

# DIVORCE GUIDE



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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, and physical health; domestic; parental; financial; social; vocational; and more.

This special **Divorce Guide** contains helpful articles, tips, and advice to assist you and your family through this transformational process. It will help empower you to build the satisfying new post-divorce life you desire – and deserve.



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The articles in this *Divorce Guide* are provided for general information and may not apply to your unique situation. These articles do not take the place of a lawyer, accountant, financial planner, therapist, etc.; since laws and procedures vary by region, for professional advice, you must seek counsel from the appropriate professional in your area. The views presented in the articles are the authors' own and do not necessarily represent the views of this firm or of Divorce Marketing Group. This *Guide* is published by and Copyright © Divorce Marketing Group. ALL RIGHTS RESERVED. Any use of materials from this *Guide* – including reproduction, modification, or distribution – without prior written consent of Divorce Marketing Group is prohibited.



# UNDERSTANDING the Divorce Process

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

By Diana Shepherd, Divorce Financial Analyst

**L**ike snowflakes, no two divorces are identical. Every marital breakup has its own unique legal, financial, emotional, and/or parenting issues, which may require creative, outside-the-box solutions for the parties to reach agreement. In divorce, one size *definitely* does not fit all.

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 an 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

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 work-

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 and Dispute Resolution

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

**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.**

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

sheets; 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, financial advisors, valuers, 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

going the do-it-yourself (a.k.a. *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.

You and your spouse must also decide how to resolve your divorce. Will you fight it out through adversarial litigation in court, or will you ask your lawyers to negotiate on your behalf outside the courtroom? Alternative Dispute Resolution (ADR) methods – such as arbitration, mediation, or Collaborative Divorce – are also available for those seeking to resolve their divorce-related issues in a cooperative environment.

Some states and provinces have made mediation compulsory in the divorce process; check to see if this is the case in your jurisdiction.

## 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),

and 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 – who only knows you through what they have heard in court – weighs all the evidence and makes 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” – 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/alimony.** 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 spouse'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 a long-term marriage in which it would be unrealistic to think the

support recipient could ever re-enter the workforce, the court may order permanent or indefinite support. 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 parenting time according to an agreed-upon schedule. 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 parenting time.** In most jurisdictions, 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). 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 12 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 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 – from lawyer to financial expert to therapist – to find out how to reduce time, money, and emotional costs during your divorce process. ■



*Diana Shepherd is the co-founder and Editorial Director of Divorce Magazine and a Certified Divorce Financial Analyst® (CDFA®). She has been writing and speaking about divorce-related issues for more than 20 years.*

## Related Article

### Choosing a Divorce Process

There's more than one way to get divorced, and the process you choose can have a big impact on the final terms of your divorce.

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# Selecting Your PROFESSIONAL DIVORCE TEAM

Tips and questions to ask yourself that will help you find the best possible advisors to help you through the challenges of divorce.

By Diana Shepherd, Divorce Financial Analyst

**D**ivorce 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.

Your team of experts could include a lawyer, mediator, financial advisor, and therapist or divorce coach; depending on your situation, you might also need a business or pension valuator, forensic accountant, or parenting expert. Here's a guide to help you choose the best possible advisors to support you during your divorce.

## **Divorce Lawyer**

Choosing the right lawyer is crucial, so do your homework and ask the right questions to make sure you choose a lawyer who's not only good at his or her job, but one whose personality and outlook are compatible with yours. Look for a lawyer who:

- **Practices family law.**



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

Ask your prospective lawyer the following questions:

1. **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 you and your spouse can't agree on anything.)

2. **Are you willing and able to go to court if this case can't be settled any other way?**
3. **Who will be handling my case:** you, an associate, or a combination of senior and junior lawyers and paralegals?
4. **Do you offer alternatives to litigation – such as mediation or collaborative divorce?** An alternative to traditional adversarial divorce, collaborative divorce asks the divorcing couple to resolve their differences without going to court, with the help of a collaborative team – which usually consists of two lawyers, a financial specialist, a divorce coach, and other professionals as needed.

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.

## Divorce Mediator

In mediation, you and your spouse work with a neutral third-party mediator to negotiate your future. Mediation can save time and money, and is usually less emotionally damaging than a full-blown court battle. 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 via mediation, 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 eliminate the

need for a lawyer; your lawyer should read and offer advice regarding 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 lawyers are also trained mediators, so finding a mediator may simply be a question of asking your lawyer about his or her qualifications.

## Financial Advisor

If money will be an issue during your divorce, you should consider hiring a financial specialist with expertise in issues pertaining to separation and divorce. Certified Divorce Financial Analyst® (CDFA®) professionals tend to be financial planners or accountants who have completed an additional level of training. One of their roles is to analyze the short- and long-term consequences of settlements and inform you of the ones that appear fair and equitable on the surface, but will not stand the test of time. A CDFA professional can also reduce future uncertainty by forecasting the financial impact of alternative settlement proposals: for instance, they can tell you what the financial consequences will be of keeping your home instead of selling it.

An accountant (CPA) can also handle many of the financial matters of your case – from tax issues to net-worth calculations. Some accountants hold additional designations that could be useful in your case, including: ABV (Accredited in Business Valuation), ASA (Accredited Senior Appraiser), BCFE (Board Certified Forensic Examiner), CFE (Certified Fraud Examiner), CVA (Certified Valuation Analyst), MAFF (Master Analyst in Financial Forensics), and PFS (Personal Financial Specialist). If you think your spouse is hiding assets, a BCFE, CFE, or MAFF should be able to either confirm your suspicions or set your mind at ease; if you and/or your spouse own your own business, an ABV or ASA can value company assets and goodwill.

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 to the cottage. If a business is involved, brokerage statements or corporate minute books may also be required.

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

Ask your prospective divorce financial advisor the following questions:

1. **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.
2. **Have you worked with many lawyers?** Ask for a few references, and call them.

## Therapist/Divorce Coach

A therapist or divorce coach can help you deal with the emotions – including grief, anger, depression, or fear – that could get in the way of negotiating a divorce settlement. Also, until you achieve an “emotional divorce,” you won’t 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.

Finding the right therapist can be frustrating: 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 someone who specializes in marriage and divorce issues.

In the collaborative divorce process, the divorce coach is a mental-health practitioner whose role is to help you communicate your needs as well as to let go of feelings that are clouding your judgment and preventing

you from reaching an agreement. They can provide tools and resources to help you communicate constructively and co-parent effectively with your ex, and help you create a co-parenting plan that will work for the whole family.

## What to Ask Your Divorce Professionals

Prepare a list of questions relevant to your unique situation before your initial meeting with a prospective professional. Here are some suggestions:

1. **What is your training, experience, credentials, and affiliations?**
2. **How long have you been working in this field?**
3. **Do you serve divorcing people exclusively?** If not, what percentage of your work involves divorcing people?
4. **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.)
5. **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.)
6. **Will you keep our communications confidential?** Can I call you between scheduled meetings? If so, do you charge for these calls?
7. **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?
8. **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 yours in paperwork, you can expect your costs to increase.)
9. **What do you think the outcome will be?** (Remember, you’re looking

for truthfulness here, not to be told a happy story.)

10. **If your spouse has retained professionals of his or her own (and you know who they are), ask if the professional is familiar with any of them.**
11. **How long will this process take?** (Again, the answer will be an approximation.)
12. **What are my rights and obligations during this process?**
13. **What are your hours?** Do you work any evenings or weekends?
14. **How accessible is your office** (close to parking, public transport, wheelchair accessible, etc.)? Is it located in a safe neighborhood?
15. **What happens next?** Do I need to do anything? And when will I hear from you?

Divorce is often challenging 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 make your divorce easier, less expensive, and less stressful – and you’ll also empower yourself to successfully start your new life after divorce. ■



*Diana Shepherd (CDFA®) is the Editorial Director of Divorce Magazine and Family Lawyer Magazine. She is an award-winning editor, published author, and a nationally-recognized expert on divorce, remarriage, finance, and stepfamily issues.*

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# 4 Considerations When Hiring a Family Lawyer



Knowing what to consider when selecting a lawyer will help ensure that you choose the right one for your unique situation.

By William L. Geary, Family Lawyer

**Y**ou may not know this, but most family lawyers are interviewing you while you're interviewing them, weighing certain factors before deciding whether or not to take your case. A lawyer's considerations might include:

- **Can this client actually afford to get through the matter?** No one can determine exactly how much it will cost to get all of the way through a family law matter, but an experienced lawyer has an idea of the potential costs, depending upon how complicated the case is.
- **What does the potential client expect to achieve?** Are their goals reasonable and achievable?
- **Do this potential client and I communicate well?** Do they understand me when I outline potential courses of action, timelines, and theories?
- **Will this potential client follow my advice?** Or will they take a friend's or a website's advice over mine?

Just like a lawyer, a client should also weigh certain factors when thinking about whether to hire a family law lawyer.

Here are some questions that you should ask yourself, objectively, when searching for a lawyer and/or firm to handle your family law case.

