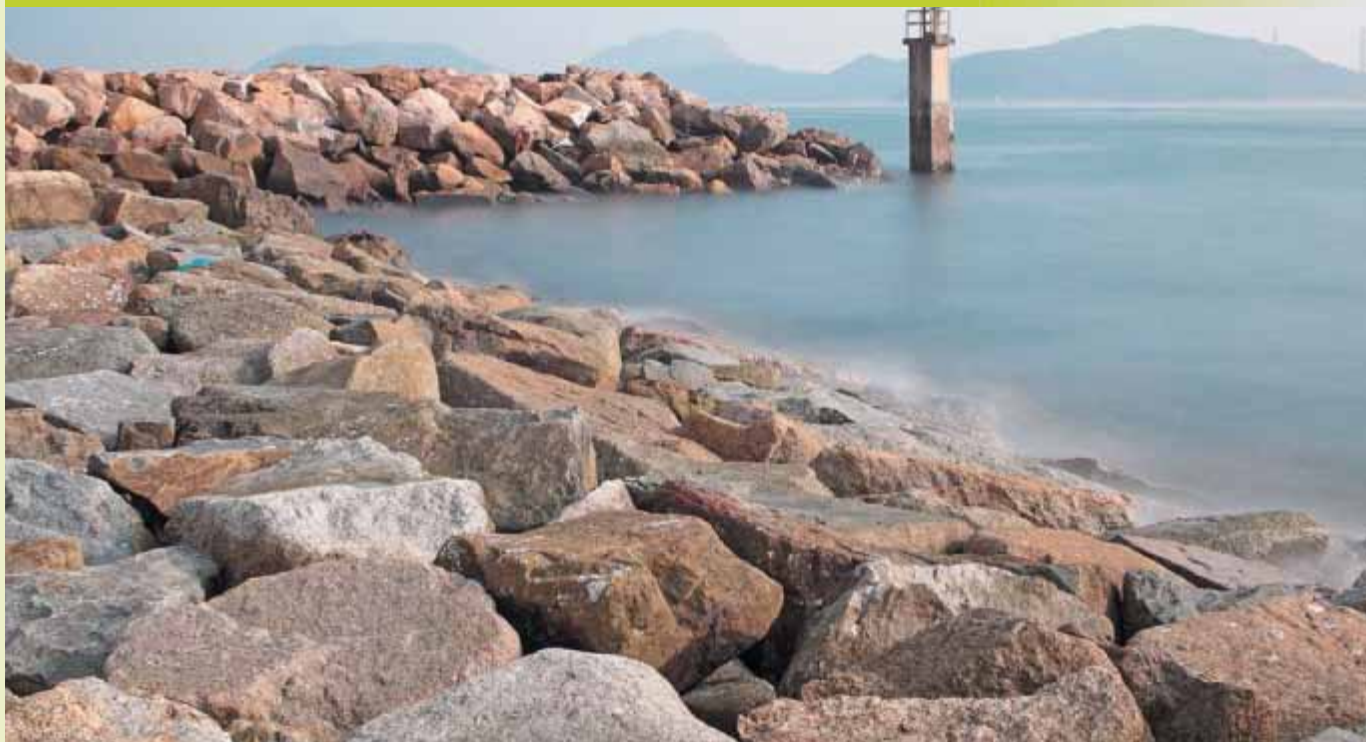
The Marital Home

In many divorces, one of the biggest questions is what to do with the marital home. Should the wife get it, should the husband, or should they sell it and split the proceeds? What if the house is “underwater” — meaning that the house-holders owe more on their mortgages than their houses are worth?

In a normal economy, couples typically build equity in their homes; if they decide to divorce, they would usually divide the equity they had built by selling the house or by one partner buying out the other’s share. But these days (due to economic factors beyond divorcing people’s control), many couples own houses that neither spouse can afford to maintain on his/her own, and that they cannot sell for what they owe. With the housing market still struggling in many

TIPS:

AVOIDING THE ROCKY SHORES



Here are ten tips to help you avoid some of the common financial mistakes of divorce.