### 1. Did You Find This Family Lawyer Online?

We have a number of people who retain our firm, sight unseen, based upon our reviews, or ratings, or other matters. Usually this sight unseen type of beginning to our relationship is based upon the internet and a search there. There is nothing wrong with researching the process of retaining a family law lawyer or firm online, but the research should go deeper than the firm's claims or implied claims about itself. Anyone can say that they are, for instance, "fighting for your rights" – but what does that really mean? Do you want an antagonistic, fighting type of lawyer who may have already alienated the judge and magistrate, or who, because of his/her attitude, will cause the case to drag out or be even more expensive?

First impressions are fine in real life, but not to be trusted in what can sometimes be called advertising. The point here is that if you are searching for a lawyer and you are, for instance, using the internet, go deeper in your research and check out this lawyer or firm's credentials and ratings. How are the lawyers rated by different rating groups? If they have good ratings you can be sure they will tell you in their site. Are the lawyers reviewed by other lawyers or clients? If so, take the time to study the reviews.

### 2. Was This Lawyer Referred by a Friend?

Friends and family members can be great sources for referrals of lawyers or firms. However, you need to ask yourself if the friend or family member has actual experience with the lawyer and what the basis of the experience is. Just because a friend or family member is familiar with a lawyer name or firm name, that does not qualify the friend to make a good recommendation.

If you have a lawyer for another matter, or know a lawyer well enough to trust a recommendation from them, lawyers can be excellent sources for recommendations. They may have worked with or against the other lawyer at some time, or may know the lawyer's or firm's reputation in the community for quality of work.

No matter how you find a potential lawyer or firm, be sure to look into their experience and knowledge of the particular issues you have in your matter. If you are looking at a firm, see if other members of the firm also have relevant experience and knowledge.

### 3. Does This Lawyer Have Time for Your Case?

There are a large number of excellent lawyers and, usually, excellent lawyers are very busy. Check to see if your potential lawyer or firm will be able to dedicate the appropriate resources and time to your matter to get it done – and get it done in a timely manner.

You probably can't assess this time issue unless you talk with a lawyer or talk with former clients of the lawyer to see how the time issue has been handled in the past.

### 4. Is This Lawyer a Good Communicator?

The ability of the client and the lawyer to communicate excellently (and no less than excellently) is one of the most important factors in a lawyer-client relationship. You may be able to communicate better with one lawyer than another, so it may be necessary for you to talk with several lawyers before making your decision about which to retain for your matter. Be aware of whether the lawyer is listening to you (really listening and comprehending) and whether he/she talks with you in a manner which makes you able to understand exactly what he/she is saying. Does the lawyer use "normal" language when speaking to you, or do they use a lot of Latin words, legalese, technical jargon, or incomprehensible concepts?

You need someone you can understand. You need someone who can lay out the pluses and minuses and orient you to your issue, its cost, and the manner in which it can be handled. You need someone who can tell you just what the boundaries of the case will probably be – in addition to what is expected of you as a client.

With good research and awareness of what you should be considering in choosing a lawyer or firm, you are much more likely to have a great relationship with your lawyer and a better result than if you picked a name virtually at random from the Internet. ■



*Practicing law since 1979, William L. Geary has been concentrating in Family Law (divorce, dissolution, custody, child support, spousal support, and post-decree issues) since 1997. He has held Martindale-Hubbell's highest rating, AV\* for outstanding legal ability and ethical standards for over 15 years. [www.columbusfamilylawyer.com](http://www.columbusfamilylawyer.com)*

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# Marital Property **VS.** Separate Property in Divorce

Here's an explanation of how the courts typically define separate property and marital property in divorce.

By Diana Shepherd,  
Divorce Financial Analyst

In a divorce, all assets are designated as either separate or marital (known as “community” in some states) property in accordance to the state or provincial laws and prenuptial or marital agreements (if any). During property division, all marital property will go into

the marital pot to be divided between the spouses, and each spouse gets to keep his/her own separate property (assuming it has been kept separate for the entire marriage).

You should know that “property division” does not necessarily mean a physical division of all assets: physical assets, like a house or a car, can’t be split into two parts. Instead, the judge could award each spouse a percentage of the total value of the property, meaning that each spouse will receive assets (from cash to cars to real estate) and debts whose worth adds up to the percentage specified by the judge.

Exactly what constitutes separate vs. marital property can be a gray area,

which you should discuss with your divorce lawyer. However, here's an explanation of how the courts *typically* define the two types of property.

## Separate Property

Separate property consists of items such as:

- Property owned by either spouse prior to marriage, *and kept in that spouse's separate name.*
- Inheritance received by either spouse before or during the marriage, *and kept in that spouse's separate name.*
- Gifts received by either spouse before or during the marriage by a third party.
- Payment received for pain and suffering in a personal injury judgment.





Let's look at some examples. John and Jane have been married for 20 years. On their wedding day, she made a grand romantic gesture and changed the title on the lakeside cottage she had inherited from her grandparents from her name alone to both of their names. So although she inherited the cottage (which would make it separate property), she changed the title, which made it marital.

During her marriage, Jane inherited \$20,000 when her Uncle Pete passed away. She deposited it into a bank account in her own name, and didn't touch a penny of the funds. The \$20,000 would be her separate property – but in some states and provinces, the interest on the original sum might be considered marital property. (Ask your divorce lawyer whether this is the case in your area.)

Some states make a distinction between “active appreciation” and “passive appreciation” when it comes time to decide whether money is separate or marital. Active appreciation is when one spouse contributes or puts in effort directly or indirectly to increase the value of his/her separate property, such as a business or other investment. Passive appreciation is when property increases in value due to inflation or other reasons (sometimes, simple bank-account interest).

Let's go back to Jane's inheritance. In this example, she withdrew \$15,000 from the \$20,000 inheritance to renovate the marital home. In some states, if she can trace the \$15,000 back to the original inheritance, it might still be counted in separate property; in others, she changed the designation to marital by spending the money on marital property. The same would be true if she deposited the \$15,000 in a joint account, co-mingling her separate property with the marital property. (Again, ask your lawyer whether this is the case in your area.)

Do you get a sense for why this can be such a gray area?!

## Marital Property

Generally speaking, all assets acquired or earned during the marriage are

considered marital (or community) property – regardless of whose name it is in. Marital property consists of items such as:

- Employment income
- All bank accounts (except for those that pre-dated the marriage and did not have any marital funds – e.g., a paycheck – deposited into them during the marriage)
- Businesses
- Professional practices and licenses
- Limited partnerships
- Real estate
- Vehicles and boats
- Art and antiques
- Pension and retirement plans
- Brokerage accounts, mutual funds, stocks, and bonds
- Bonuses and commissions
- Memberships
- Annuities
- Life insurance
- Tax refunds

Again, the distinction between marital property and separate property is a legal one and it varies from place to place, so you must speak to your divorce lawyer about how the local laws might affect your property division.

## Community Property vs. Equitable Distribution

If you reside in a US state, and you and your spouse can't agree on how to divide jointly-owned property, then the courts will divide it for you according to “equitable distribution” or “community property” principles. (By the way, your joint debts will also be divided according to either equitable distribution or community property principles.) Although the specific details vary from state to state, the main difference between the two schemes is that in community property states, there is an absolute 50/50 split of all property acquired during the marriage, whereas in equitable distribution states, more assets might be considered marital property, but the split is not necessarily 50/50.

Community property states are Alaska, Arizona, California, Idaho,

Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. In Alaska and Tennessee, spouses can opt in to the community property system. The remaining states are equitable distribution jurisdictions.

## Property Division in Canada

Generally speaking, property division in Canada works much the same way as described above. In all provinces, the goal of property division is fairness – but each province uses different rules to achieve a fair division. For example, some provinces don't make a distinction between marital and separate property, but how the property was acquired (i.e., it was a gift or inheritance, or it was owned by one spouse prior to the marriage, etc.) may play an important role in how the property will be divided on divorce. Other provinces exclude separate property from division on divorce. Depending on the province, separate property that has been co-mingled with marital property could be treated as either separate or marital. However, as long as the assets or earnings were acquired during the marriage, the property is marital and will be divided – no matter whose name it's in. ■



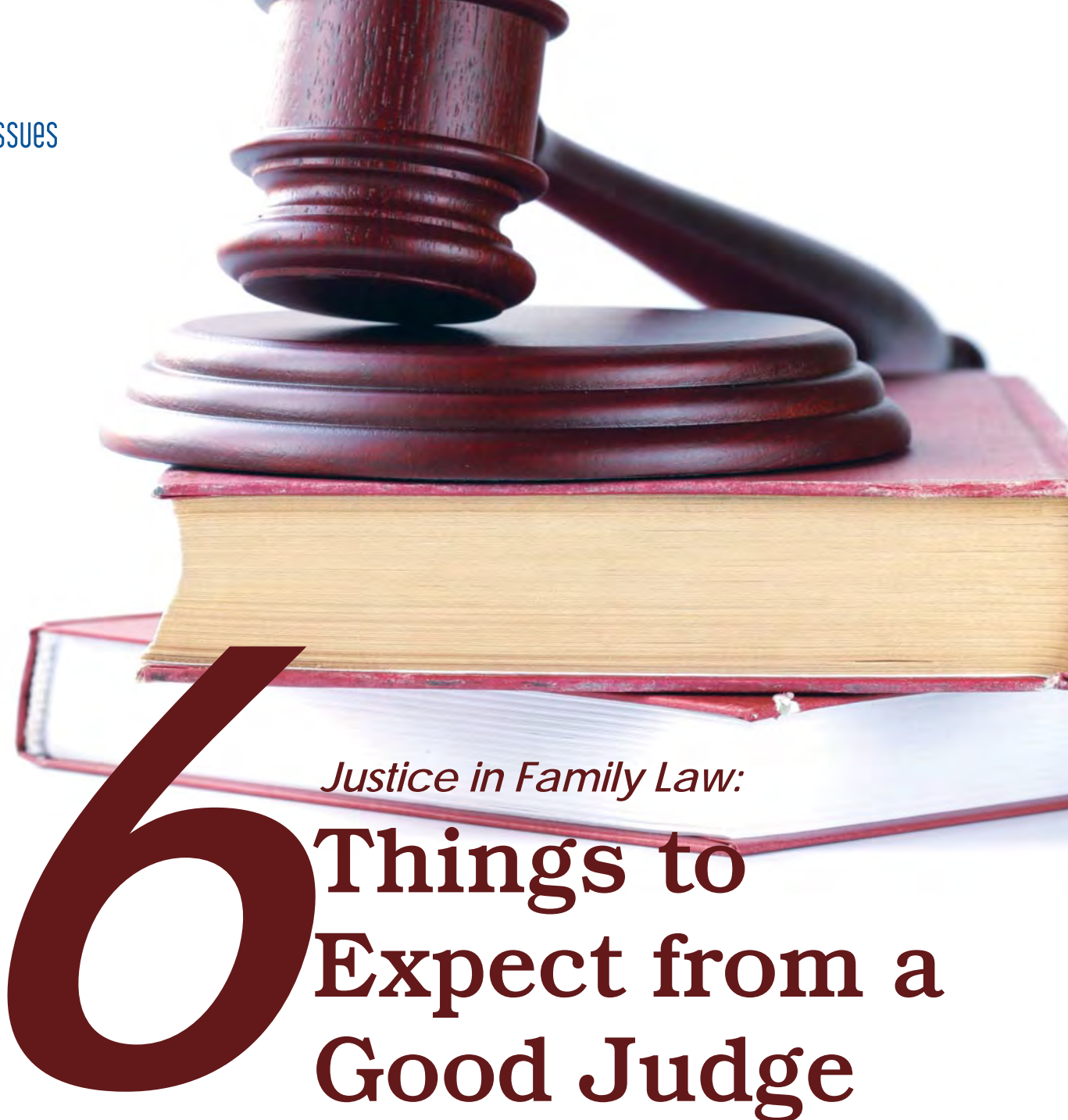
*Diana Shepherd is the co-founder and Editorial Director of Divorce Magazine and a Certified Divorce Financial Analyst® (CDFA®).*

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*Justice in Family Law:*

# 6 Things to Expect from a Good Judge

Divorce lawyers and judges see people at one of the worst times in their lives. A calm, guiding hand from a judge can do wonders to help people through the process.

By Henry Gornbein, Family Lawyer

**I**n my many years of practicing family law, I have had many experiences with judges. Early in my career, I clerked for judges in Wayne County, Michigan, which is the county seat where the city of Detroit is located. I learned quickly that there are all kinds

of judges. Some judges really cared and others were just marking time. I would have some judges tell me that they had a certain result that they wanted and that I was to find the law to support it. A good judge will follow the facts and the law, not the other way around.

In one case, I was called into chambers by the judge in a divorce. We were discussing the issues that were in controversy. With both lawyers present, the judge pulled out a coin from his pocket and said, “Call heads or tails.” This is not the way a case should be decided.

Family law is one of the most complicated legal areas. It is made much more difficult because of the tremendous emotional overlay that goes hand in hand with the facts in every divorce or custody dispute. Being a family law judge is not easy!

I have written on the topic of what people should expect from a judge, and more and more I feel that judges must be more user-friendly. By this I mean that people need to understand what is going on in their cases and why things happen. Too often, there is a mysterious overlay over everything that can be incomprehensible to lawyers as well as the clients who are in the middle of the trauma of a divorce.

Here are some points that I believe are important:

### 1. Court should start on time.

If court is set for 8:30 a.m., it is wrong for a judge not to take the bench before 9:30 a.m. or 10:00 a.m. In Wayne County, there was a former judge who would frequently take the bench over an hour after the normal start of court time. In this situation, the lawyers and litigants were waiting nervously for court to start. However, a lot of events can take place in the judge's chambers, and sometimes, a late start is unavoidable.

### 2. A judge should be in control of the courtroom.

There is a lot of emotion in a family law matter, and a good judge should control his or her courtroom and cool things down. Judges should not let lawyers attack each other or their clients without trying to bring things under control. Some lawyers will spend a half-hour covering matters that should be done in five or 10 minutes. This is where a judge should rein the lawyers and litigants in. A good judge will say, "I have read your pleadings, or motion. Is there anything that you can add?"

### 3. A good judge should be decisive.

In the past, I have seen judges who do not make a decision. There is an old saying that justice delayed is justice denied.

Lawyers and clients want a decision; even if I disagree with the judge's ruling, I would rather have the ruling than no ruling. The ruling should be clearly made with the reasoning for it being spelled out as well. With a ruling, at least the parties can move on to the next part of the case or to the next chapter of their lives.

### 4. A good judge should be accessible.

Good lawyers and good judges should be problem-solvers. A good judge will meet with the lawyers – and sometimes even talk to the litigants about an issue. The judge will often state: "I usually do this in a particular situation, unless the facts in a hearing or trial point me in a different direction." With this information, lawyers can often resolve an issue or a case because they have been given a reading from the judge and can see "the writing on the wall." Lately, I have found judges who refuse to meet with lawyers or to discuss the case other than formally on the record in open court. This is not a good thing. Sometimes, an informal meeting in the judge's chambers can clear the air and work wonders in a case.

### 5. Most divorces and other family-law matters should be settled.

A good judge will tell you that he or she will make decisions that impact heavily on your lives, and once you go into trial or a hearing you lose control of your lives. It is always better to resolve a case through negotiations or mediation. Trial should be a last resort. The judge does not know you or your issues and must rely on testimony and evidence, which is often only the tip of the iceberg.

### 6. When a case must go to trial, the litigants and lawyers should be granted their day in court.

Some judges do not want to try cases and will constantly adjourn the case. Some cases need to at least have a trial started. Some judges will allow

litigants to get what they want off of their chests; in many situations, once the parties know that they have been heard, either the trial will proceed or a settlement can be achieved, even in the middle of trial.

Finally, it is critical to remember that lawyers and judges are helping people going through a divorce or other family-law matter at the worst times in their lives. They are suffering, and often there are no good or easy answers. A calm guiding hand and leadership from a judge can do wonders to help people in these situations.

We have many wonderful hard-working judges who do everything that they can to help people. These judges should be applauded. ■



*Henry Gornbein is a partner at the law firm of Lippitt O'Keefe Gornbein, PLLC in Birmingham, Michigan. His practice is exclusively devoted to family law. His book, Divorce Demystified: Everything You Need to Know Before You File for Divorce (Momentum Books, 2014), is available on Amazon.com. [www.lippittokeefe.com](http://www.lippittokeefe.com)*