1. Negotiate a reasonable settlement. Get some advice from a CDFA professional to make sure you'll be able to live with the financial terms of the settlement — now and into the future.

2. Don't live beyond your income. Reduce your expenses — or increase your income — so that you're always putting something aside for a rainy day. Ask your financial advisor for help creating a budget if necessary.

3. Consider whether you can afford to keep the family home. Ask your financial advisor whether you can truly afford it, and ask him/her to show you what cash you'd have available for investment if you moved to a smaller home.

4. Identify your priorities — what you can and cannot live without. Make a short list of "Must-Haves" and be prepared to compromise on everything else. Look at the big picture; is this asset best for your situation?

5. Don't forget about retirement. Make sure you keep some retirement assets as well as some liquid assets in your settlement.

6. Become debt-free ASAP. Try to negotiate taking on as little debt as possible in your divorce settlement. Also, use debt sparingly, and avoid maintaining balances on credit cards.

7. Get a copy of your credit report. If you have not established your own credit rating, get a credit card in your name, use it sparingly, and pay it off in-full and on-time every month.

8. Know what you have — and what you need. Start by collecting statements for all your financial holdings and put together a list of your assets. Note the value of each asset, and who owns what portion of it.

9. Expect your income to drop post-divorce. If you were barely getting by on two salaries while you were married, don't expect to "get rich" because of divorce. Even if you were doing OK during your marriage, the income you used to share must now fund two separate households.

10. Settle out of court if at all possible. Don't spend months and thousands of dollars fighting over furniture, appliances, or other personal items.

In some cases, keeping the home can be a big mistake — a mistake that could lead to financial ruin.

areas, what used to be one of a couple's biggest assets has turned into a liability.

Before the recession, there were generally two main options for the home:

1. One spouse stays in the house (with the children, if any) and buys the other spouse's share.
2. The spouses sell the house during or after the divorce process and split the proceeds.

Now, let's look at today's reality.

In a recent survey of Certified Divorce Financial Analyst™ (CDFA™) professionals across the U.S. and Canada, 67% of respondents stated that the current housing market has forced them to come up with creative solutions to property-division problems when the matrimonial home fails to sell — or would sell for less than what clients still owe on the mortgage. The most common solution is for ex-spouses to retain joint ownership and continue to live in the house (often, he moves into the basement and she lives upstairs) until the market improves, agreeing to postpone final division of assets until after the house is sold. Other common solutions include:

- Renting the house to a third party until the house can sell for more than the debt.
- One ex-spouse stays in the house until the market improves.
- “Birdnesting”. The ex-spouses retain joint ownership of the home, they rent a small apartment nearby, and each one alternates living in the house with the kids and in the apartment on his/her own.
- One ex-spouse stays in the house and pays rent to the other until the market improves.
- Structure two levels of spousal support: before and after the house sells. Agree to sell the home at a loss, share the loss, and move on with their lives.
- Short-sale, foreclosure, or bankruptcy.

If you and your spouse have agreed to continue to own the house together for a period of time post-divorce — for instance, until your children reach a certain age, or until the market recovers and they can at least break-even on the sale of your home — but only one of you is going to continue to live in the home, then you'll have to negotiate who pays for what until the house is sold. In many cases, the person who remains in the home pays the mortgage and taxes and may get some credit for any reduction in principal on the mortgage from the date of the divorce until the date that the home is sold. If the mortgage payment is similar to what the other person has to pay in rent, then they might agree that the person who stays in the home gets no credit for reducing the principal since he/she is enjoying the benefits of living in the home. Major repairs are usually divided between the parties — either at the time of the repair, or by reimbursing the person who has paid for the repair over time or when the house is sold.

Hopelessly Devoted

Sometimes, people — mostly women, in this case — are determined to stay in the marital home no matter what. It's the place where their children were born; they decorated it with loving care over the years; it represents security and familiarity in the rapidly-shifting landscape of divorce. In some cases, keeping the home can be a big mistake — a mistake that could lead to financial ruin. We've seen people willing to give up their share in their spouse's pension, joint investments, or savings accounts in order to keep the house. But if you can't afford to cover the mortgage, taxes, repairs, and maintenance on your own — without dipping into your savings or retirement accounts — then keeping the home may be a decision you'll come to regret. Talk to your CDFA™ professional about what your financial future will look like if you keep or if you sell the home before making your final decision.