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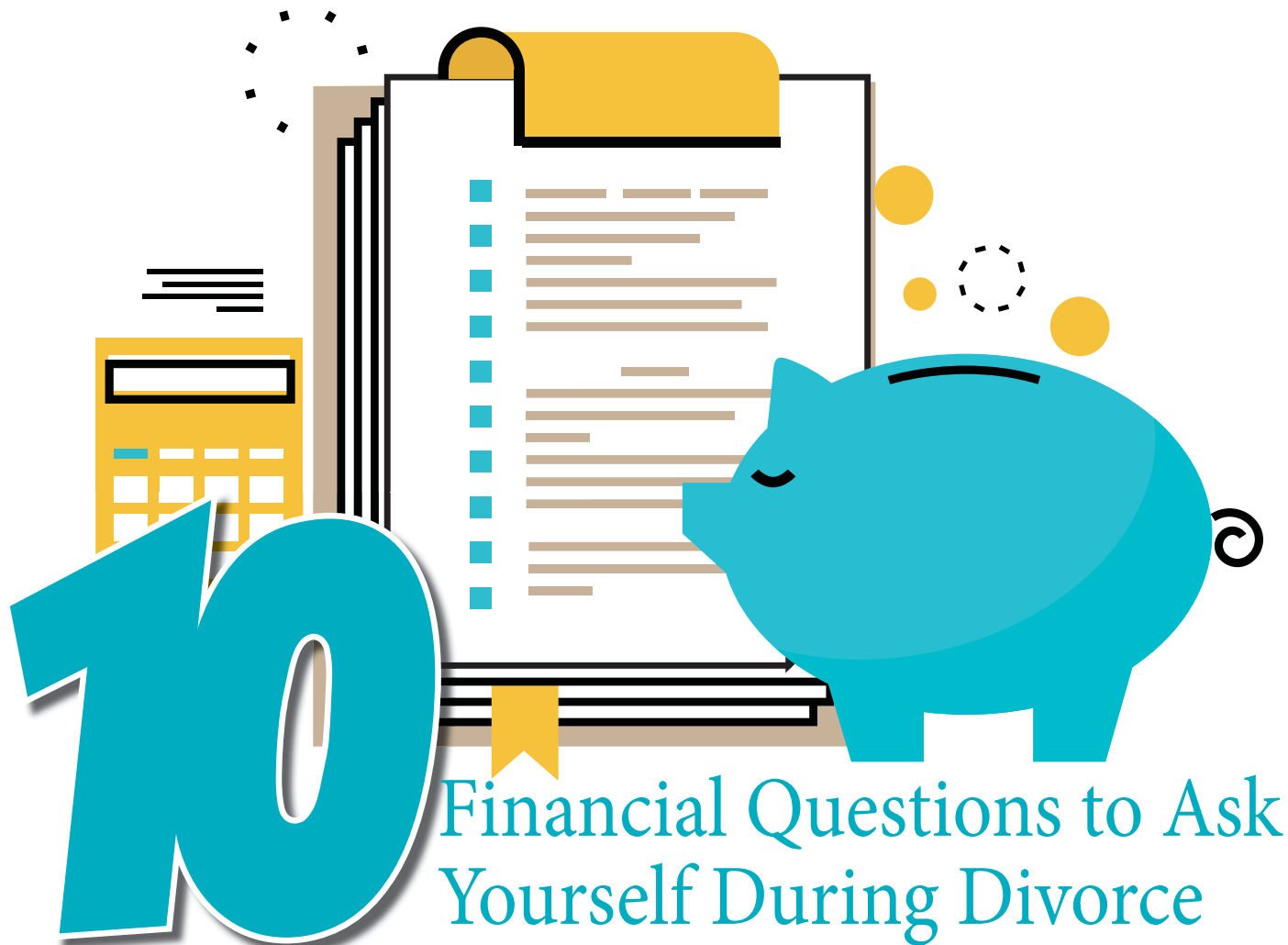
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## Financial Questions to Ask Yourself During Divorce

Having answers to the tough questions before you begin your divorce process can pave a much smoother path through this transition.

By Adrienne Rothstein Grace, Divorce Financial Analyst

**T**he basic information your lawyer will ask you to provide is pretty simple: state/province of residence, length of marriage, gross salary, retirement plans, and the like. But to truly understand your situation and your needs, it is important to dig a little deeper. Here are 10 questions to ask yourself as you begin the divorce process.

### 1. What assets do you own?

This is a basic question that should be top of mind. You can likely come up

with a list of bank accounts and real estate off the top of your head, but what retirement assets do you and your spouse own? Stock options? Art, jewelry, or antique collections? Time shares? Business interests? A thorough inventory of marital assets goes far beyond liquid cash.

### 2. What do you owe?

Along with knowing what you have, it is important to know what you don't have! This includes all credit-card debt

and outstanding loans. Be specific. Do you owe more on your house than it's currently worth? Do you still have student loans outstanding? Are there high balances on multiple credit cards?

### 3. Could your spouse be hiding assets?

It may sound unlikely, but sometimes, assets have a way of disappearing after divorce proceedings begin. For example, a spouse may transfer assets to a third party or create false debt in order

to skew their financial picture and try to avoid paying a large settlement or spousal support. If you suspect that your spouse is hiding something, let your financial professional and lawyer know – and begin to locate all possible financial documents to find traces of elusive assets.

#### **4. What is most important to you?**

A financial advocate, who represents just you, will certainly need to know what you find most important. For example, do you wish to remain in the marital home? Knowing that will help them to structure different settlement proposals and future predictions based on your priorities.

#### **5. What are you willing to give up?**

Divorce settlements rarely work out with everyone completely happy, so you should prepare yourself for a potentially harsh reality. Having a list of must-haves a mile long is a recipe for disappointment; after all, it is often far more expensive to continue fighting your ex over a particular asset than it might be to just let it go.

#### **6. How do you expect your custody arrangement to be structured?**

If you have children, it is important to know who they will be spending the most time with, or whether they will be splitting their time equally between both parents' homes during and after divorce. Factoring in child-support payments can affect the way a financial picture comes together. Be sure to check your state's or province's child-support guidelines so you can take realistic numbers into account.

#### **7. How would you describe your financial situation?**

As important as the specific content of your answer is how it makes you feel. Does this question propel you into insecurity or outright fear? Are you blithely assuming that your lifestyle will continue unchanged after divorce? Are you

assuming (perhaps incorrectly) that you will receive spousal support? This is a really good time to consider some supportive therapy, as emotional issues triggered by your financial situation surface and may distract you from a logical, reasonable solution.

#### **8. Do you expect to pay or receive spousal support (alimony)?**

Though fewer divorce settlements include long alimony payments these days, many people still assume that lifetime support will be part of their own settlement. Getting accurate information is very useful in helping your team create models for your financial future.

#### **9. Where are you in the divorce process?**

For better or worse, most people will seek out a family lawyer first in their divorce process. You may decide not to bring in a financial professional until further into the process, perhaps thinking you'll save money by delaying. However, having your lawyer and financial professional work together from the beginning can save both time and money in the long run. How far have you gotten in gathering and cataloging information for your financial affidavit? Do you even know what a financial affidavit is? Your financial expert can help to guide you through the financial process just as your lawyer will guide you through the legal one. Taking the time to understand your current situation as well as the road ahead will help your team tailor their communication, advice, and instructions to your specific needs.

#### **10. What questions can a professional answer for you?**

This might be the best place to start.

**... it is often far more expensive to continue fighting your ex over a particular asset than it might be to just let it go.**

Divorce is a confusing, emotional, overwhelming experience, and most people simply don't know what to expect. A little Q&A with an expert can go a long way toward making you feel more in control of the process. Have some patience and compassion for yourself – and if you don't understand something, keep asking questions until you do. ■



*Adrienne Rothstein Grace is a Certified Divorce Financial Analyst® (CDFA®) and CFP who brings 30 years of financial advisory experience to clients in transition.*

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# Charting Your Living Expenses

During your divorce, you need to have a complete understanding of your own as well as your ex's financial situation. Here's help figuring out your living expenses.

By Cathleen Belmonte Newman, Divorce Financial Analyst

**D**uring your divorce, your lawyer or financial professional is going to ask you about the financial aspects of your marriage in order to calculate spousal and child support, and divide all marital assets and debts. To do this, you need to have a complete and in-depth understanding of your own as well as your ex's financial situation.

In most states and provinces, each spouse must complete a Financial Affidavit (sometimes called a Financial Statement or Financial Disclosure) containing truthful and accurate information about his/her income, expenses, assets (this includes all property acquired or earned during the marriage, such as

homes, cars, bank accounts, retirement benefits information, stocks and stock options, business assets, and valuable art, jewelry, or collectibles) and liabilities (these are your debts).

One area of the Financial Affidavit that often creates confusion is the section for living expenses. In most jurisdictions, this section is completed using monthly figures (ask your lawyer or financial professional to confirm this for you). When filling this out, keep in mind that there are 4.3 weeks per month – not 4. This is an easy mistake to make, and one that will result in an under-estimate of your expenses.

As you start to fill this out, the best sources of information



to have handy are bank statements (including cash withdrawals), cancelled checks and credit card statements, and year-end summaries.

Charting expenses by category will enable you to create this information accurately. You can do this by hand, or by using software such as Microsoft Excel or money-management software such as Intuit Quicken (which is also available as apps for iPhone and Android).

## Analyze at Least One Full Year of Expenses

Analyze your expenses over at least a full year so that you don't overlook expenses that only occur at certain times of the year – such as back-to-school or holiday expenses or high utility bills in winter or summer.

If you aren't going to have the time or patience to prepare this analysis in detail, here are some quick tricks that can help you complete this task fairly rapidly.

1. First, add the expenses for the items where you already know the exact cost – your mortgage, real estate taxes, home and auto insurance, telephone/cable/internet bills, housekeeper, car payments and life insurance.
2. Next, tackle the expenses that you can estimate by week – dry cleaners, groceries, lawn service, fuel for auto, parking, cabs/tolls, grooming, dining out, allowance for kids, sitters/child care and tutors. Remember that there are 4.3 weeks per month.
3. Then, call service providers who can provide an annual figure (remember to divide by 12): call the gas, electric and water companies, vet for pet expenses, car dealership or service center for maintenance and repairs, doctors for medical expenses, and health club for recreation expenses.
4. Now you're down to the expenses you need to estimate: home repairs and maintenance, clothing for you and your children, entertainment, newspapers, magazines, books, gifts, donations, vacations, computer expenses, extra-curricular expenses for children, children's entertainment, and gifts to others.
5. Add footnotes to your financial affidavit so you remember how you calculated expenses – especially the ones that you're estimating.
6. Make sure your math is accurate: double-check your figures, especially if one seems much higher or lower than you expected it to be.
7. Review your draft document with your financial professional and/or lawyer.
8. The total monthly figure is a net number that does not include state/provincial or federal taxes that you'll be responsible for paying. Your gross monthly number is the net number plus an estimate for taxes.

## Other Categories That Might Apply

Here are a few other categories to consider:

1. Expenses for second homes or vacation residences.
2. Expenses that you pay on behalf of a parent or emancipated child (these may not be considered by the court, but

add them to your first draft to make sure all your regular expenses have been identified).

3. Satellite radio.
4. Cell phones for you and children.
5. Clothing includes shoes, jewelry and accessories.
6. Credit-card charges for stores such as Costco, Walmart, Target, Sears, Walgreens, etc.
7. Sporting goods.
8. Purchases from hobby stores like Michael's, Jo-Ann Fabrics, and Hobby Lobby.
9. Continuing education classes or certification renewals.
10. Health club usage, classes, personal trainer, lessons.
11. Cash withdrawals.
12. Boarding expenses for pets when away.
13. Reasonable replacement of computers and printers for home and children.
14. Vacation costs, including air and ground transportation, tips, dining, entertainment, hotel, and airline fees/taxes.
15. Therapists for you and children.
16. Membership dues for organizations and clubs that you belong to.
17. Pass or fees for toll-roads you use regularly.

Sometimes, you won't have the information to prepare this analysis completely because the information is not available or is in the control of your spouse. If that's the case, then make sure to add the word "Preliminary" in front of "Financial Affidavit/Statement" as well as footnotes on pages where you lack complete information. ■



*Cathleen Belmonte Newman (MBA, CDFA®) has been supporting clients through the divorce process since 1990. An experienced financial analyst, she specializes in the preparation of lifestyle expense analysis, disclosure statements, forensic accounting, and litigation support. [www.f4financial.com](http://www.f4financial.com).*

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# The Lump-Sum Divorce Settlement: A Trap for the Unwary

If you've been offered a lump-sum divorce settlement, consider engaging an experienced financial professional to make sure it will meet your future needs.

By Rob Clarfeld, Accountant and Financial Planner

Couples in the throes of divorce settlement negotiations must address both the concrete and the abstract. The concrete aspects of marital property settlements are somewhat intuitive: examples include houses, cars, other real and personal property, and often a lump-sum of cash and marketable securities. But when the non-moneyed spouse is offered a lump-sum divorce settlement – either as an addition or an alternative to ongoing maintenance and support payments – the lump-sum payment, the engine that will be required to support your future lifestyle, often becomes pretty abstract.

This is because money itself is inherently abstract. Rather than having an intrinsic value, money represents the vehicle by which your current and future lifestyle is funded.

Stated somewhat differently: when it comes to supporting your lifestyle, the purpose of money is to generate the ongoing cash flow that allows you to purchase goods and services, now and in the future. Further adding to this abstraction is the fact that the path between the

current lump-sum of cash to the funding of your future lifestyle is nonlinear; there are many variables – some of which often are beyond your control.

## Variables to Consider Regarding Lump-Sum Settlements

When considering the adequacy of a lump-sum divorce settlement, the most significant variables to consider include planning for the growth of your money (investment returns), which itself is subject to a plethora of financial variables, and the cost of supporting your future lifestyle, which is subject to both inflation and your evolving needs. It is extremely difficult for even the financially savvy to model how





much money in today's dollars is needed to fund a person's future lifestyle or, conversely, what one's future lifestyle would look like based on receiving a lump-sum of money today. This is the time – during settlement negotiations, not afterwards – when engaging an experienced professional financial planner can be extremely helpful.

### Will the Lump-Sum Settlement Meet Your Future Needs?

Unlike many attorneys, a financial planner with experience working on matrimonial matters knows how to navigate these financial abstractions and interpret and communicate alternative scenarios to his or her client. When we take on matrimonial engagements, our primary tool is a multi-year cash flow projection that is built on reasonable assumptions.



Stated simply: a cash flow is a listing of your likely future expenses, along with the sources of cash that will be required to fund them. We start by listing monthly expenses, generally based on the recent past, modified for anticipated post-divorce adjustments, so the result looks somewhat like a monthly budget. After our client is reasonably confident of their monthly expenses, we annualize them for a cleaner-looking analysis that may extend 10, or even 20 years into the future.

Anticipating future expenses is difficult, and projecting the sources of cash required to fund these expenses is even more difficult. Investment returns are highly dependent on your portfolio asset allocation, which in turn is dependent on factors such as your investment risk tolerance (itself a complicated process), your age, other available economic resources, and the ability to replace lost capital. Estimates for investment rates of return should be conservative with plenty of margin for error, as the financial markets do not always cooperate with our expectations and needs. Also, the income tax bite on portfolio income is an extremely important consideration. Often, taxes are a household's largest cash outflow. Once completed, a thoughtful multi-year cash flow projection becomes the rock of your financial planning as it quantifies your financial lifestyle down the road. Generally, we update our clients' cash flows annually or as they experience changes in their financial lives.

For most, the process of negotiating the financial settlement leading to divorce is the most anxiety-producing aspect of an entirely unpleasant ordeal. This is uncharted territory that requires a tremendous commitment of time and focus. The decisions you make, or settlements to which you agree, likely will have an enormous impact on your ability to fund your future.

### Seek Advice Before Accepting a Lump-Sum Settlement

This is a difficult time to go it alone. An experienced planner who has gone through this exercise with many other

clients can be extremely valuable. Seek a credentialed advisor who not only has an intimate knowledge of tax laws and portfolio construction, but also is intuitive and emotionally intelligent. Ideally, rather than just seeking transactional assistance, you want to work with a planner who can support your ongoing financial needs into the future, when (hopefully) the divorce process is little more than an unpleasant memory. ■



*Rob Clarfeld (CPA, CFP, PFS, CLU) is the founder and CEO of Clarfeld Financial Advisors in Westchester, NY.*  
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# Telling the Kids About Your Divorce

Telling your children that you're splitting up is one of the most difficult aspects of the divorce process. Here are tips to smooth the path for you.

By Dr. Deanna Conklin-Danao, Clinical Psychologist and Child Specialist

**T**elling children about divorce is one of the most difficult aspects of the divorce process. Parents dread these conversations because of the potential impact they think it will have on the kids. While every kid will have their own reaction, there are some things that you can do to be prepared for questions that you may receive from them.

## Be Honest and Age-Appropriate

This is the key principle for answering your child's questions: respond honestly taking into account the age and developmental level of your child. Children do not need to know adult information (affairs, money issues), they simply need to know that, "We had grown up problems." Add in, "You didn't cause these problems and you could not have done anything differently because this was between us."

You need to reassure your children that both of you still love them and that will not change.

## Remember That You Cannot "Unsay" Things

Once you say something it is out there, so don't say things out of anger that you will regret later. This is harder than it sounds. Perhaps you feel betrayed by your spouse's affair and you want the kids to know it was his fault. This is too much information for a child or adolescent to process and will damage relationships. We know children weather divorce best when they have a positive relationship with both parents. Don't undermine your long-term goal because of your anger in the moment.

## Three Frequently-Asked Questions

Although each family's situation is unique, there are some common questions that most children ask when being told of their parents' impending divorce. Consider preparing answers to these three frequently-asked questions since the likelihood of your children's asking them is high.

### 1. Why are you getting divorced?

This goes back to the guideline of

being honest and age appropriate. You can acknowledge things that your children might have noticed. "Mom and I fight a lot and realize that we can't live together in a healthy way." Don't provide specifics about the details of your fights; rather, emphasize that they are adult problems.

### 2. Is the divorce my fault?

This may not be asked directly or may be asked slightly differently such as "Could I have fixed this?", but this is a deeply held fear for many children of divorce. This fear may show itself as your child attempting to be overly well-behaved or trying to bring the two of you together in hopes of undoing the divorce.

**Don't promise things you can't guarantee because you feel guilty.**

Be very clear and repeat to your kids that the divorce isn't something they caused (or could have fixed). Reassure your children that even though you are divorcing, you will both still love them and spend time with them.

### 3. What's going to happen now?

Kids are very worried about how a divorce will impact them. Offering them honest and specific responses will help overcome these concerns. For example: "You will continue to go to the same school." If you don't know an answer, be honest. "I don't know yet if we will keep this house, but we will tell you as soon as we know."

Don't promise things you can't guarantee because you feel guilty. For example, if the kids are in private school and you aren't sure if you will be able to afford it, don't promise it. "You will live in two different houses, but you will

continue to spend time with both of us." Different doesn't mean bad, it means different. Kids will take emotional cues from both of you, so be mindful of the nonverbal communication cues as well as the words.

## Set the Stage for Healthy Co-Parenting

Consider using an Alternative Dispute Resolution process – such as mediation or collaborative divorce – or work with a divorce parenting specialist or child therapist to make sure your children's needs take precedence over your wants. This will help maintain or develop healthy communication with your spouse, which will allow you to set the stage for co-parenting in a positive manner. This will come through in telling children about divorce. Being able to communicate with each other about how you want to answer your children's questions will show that you can continue to work together – even if you are divorcing. ■



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*In her practice, Dr. Conklin-Danao creates a safe and supportive environment for adults and children to learn about themselves, develop new ways of relating, and grow into the life they want to lead. [www.drconklindanao.com](http://www.drconklindanao.com)*

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# Tips for Successful Co-Parenting

There are ways to make co-parenting more effective for both parents and easier on the kids. Here are some tips for successful cooperative parenting after divorce.