Create a Budget

It is absolutely crucial to develop a realistic post-divorce budget so you'll know what you need — and whether the property division and spousal or child support payments (if any) will cover these needs. To do this, you'll need to determine the income and expense for both you and your spouse and also try to estimate what both of your expenses will be after the divorce is final. This is a difficult task for many people — especially if you were not the spouse who handled the family finances while you were married. A CDFA™ professional can help you to develop a budget and figure out your cash-flow needs — and also let you know if you're steering towards financial security or disaster. Working with a CDFA™ pro allows you to see both the short-term and long-term financial effects of accepting “Settlement A” vs. “Settlement B”, which will help you to make better financial decisions at a difficult time.

Go to www.institutedfa.com/Public.php, click on the “Checklists/Worksheets” tab, and download a copy of the “IDFA Monthly/Annual Expense Worksheet” to help get you started. While you're there, check out the other useful checklists and worksheets you can use to help you figure out the financial aspects of your divorce. ■

Co-founder and former Editorial Director of Divorce Magazine, Diana Shepherd is currently the Director of Marketing for the Institute for Divorce Financial Analysts™. 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.

For more financial articles to help you with your divorce process, visit www.divorcemag.com/articles/Financial_Planning.

How to Work with Your Divorce Lawyer

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

By Diana Shepherd,
with notes from Josh D. Simon

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

What Your Lawyer Needs to Know

Once you've chosen a lawyer, you'll need to provide information. When your lawyer requests information, respond as quickly, completely, and concisely as you can; don't write a 24-page document when all that was required was a "yes"

or "no." The following checklist will give you an idea of what you may need to disclose:

- Why are you seeking a divorce?
- What caused your breakup? If you're secretly hoping for reconciliation, then you and your lawyer are working towards different goals.
- Personal data about you, your spouse, and your children (if any). Write down your names; your home and work addresses and telephone numbers; your ages and places of birth; your Social Security or Social Insurance Numbers; your states of health, both mental and physical; your Green Card(s) and immigration papers (if applicable).
- Facts about your marriage. When and where did you get married? Did you sign a prenuptial agreement? If so, bring a copy. Have either of you been married before? Will there be issues involving your children, such as custody or access?
- Financial information. What assets and debts did each of you bring into the marriage? What are your incomes and what are your expenses, jointly and individually? What are the names and addresses of your employers? How much money do both of you have invested: in the bank, the stock market, etc.? Has either of you invested in insurance or a pension plan? What property do you own? Was the property purchased before or after the



marriage? Do you have a mortgage? Prior to seeing your lawyer, create a budget detailing how much you spend every month on items such as housing, food, clothing, personal grooming, gifts, vacations, etc. If you have children, make sure you include their expenses.

- Legal documents. Bring copies of prior or pending lawsuits, bankruptcy suits, judgments, and garnishments. Your divorce goals. Be very specific about your goals in terms of realizing your future; make sure your short-term goals for property, other assets, custody, visitation, and support are consistent with that future.

What Your Lawyer Expects from You

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

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

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

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

Even a good divorce lawyer will sometimes have bad news for you: that your spouse won't budge on an important issue; that you'll have to give him or her money or other assets; or simply that your expectations are unrealistic, illegal, or not financially feasible.

If you don't abide by these tips, your lawyer may want to quit your case. This may also happen if you don't communicate properly, if you continually don't follow the lawyer's advice, or if you don't pay your legal bills. But if you're cooperative and reasonable, it's more likely that your lawyer will trust you and work hard on your behalf.

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

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

What You Should Expect from Your Lawyer

From the day you hire your lawyer, you both should have a clear understanding of what you need and expect from each other. Ask for a written agreement that details the terms of your lawyer-client relationship. If he or she won't provide one, find another lawyer.