By Wendi Schuller, Therapist

**C**o-parenting is a relatively modern term in the divorce world. When my parents walked out of divorce court, they never communicated with each other ever again – about me or any other topic. Co-parenting implies cooperation and dialogue: former spouses are no longer partners in marriage, but are still partners in raising their children.

Today, divorcing parents have many more choices than the previous generation – or perhaps parents like mine simply did not see the need to discuss their children with each other post-divorce. Custody is usually joint, which means both parents have the right to decide what schools and activities their children will attend – and from time to time, they

will have to discuss issues and opportunities that arise in their children's lives.

## How to Make Cooperative Parenting Easier

There are ways to make co-parenting easier – both for parents and for children. Consider having a regularly scheduled meeting, perhaps monthly, to discuss new



issues or activities. Have an agenda, just as you would for a conference at work.

If one parent veers off course into blame, anger, or other toxic areas, calmly steer them back to the topic being discussed: “We were talking about Jane’s wish to change schools,” for example. Keep emotion out of the discussion, and treat the other parent as you would an excitable co-worker: with calm, but firm, courtesy. These meetings don’t have to be in person if it is difficult to be in your ex’s presence. Using Skype or the phone is fine, even if they only live a few streets away.

Co-parenting is easier when both parents are on the same page and don’t feel left out of anything. There are various online calendars and apps (such as [www.OurFamilyWizard.com](http://www.OurFamilyWizard.com)) that let each parent view and add activities or events in the youngsters’ lives – such as dance recitals, sports tournaments, and school concerts – as well as track parenting time. Add these to a shared schedule as soon as you know about them; that way, one parent cannot blame the other one for not notifying them about an important event in their children’s lives. Remember to keep grandparents up-to-date on the kids’ events so they can attend, if possible.

Some parents have a notebook that goes back and forth between homes, which is particularly helpful with young children. For instance, if a child has an asthma attack or a severe allergic reaction to food, you can make a note of it, letting your co-parent know when an inhaler or EpiPen was administered. This also is useful for medical conditions like seizures. If there are incidents at school or other information that needs to be relayed, the notebook is another method of both sharing and recording the details.

## Consistency and Teamwork

An important part of co-parenting is setting up consistent rules, routines, and consequences in both homes. Kids require constancy in their topsy-turvy world. Going to bed and eating meals at vastly different times is like having chronic jet lag. They feel more secure with a routine, and it is better for their physical and mental well-being. This also

avoids pitting one parent against the other one; you won’t have to deal with “Dad lets me go to bed at 11” or “Mom lets me watch TV all day.” When kids realize that their parents are on the same team – even though they no longer live in the same home – and that the rules are consistent in both homes, then they are less likely to try and get away with things.

Work together when dividing up holidays. Some parents each have the kids for part of the special day, and others trade holidays on alternate years. There may be new step-siblings, who also have to share holidays with another parent, to work into your holiday schedules. Some co-parents have a get-together with new partners and grandparents and do okay in each other’s company. See what works best in your situation.

## If Co-Parenting Is Difficult...

The “don’ts” of co-parenting can mostly be avoided when thinking of what is in the children’s best interests. Yes, it is hard to put your ego aside or not to consider punishing your ex by “forgetting” to enter the dates of the school play on your shared electronic calendar. Getting back at an ex through the children is not healthy and can backfire. One father took his sons to a show during the divorce that he knew his wife would get angry about. The boys – who were upset seeing an adult-themed play with scantily-clad women – told the interim psychologist, who put a stop to this behavior. Later, they discussed this and more events with the custody evaluator; the mother ended up with physical custody and the father was not granted any overnight visitation.

If co-parenting is difficult, consider having a third party handle all communication between you. One woman had her friend edit out any mean comments from her ex-husband’s emails and then forward them to her. Others have used a mediator or some other professional to take care of all messages and communication between co-parents.

Technology can help. For instance, the Message Board on the “Our Family Wizard” website and app has a feature called “ToneMeter.” Described as an “emotional spell-check,” ToneMeter

helps you identify and flag emotionally-charged sentences within your message and adjust the overall tone.

The bottom line is that co-parenting is a learning process and generally gets easier as time goes by – especially if parents are able to check their egos and put their children first. ■



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# How to “Divorce” Your Narcissistic Co-Parent

A large, light orange silhouette of a man stands in the center, holding the hand of a smaller, light orange silhouette of a child on the left. The background is a warm, textured orange with faint, abstract patterns.

**Y**ou read that right. Even if you’ve been divorced for years, the legal end of a marriage means very little to a narcissistic (or borderline) ex-spouse. The personality-disordered ex has certain personality traits that make it impossible for them to empathize or relate to the other parent without anger or blame. For the narcissistic ex a new game is on: a game of control, manipulation, and interference. I often receive calls from professionals and separated and divorced individuals who are at their wit’s end with the situation.

The narcissistic ex is often described as entitled or someone who sees themselves as the superior person or parent. The reality is that these parents are unable to make decisions that are in the best interest of their children. Narcissistic parents often use emotional blackmail, have a breakdown in the presence of their children, demand that the children take on responsibilities that are beyond their years, and interfere with the other parent’s parenting time.

## **Narcissistic Ex often Equals High-Conflict Divorce**

If you shake your head and say, “This is completely crazy,” you are not alone. Here’s the inside scoop: the personality-disordered ex lives in self-created chaos. With divorce comes change, and they fear change. They make desperate attempts to stay in control. The relationship once shared is no longer present, and learning how to engage in post-divorce negotiation is a critical aspect of raising healthy children.

## **The Problem: Your Ex Wants to Be in Control and in Contact with You**

Let’s face it: you and your ex have different agendas. Your ex wants to feel “needed” or important to you. One way to maintain this need is to stay in control or to orchestrate your actions. When I see clients, I hear that they are worn out from unwanted and unnecessary texts and voice messages from their interfering ex.

You may have been divorced for several years – but the legal end of a marriage means very little to a narcissistic ex-spouse. A new game of control, manipulation, and interference is on.

By Sonia Brill, High-Conflict Divorce Therapist

### **The Solution: Deciding What Will Work for and Is Important to You.**

Being divorced from the narcissistic ex and their antics means you get to decide what you will and what you will not accept in your life. But first, switching to a platform such as TalkingParent.com or MyFamilyWizard.com can help streamline communication and keep a full record of all communications in the event you need access to them. Identify the number of times you will respond to an e-mail message.

### **The Problem: the Narcissistic Ex Could Win a Gold Medal for Mind Games**

The narcissistic tug-of-war has its basis in manipulation. Trying to confront it will lead to claims of ignorance or innocence. For instance, you may realize that transitioning the kids at each other's homes is a source for conflict and you propose a public location for drop-off. Don't hold your breath. Your ex will get into fighting gear to maintain the status quo. By removing the source of conflict, the narcissistic ex will not have a private place to manipulate or pressure you into hasty agreements in front of the children.

### **The Solution: Have a Strategic Plan**

Remember when you wanted your three-year-old to leave the playground? Without a plan and the means to implement it, your child might have thrown the mother of all temper tantrums! If you wonder what your narcissistic ex is gaining by being adversarial, the answer is "chaos."

The narcissist's behavior can be translated as an immature emotional response to a lack of control: they are unable to deal with unrelenting anxiety or anger, and seek a familiar target. When you are dealing with a high-conflict personality, it's helpful to have a strategic

plan. Begin by identifying the positive reason your ex might want to change the transition location. Perhaps it's closer than the distance to each home or it offers a convenience for each one of you. Using the grocery store, for instance, can serve both those reasons. Reducing tension will lead to a more peaceful transition.

### **The Problem: You Are the "Bad Guy"**

High-conflict personalities often divide the world into good guys and bad guys. Guess what? You're the bad guy. You are now more the bad guy than you ever were before. For instance, finding new love is betrayal in your ex's mind. The narcissistic ex is easily threatened by any change that can shake their fragile ego. Such a change can create a flurry of emails from your ex.

### **The Solution: Just the Facts, Please**

Decide on which e-mails require a response. Determine what is being asked (most e-mail messages require you to make some type of change or adjustment). Keep your focus on your child or children. Respond in a factual and not emotional manner.

### **The Problem: Children Can Become Pawns in a High-Conflict Divorce**

When your ex can't have access to you, your children become the source of leverage. Children are often the spokespeople for the ex's agenda. Unbeknownst to them, children carry the torch for the narcissistic parent.