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

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

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

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

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

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

An Introduction to Divorce Mediation

Mediation is a viable option for couples who want to avoid the adversarial divorce process.

By Josh D. Simon



For many people, the word “divorce” conjures up a stressful — even nightmarish — scenario where spouses battle it out in court and attempt to destroy each other’s character and credibility. But it doesn’t have to happen to you, and one of the ways that you and your spouse can survive the experience and preserve your finances, self-respect and relationships is through a consensual dispute resolution (CDR) known as divorce mediation.

What is Divorce Mediation?

Divorce mediation is a process in which you and your spouse work with a neutral 3rd party divorce mediator to reach a settlement. There is no time limit to the mediation, which is welcome news for spouses who need more than a few sessions in order to clarify their goals, views and expectations. There is also no limit as to what issues can be mediated (such as spousal and child support, assets, visitation, and so on) but, ultimately, all decisions must be deemed legal and appropriate by the courts in your jurisdiction.

And speaking of jurisdictions: different jurisdictions impose various rules and procedures for divorce mediation. In fact, some jurisdictions make it mandatory for spouses to learn about divorce mediation upon filing for divorce, in the hopes that they’ll amicably settle their differences outside of court.

It’s beyond the scope of this article to itemize all of the different rules and regulations in each jurisdiction. Suffice to say that divorce mediation is an approach that some couples have relied upon to make their divorce journey relatively smooth and even — believe it or not — peaceful and productive.

The Benefits of Divorce Mediation

Some of the broad benefits of divorce mediation have already been mentioned — including the most important of them all: it’s not court!

There are many other key benefits that are worth highlighting; especially in light of what’s

at stake during divorce, and how quickly things can unravel and become nasty (or worse). These key benefits include:

- **Divorce mediation can save you money.** If your divorce winds its way through court, you can count on huge legal bills, plus other experts that you'll need to bring onto your team (financial experts, child care experts, etc.). Divorce mediation isn't free, and you still may need to bring in expert legal and financial expertise, but it is normally less expensive than litigation.
- **Divorce mediation can save you time.** Unless your divorce situation is incredibly simple (i.e. you have no children, few shared assets, and both you and your spouse are eager to put the marriage in the rear-view mirror ASAP), then be prepared for a relatively lengthy process. But with mediation, you and your spouse can reduce the time involved if you prioritize your goals, put your emotions aside, follow the guidance of the mediator and negotiate in good faith.
- **Divorce mediation is fair.** Mediation doesn't promise an ideal, happy win-win outcome. That's unrealistic. However, a trained mediator can even out the level of the playing field by ensuring neither spouse will overpower the other with emotional or financial control. A skilled mediator will diffuse emotions and show you how to focus on your common goals and resolve your differences. This way, neither of you feel railroaded into accepting an offer. On some issues, you'll bend a little. On other issues, your spouse will do the bending.
- **Divorce mediation is private.** This is a benefit that many spouses don't pay much attention to (or don't know about) until they wind up in court and are forced to state — on the public record — personal and financial information that they likely wouldn't even dream of telling their closest friend. Information about affairs, about substance, alcohol, physical and emotional abuse, about addictions, about their financial settlement... and so on. With divorce mediation, while these

aspects may indeed come up, the information is kept private and your personal information is destroyed when the process is finished.

- **Divorce mediation can broker better long-term solutions.** When you and your spouse co-create solutions on everything from alimony to visitation to who gets the family dog, there's a greater chance that you'll both be satisfied with those solutions in the long-term future. Compare this to having a decision imposed on you by a judge — which can be shocking and hard for you to accept.
- **Divorce mediation can preserve your relationships with your spouse and your children.** During mediation, you and your spouse will learn how to communicate and negotiate without being adversarial. This is invaluable training that will be useful even after the divorce, especially if you have children. Studies have shown that, contrary to popular belief, divorce itself doesn't necessarily have a negative or even a traumatic impact on children. Rather, it's how parents behave during and after divorce that deeply influences children. Mediation helps you and your spouse put your personal agenda aside and co-create a parenting plan that's best for you and your children. Indeed, as the old saying goes, "marriages may end, but families continue." Divorce mediation can help make this old saying be something that you appreciate, rather than dread!