### **The Solution: You Can Teach Your Children to Handle Emotions**

Keep hope alive. Children are influenced by both parents. One of the most important aspects of parenting is educating children. Even under the best divorce conditions, children struggle

with divided loyalty. As they come to understand their needs and boundaries, they feel heard. Begin by helping children identify unsettling feelings; this helps them make a connection of the feeling to an event. Modeling is a powerful teaching tool that can help children develop the skills to express and handle emotions. The good news is that your children can learn how to connect negative feelings to negative experiences and, if taught, can learn to say no to those experiences. Sharing feelings and experiences can create strong bonds. Offering children an alternative to the tug-of-war can allow them to feel secure and safe.

Each movement forward sends a clear message that you are not going to participate in the same old push-pull of the old marriage. You can be free of your narcissistic ex. You can do it. Yes, it's hard. Take one step at a time. Applaud your success each time. ■



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# THE HEALTH

## Consequences of Divorce

Divorce has many observable consequences, including legal, financial, and emotional. Divorce can also cause short and long-term health consequences. Here are 5 lifestyle changes to try, and 5 signs that it's time to seek help.

By Dr. Gitu Bhatia, Psychologist

A significant number of people who have gone through divorce experience all kinds of emotions and stress. Even the person who may have initiated the divorce and is feeling elation or relief will have stress related to the negativity during the process as well as the inevitable changes in their lives both during and after divorce. The stress of breaking up has often been compared to the stress of dealing with the death of a loved one. The losses that come with divorce and separation can range from relatively mild symptoms – such as a depressed mood or some anxiety about the future – to extreme emotional breakdowns.

Children in the family may experience many of the same feelings as the adults, but they will exhibit them differently. As much as parents may feel a loss of control about their future, the children may feel even more uncertain about their lives – leading to internalized stress or externalized behavioral problems.

### Common Symptoms Experienced Following Separation

There are physiological consequences of stress, depression, and anxiety that follow the initial separation. Symptoms such as appetite and sleep changes, difficulty in digesting foods, changes in blood sugar, and racing heart rates are not uncommon. Not surprisingly, studies have shown a higher prevalence of heart disease, diabetes, cancer, and mobility problems in people who have experienced divorce. It appears that some of these consequences remain, for some, even after people get remarried. Each person reacts to difficult situations in unique ways, and there is no clear timetable that fits all individuals.

There may be gender and age differences in the kinds of stress experienced by the family members experiencing the divorce. Statistically, most people experience a drop in financial standard of living as a consequence of divorce. This change is often felt more by women. Just when people are experiencing financial difficulties and feeling the health consequences, they may also find themselves

with less-than-adequate health insurance benefits. The time when they may need the support of health and mental-health professionals the most, they may hold back from reaching out for help. The common wisdom is that it takes people a year or two to regain their sense of normality after divorce. However, children may re-experience the consequences of divorce at different developmental stages.

It helps if parents are aware and actively working on self-care and being mindful of the stresses on their children, both in the early stages and even after the worst is over. It is especially important for them to know that staying angry or sad for a long time can cost them their health.

### Warning Signs That Should Prompt You to Seek Help

1. You have experienced drastic changes in your appetite or sleep patterns.
2. You have a sense of panic most of the day.
3. You are unable to function normally at work.
4. You have no time for yourself anymore.
5. You are experiencing a change in the amount of headaches, heart palpitations, and stomach aches.

Feeling stressed when your life is being turned upside-down is normal; however, remaining at that level of stress for too long will affect your ability to function at work, make decisions, parent, and be healthy. Getting regular check-ups with your doctor and seeing a mental-health professional could help you. Also very important is to implement lifestyle changes.

“Feeling stressed when your life is being turned upside-down is normal; however, remaining at that level of stress for too long will affect your ability to function and make decisions.”

### Lifestyle Changes to Implement

1. Regular exercise.
2. Healthy eating.
3. Meditation.
4. Connecting with friends and family.
5. Making sure you include some fun and relaxation on a regular basis. ■



*Dr. Gitu Bhatia (Psy.D.), a former family mediator for the Los Angeles Superior Court, is a psychologist in private practice and adjunct faculty at the Graduate School of Education and Psychology at Pepperdine University.*

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# Dealing with Mistrust in Relationships Post-Divorce

Trust is a skill that can be nurtured and learned. Turn the hurts from past betrayals into lessons.

By Terry Gaspard, Licensed Therapist



When most people think of mistrust in marriage, cheating comes to mind. Most articles on this topic focus on whether or not the cheater can be trusted again, while helping the partner who is betrayed decide whether the relationship can be rebuilt. Not as much is written about the other forms mistrust can take, and how your divorce can cause you to develop mistrust in relationships.

Trust is about so much more than catching your partner in a truth or lie. It is about believing that he or she truly has your best interests at heart. Mistrust is a lingering feeling in the back of your mind that your partner does not truly love you, or may abandon you. So much about trust is walking the talk. Your partner may tell you he or she loves you, but do his or her actions support that?

## Mistrust Isn't Always Related to Cheating

The breakup of a marriage can set the stage for mistrust in relationships, even if infidelity does not take place. In my case, I had leftover trust issues and emotional baggage from my divorce even though I was not betrayed by my ex-husband. Now in my second marriage, I know that my husband loves me, but sometimes little things will come up that trigger wounds from my childhood or first marriage. All too often, I find myself operating from a viewpoint that the only person I can rely on is myself – even though I know it's not true.

In his book *The Science of Trust: Emotional Attunement for Couples* (W. W. Norton & Company, 2011), relationship expert Dr. John Gottman challenges the way most of us define trust. He says that trust is an action rather than an idea or belief – more about what our partner does and the consistency between his or her words and actions.

Take a moment to consider this: your partner is not solely responsible for creating mistrustful feelings. In most cases, you must take equal responsibility for creating an atmosphere of safety and security in your relationship.



## Four Questions to Ask Yourself

1. Does my fear of loss cloud my perspective and cause me to overreact to my partner's actions?
2. Do I feel comfortable asking for what I need and allowing myself to be vulnerable?
3. Do I bring my best self to my interactions with my partner?
4. Do I possess self-love and allow myself to be loved and respected?

Kelly, a woman I interviewed for my book *Daughters of Divorce: Overcome the Legacy of Your Parents' Breakup and Enjoy a Happy, Long-Lasting Relationship* (Sourcebooks, 2016), is a 30-something married teacher who often reacts with fear and suspicion when her husband Mark returns home late from work or there's the slightest imperfection in his story. Kelly has a tendency to blow things out of proportion when she says, "You're always late and you don't care about me." In the past, Mark reacted negatively to these accusations, but he has learned to reassure Kelly and now calls her if he's going to be late.

Mark is working on showing Kelly through consistency in his words and actions that he is there for her. Likewise, Kelly must learn to examine her thought processes. Is her self-doubt and mistrust grounded in reality or a result of a wound or betrayal in the past? She must be willing to let go of self-defeating thoughts – to free herself from the blueprints of her past.

## Your Own Mistrust May Stem from the Past

What I've come to realize is that trust is an act of courage. You may enter a relationship with fractured trust for a variety of reasons. Divorce is not always the root cause. But as you become more aware of your tendency to mistrust your partner, you can stop yourself and ask: "Is my mistrust coming from something that is actually happening in the present, or is it a fragment of my past?"

Over the years, I've watched myself and my friends endure different variations

of mistrust in relationships. Sometimes money is the culprit. Some people go through a breakup because they watched their bank account dwindle as their partner spent their money needlessly or carelessly. For me, the hardest thing about broken trust in a relationship is being able to trust my own judgment. Am I making a wise decision about who I give my heart to?

You can turn the hurts from past betrayals into lessons. Trust is more of an acquired ability than a feeling. When you sustain the loss of a relationship due to broken trust, it makes you smarter and more keenly able to extend trust to those who are deserving of it.

You can learn to trust your instincts and your judgment when you honestly deal with your fears. If you are able to come to a place of self-awareness and understand the decisions that were made that led up to trust being severed, you can start to approach others with faith and optimism.

## Learn from the Past and Acquire Trust

Trust is a skill that can be nurtured and learned. The notion that trust is a skill is not something commonly talked about in our culture. People talk about proving trust, restoring trust, repairing trust – but not enough about learning to trust. So often the trouble is with the person who operates from a place of suspicion and wariness.

Many relationships are sabotaged by self-fulfilling prophecies. If you believe your partner will hurt you, you can unconsciously encourage hurts to emerge in your relationship. But day by day, if you learn to operate from a viewpoint that your partner loves you and wants the best for you, you can enjoy trust in your life.

## Five Ways to Create Trusting Relationships

- Gain confidence in your own perceptions Pay attention to your doubts and instincts.
- Ask yourself – does your partner keep

important promises or agreements?

- Don't assume the worst. If your partner lets you down, don't always assume that a failure in competence is intentional – sometimes people simply make a mistake.
- Listen to your partner's side of the story. Make sure your words and tone of voice are consistent with your goal of building trust in him or her.

Keep in mind that learning to trust is a slow process. You were born with a propensity to trust others but through your life experience you may have become less trusting as a way of protecting yourself.