How do I Know if Divorce Mediation is for Me?

Divorce mediation is not for everyone, or every divorce situation. And while there's no hard-and-fast set of rules or consistent "checklist" to tell you if divorce mediation is a viable option for you, here are some situations when divorce mediation will work best:

- **When you and your spouse can communicate reasonably (or are at least willing to try).** Keep in mind that, by no means do you and your spouse need to get along in order to attempt divorce mediation. You just

need to be willing to communicate and, to some extent, exit your comfort zones and work together towards a shared goal: the fair dissolution of your marriage.

- **When there is a basic level of trust between you and your spouse.** At any time, during mediation, you or your spouse can get up from the table and march into court. Obviously you want this to happen only as a last resort, and not at the first sign of stress, tension or trouble. Remember, divorce mediation isn't as brutal as court (which is adversarial by its very nature), but it's no picnic either. Be prepared for some ups and downs, and be willing to really give it an honest try before giving up.
- **When you're honestly prepared to end the marriage.** This may seem like a very strange point, but there are many couples who, fundamentally, don't want to get divorced. And so they end up viewing the divorce mediator as a marriage counselor. This is an extreme mistake. Divorce mediators are not trained to patch up a marriage. They are focused on helping both parties co-create fair, reasonable and acceptable resolutions as part of the dissolution of the marriage.

What are My Next Steps?

If you believe that divorce mediation could be an option for you and your spouse, here are your next steps:

- Read more on divorce mediation to deepen your understanding of this consensual dispute resolution option. You will find plenty of articles here: www.divorcemag.com/articles/Mediation and divorce mediation FAQs here: www.divorcemag.com/faq.
- Speak with a divorce mediator in your area to learn more about how the process works in your jurisdiction. You'll find local mediators here: www.divorcemag.com/findprofessional.php. ■

Josh D. Simon is a contributing writer for Divorce Magazine.

Popular myths about shared parenting

by Jill Burrett and Michael Green

Sometimes separated or divorced parents are keen to work out a good shared parenting arrangement but are discouraged by the prejudices of friends or professionals. We will unravel some common myths about shared parenting in order to help those parents get past such objections.

MYTH: Kids need to spend most of their time in one home

Reality: This is an understandable leftover from hopes that our marriage would thrive and our kids would be in one happy home and an unquestioned presumption of many lawyers and counselors. It's a view that seriously underestimates the adaptability of children and fails to appreciate what is really important for them. The stability that children need is more than geographical. It is emotional stability, the stability of meaningful, continuing relationships. The emotional stability that's critical for a child's healthy development comes not only from ongoing relationships with parents, but also from their community. The child's world is those relationships that arise from associations and the sense of belonging that these important connections bring.

MYTH: Kids need to know where they live and not be going back and forth

Reality: A clear, simple parenting plan plus goodwill from both parents will quickly get children into a routine. Breaking up a week into smaller chunks may mean that parents don't go long without seeing their children, but it may also mean children are constantly changing over. Changeovers are often the hardest time, so lean toward a pattern that has the fewest changeovers, except for very small children.

Q: No sooner are my children settled with me than they have to gear up to change again. Is it better if the children stay in one place and the parents rotate?



A: It needs a dependable communication system to assist with smooth changeovers and a high degree of dedication and positive spirit. If they are staying in the family home where they have been living, this may only be possible for a time as the home may have to be sold for your financial settlement. Maybe you should initially consider two- or three-week blocks of time to allow for a proper settling-in before the children have to uproot themselves again.

MYTH: Infants under three shouldn't spend nights away from Mom

Reality: This view was based on outdated theory and is contrary to recent research. Attachment theory tended to emphasize the exclusivity of the maternal bond and its continuity as being crucial to healthy development. There is no consistent evidence that a night with their father is going to cause harm. If children are well attached to the other caretaker (Dad), they should soon become used to him coming at night if needed, for example. There is growing evidence that overnight stays in infancy form a meaningful basis for parent-child relations.

At times, Mom's own attachment to her child interferes with developing a suitable parenting arrangement. Maternal anxiety is a very powerful protector of young infants and therefore deserves respect. Overnight contact with babies and infants (approximately up to eighteen months) is not crucial for cementing parent-child bonds; daytime contact periods are the building blocks.

MYTH: The more homey, hands-on parent is better equipped for childcare

Reality: Not necessarily, though this parent will have confidence and experience. Emotional bonds are created and strengthened by parents being available and doing things with and for children, but it's not just this. It's listening and talking empathically with your children, hanging out together, sharing parts of your life with them, and helping them learn to discover independently that creates bonds.

Q: It can't be right for our twelve-month-old to be away from me for long periods even though he knows his dad?

A: If he has had time with Dad, then he will have an attachment, meaning he's okay for increasingly long periods without you in Dad's care. Keep Dad informed about established routines so he can have a settled baby to bring back to you, which will enhance your confidence in his care. Some dads aren't that good with babies on their own — let his relatives help if they're local.

A silver lining to the disappointment of separating is children get the chance to develop a closer relationship with parents who are committed to shared parenting but who weren't very available before, and who can therefore develop their parenting skills more effectively. A parent who appeared to contribute little to family life deserves the chance to become a more involved parent.

MYTH: Where there's conflict between parents, there should be little or no contact

Reality: Lawyers and counselors sometimes suggest that the only solutions to conflict between separated parents are: to reduce or eliminate contact between the parents or between father

and children, or to have supervised pickups and drop-offs. This is inconsistent with research, which shows that good contact results in reduced conflict between parents. Rather than seeing hostility as a disincentive to shared parenting, it's better to view it as an indicator of needing a better parenting plan.

In the face of parental tensions, children tend to align themselves with one parent, implying that the other parent is at fault. This is a potentially misguided assumption as to what the child's behavior means: it confuses the picture for parents and their advisers, and should not be the basis for alterations in the arrangement.

KEY MESSAGES

- Myths need challenging and realities need facing.
- Children need two homes when they have two separated parents.
- Organize the program to suit your circumstances, not vice versa.
- Infants require special consideration when part of a shared parenting arrangement.
- Shared parenting allows both parents to be hands on.
- Both quality and quantity are important in parenting.

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THE ROAD TO RECOVERY

Some reassuring advice on how to move through your divorce process and adapt to your new life after divorce.

By Susan Pease Gadoua

Divorce Isn't Easy, But It's Doable

"Divorce is the psychological equivalent of a triple coronary bypass."
~ Mary Kay Blakely

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

Just as you turn your life over to a surgeon when undergoing an operation, in a divorce you are asked to turn your

well being over to a number of different professionals, such as accountants, family lawyers, and counselors. Having to trust these people with your financial and emotional welfare can certainly feel as though your life depends on their performance.

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

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

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

Affirmation: I will survive this ordeal.

Letting Go of Your Story in Order to Heal

"Too often the pain from our past and our fears of the future keep us stuck and unable to see our lives as a whole."
~ Debbie Ford

Heather was a woman who was completely shocked by her husband's abrupt announcement one day that he was unhappy and that he was leaving her

immediately. She had thought that everything in the marriage was going along fine. (She later found out that he had met someone else and was living with her.)

After he left, she didn't hear from him for three months. It was as if he had suddenly died and left her alone to care for their two young children. He didn't call her and he didn't contact their children. She had to pick up the pieces and try to make life go on as usual while also dealing with her grief and sense of devastation.

When the kids asked where their father was or when he'd be back, she had to tell them she didn't know. When they cried because they missed their dad, she had to comfort them. It was not easy. Understandably, she felt a swirling of intense emotions going on within herself every day.

Then one day, three months after he'd left, her husband came back and apologized to her. He said he didn't know what had gotten into him and that he now realized his actions had been wrong. By this time, however, the damage had been done and there was no longer any trust or connection between them. They agreed to divorce.

Heather was so hurt that she was sure she would never, ever recover from the breakup of her marriage. She was also sure that her children would be scarred for life. Heather very much identified herself as the victim of her husband's utter disregard for her and their kids. She felt that his actions were so cruel that no amount of apologizing or the passing of time could heal the wounds. She feared she would be the one person on the planet who would never recover from her divorce.

I often tell people that they will know they have let go when they no longer identify themselves by their divorce. Heather could not imagine ever being in this place.

Heather went through the divorce proceedings, moved to a new home, got the kids situated in a new life, and was even on speaking terms with her ex, but she truly believed that she would never

trust anyone again. It took her a long time to heal, and a great deal of therapy, self-help, and support, but eventually, Heather did indeed move to the other side of her pain. She was able to stop identifying herself by her husband's abandonment and started seeing herself as the powerful woman she had become as a result of her challenges. She even began seeing her husband's actions as a positive turn of events.

To the same degree that Heather had been knocked down, she began to feel good about herself and her life. As she got better, her kids also got stronger, and there was healing for them, too.

It did take a great deal of work and quite a long time, but because Heather hung in there, she did eventually reach the other side and can now testify to the fact that there really was another side to her ordeal — even for her.

Affirmation: I will recover from my divorce.

Your Life After Divorce

"Oh, my friend, it's not what they take away from you that counts. It's what you do with what you have left."
~ William Cowper

One of the toughest aspects of divorce is having to give up parts of the life you've worked so hard to put together. Most often, this means less money, fewer assets, less time with the kids, and less time for yourself. The contrast between pre-divorce, mid-divorce, and post-divorce lifestyles can be challenging to adjust to, particularly when the changes are still fresh. It can be tempting to stay focused on everything you've lost and to

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feel anger, resentment, betrayal, or hurt that your spouse has "taken" these things from you. Almost no one walks away from a divorce saying that he or she enjoyed the experience. Also, most people feel that at least one major aspect of the division of assets or the child custody schedule was not fair. Although these feelings can be a normal part of the grief process, if the upset over your losses goes on for too long, it can prevent you from focusing on what you need to do in order to move on in your new life.

Because each divorce is so distinct in its details, no one can say exactly how long you should grieve your losses, but most people know when they have crossed the line of looking too long in the rear view mirror. There is an inner knowledge that their sights should be set on what's ahead.

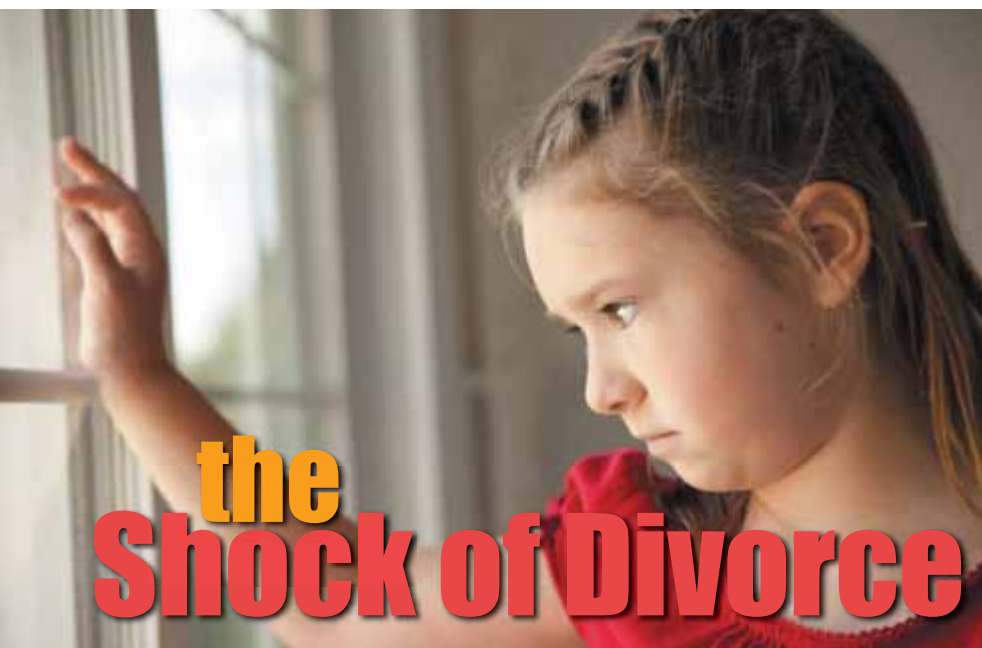
Each time you have to do something, it reminds you of what you are missing or had to give up. There is no question but that life after divorce is harder in many ways. Yet asking for help and making the best of your situation are the key tools that will help you get through the entire process better.

Life will get easier in time if for no other reason than because you will have become accustomed to your new reality, and you will make the best of what you do have.

Affirmation: I make the best of what I have today. ■

This article has been edited and excerpted from Stronger Day By Day with permission by New Harbinger Publications, Inc., © 2010. Susan Pease Gadoua is the author of Contemplating Divorce, A Step-by-Step Guide to Deciding Whether to Stay or Go (August 2008), and Stronger Day by Day: Reflections for Healing and Rebuilding After Divorce (July 2010). Susan is a licensed therapist based in the San Francisco Bay Area with an expertise in marriage and divorce.

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the Shock of Divorce

Learn what shocks children and how to help your children accept the news of your divorce.

By Alison Clarke-Stewart and Cornelia Brentano

No Warning

Perhaps the first cause of children's emotional reactions to divorce is that they are ill-prepared for the news that their parents are separating.

Many children get no warning that their family is falling apart. Parents rarely discuss with their children the problems in their marriage or the possibility of separating before the event occurs. Perhaps they believe they are "protecting" the children; perhaps they are just too involved in their own difficulties to think about how the separation will affect their youngsters. Whatever their reasoning — or lack of it — parents typically spring the news on their children as they head out the door.

In one study, all the parents had trouble telling their children, and one-third of the children didn't know about the divorce beforehand; in another study, half of the children were told within a week of the separation (one-fifth, on the day of the separation). Other research shows that as many as one-fifth of the children were not even told about the marital breakup. Many parents who were in a divorce adjustment program in which they were encouraged to talk to their

children about what was happening found this too difficult and painful. They did not know what to say, and they typically believed that the children were too young to be told — even when their children were adolescents. Children, unprepared for their parents' announcement, are stunned and shocked. They fear for their own futures. They are not able to take their parents' perspective and admit that the separation might be a good idea.

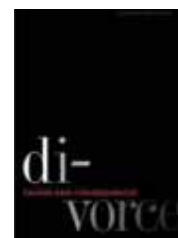
No Explanation

Besides breaking the news of their impending separation suddenly, parents often give children inadequate explanations when they do talk to them. They do not explain how the marriage has fallen apart, how they are going to survive, or what will happen next. They are especially unlikely to give explanations to younger children. This leaves the children unsure and afraid, just when they most need reassurance and information. They don't understand the divorce or why it is happening; they feel unsafe and confused.

In general, children believe that divorce is bad and that it results in enduring emotional and behavioral problems for children. They have negative

stereotypes of children from divorced families: these children are "less fun to play with," "less smart," "less good," "less likely to be a friend." Some children also believe that it is the child's fault that the parents divorced. In one study, one-third of the third and fifth-graders who were read vignettes about divorced families thought that the children had caused the divorce — because the parents didn't want children, or the child did things wrong so the parents got mad and took it out on each other, or the parents couldn't stand the child so they got a divorce. According to parents in another study, one-fifth of the children blamed themselves for the divorce. Not surprisingly, then, when children are told that their own parents are getting a divorce, they oppose it strongly.

The lack of preparation and negative expectation make the transition to the post divorce family difficult. Children have more problems if they are confused about the separation, if their parents have kept them in the dark about the deteriorating state of their marriage, if they see no obvious reasons for the divorce, or if they fear abandonment. Not knowing why events occur is related to higher psychological symptoms in children in general. ■



This article was excerpted and edited with permission from the book Divorce: Causes and Consequences by Alison Clarke-Stewart and Cornelia Brentano,

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