In summary, learning to trust is really about having the courage to heal a broken heart and it takes time. You can face your trust issues with optimism when you extend trust to those who deserve it and learn to trust yourself day by day. ■



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### 5 Tips to Move Forward After Infidelity and Divorce

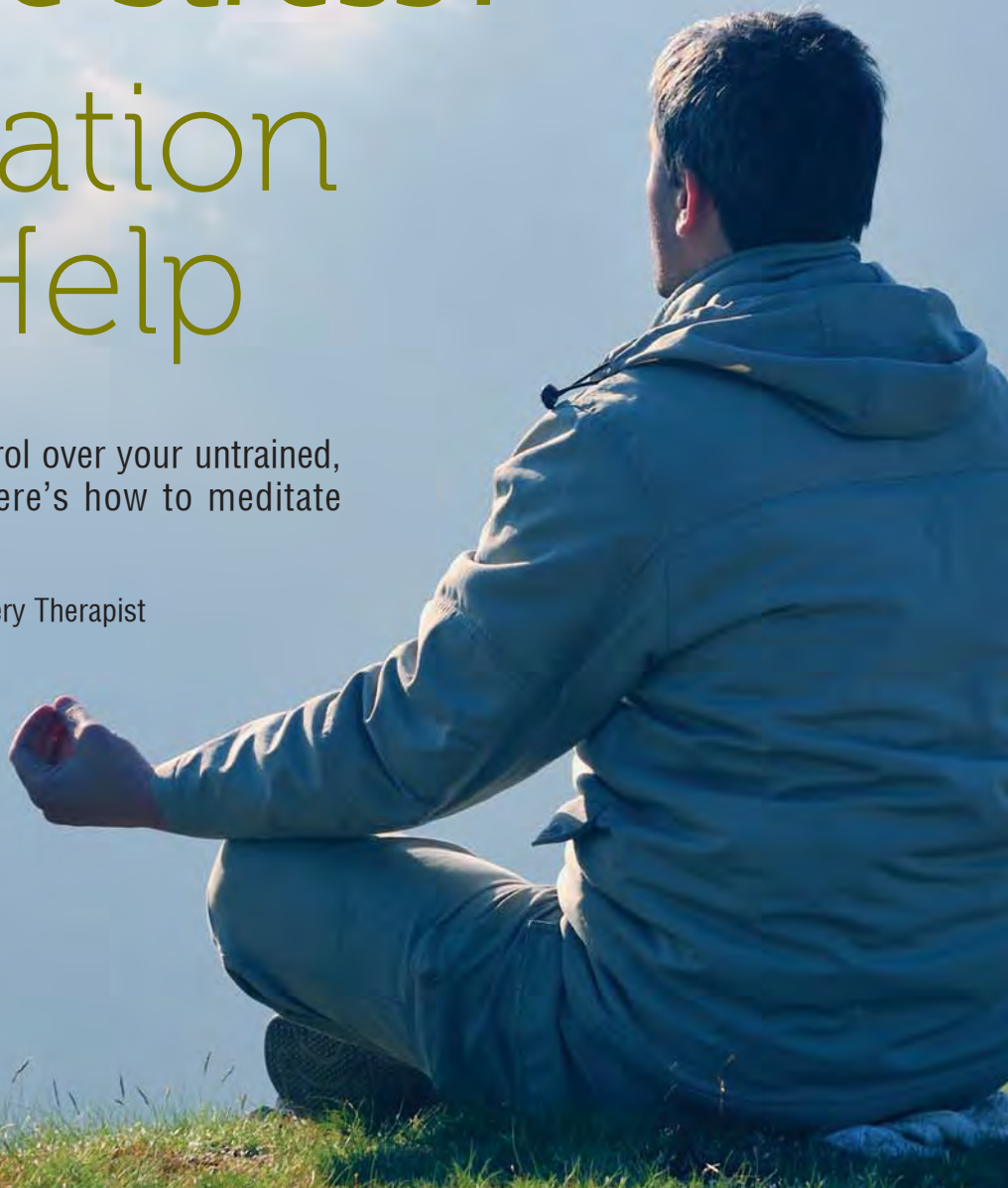
Infidelity is a common reason marriages come to an end. If you find yourself in this situation, consider these five tips on how to move forward after infidelity and divorce.

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# Coping with Divorce Stress? Meditation Can Help

Meditation gives you control over your untrained, monkey-chatter mind. Here's how to meditate during divorce.

By Kat Forsythe, Divorce Recovery Therapist







**H**ow are you coping with your divorce? In therapy? Taking meds? Shaky and unsure of your future? Want more peace of mind immediately?

Start meditating. It needs to be part of your daily routine, right now. I've seen it work miracles with my divorcing clients. It's time for you to catch the train.

Two weeks ago, Glenda, 51, came sobbing into my office. She couldn't sleep. Dreams of her debts since the divorce haunt her. Her oldest daughter won't talk to her. She can't concentrate at work. She's asking for more meds. The last straw: her ex's lover "accidentally" left a message on their home machine, "Oh honey, I missed your hard body last night."

Glenda was a walking, talking mess of emotional turmoil and physical stress.

Sound familiar? Whether you are male or female, Glenda's story happens to most divorcees to a greater or lesser degree. The good news is that the intensity of Glenda's life at this moment doesn't last forever. But, when you're in the divorce process, especially when dealing with infidelity issues, you think you're destined to a life of unfocused, disoriented misery.

If I can give you something during your divorce recovery to:

- replace your valium
- give you better sleep
- add to your confidence
- catapult you out of anxiety and fear
- quiet your hateful thinking about "her" or "him"
- calm your pounding heart

And, if I told you it doesn't cost a penny, would you try it? My guess is "yes".

## Learn How to Meditate

That's where I steered Glenda towards meditation. She balked at first and said it wouldn't work. Too new-age. I suggested she attend a meditation retreat. She had a million reasons why not. I asked her, "How much is it worth to you to sleep at night and stop the constant tears?" She emailed the registration that afternoon.

At our next session, she beamed, "Kat, have you heard this passage?" She recited the Prayer of St. Francis of Assisi, "Make me an instrument of your peace". Glenda practices conservative Judaism, but she chose that prayer at the retreat from a list of passages from religions and spirituality around the world, because it spoke to her. It simply asks for peace, and that she be the best person she can be. It calmed her when she said it over and over. She had learned to meditate.

It calmed her. What a concept. Meditation turns out to be food for your soul. When the rest of your already-exhausted body is bombarded with anxiety-inducing stimulation during divorce, there's a place you can turn to quiet it all down. Meditation. You feed your body with good food – start feeding your divorce-laden hungry soul with nourishment, too. Meditate.

Glenda is doing a technique called "passage meditation". For 25 minutes (start with 15 minutes if 25 is too long when you first begin), she repeats a time-tested passage over and over to herself. If that doesn't appeal to you, there are other forms: concentrate on your breath for 25 minutes, or walk quietly repeating a mantra – a short inspiring phrase like: "Beauty above me, beauty below me, beauty beside me, beauty all around me".



## 10 Immediate Benefits of Meditation

Here's what meditation can do for you, starting at your very first try:

1. Your stress level takes a downward dive. A small dive at first, but week after week, you're simply calmer with less anxiety. Many clients actually stop taking anti-depressant/anxiety drugs altogether.
2. You have more energy.
3. Your thoughts throughout the day are less critical of yourself and others.
4. You're happier.
5. You have more patience with the divorce process. Little irritations (your ex!) don't bother you as much.
6. You make better decisions.
7. You sleep better.
8. You move forward with your life because you're thinking more clearly.
9. You feel a greater depth and purpose in your life. Your authentic self (not your divorce self) begins to emerge.
10. You gift yourself with a lifetime skill: You're training your mind to think the thoughts you want, not the monkey-brain chatter that pulls you down.

## You Have to Do It for It to Work

Here's the trick: meditation requires discipline.

Commit to it. Understand that it takes time. When you start procrastinating, ask yourself: "What am I doing that's so important that I can't take time to reduce anxiety and be happier by meditating?" If you can name something more important, go do it. Otherwise, sit in this chair, close your eyes, and meditate for 25-30 mins at least once a day. If you can meditate twice a day, the benefits are exponential.

## How to Get Started

- Sit up straight in a chair, on a floor cushion, or go for a slow walk on a danger-free path or sidewalk.

**Meditation turns out to be food for your soul. You feed your body with good food – start feeding your divorce-laden hungry soul with nourishment, too.**

- Sit/walk with good posture and close your eyes (except if you're walking, of course!).
- Go through your passage slowly over and over, or silently listen to your breath.
- If you lose concentration (Everyone does! We're human.), as in "What will I wear to court?" or "When do I take the car in?", gently recognize that you've lost focus and go back to the passage or your breath.
- Do this for 25-30 minutes every morning, preferably. If you can't do it in the morning, schedule another time for it. Be prompt and strict about your promise to do it.

One caveat: sometimes during meditation, when you're calm, you might have emotional moments of intense fear, sadness, or anger, or the opposite – joy, laughter, or happiness. Let them pass, but don't stop your meditation. Keep going through the tears, or the laughter. The meditation will eventually help you level out, if you keep going.

Here's the Prayer of St. Francis of Assisi, modified to get you started – or find a peaceful passage of your own, from any tradition.

- *Make me an instrument of your peace.*
- *Where there is hatred, let me sow love.*
- *Where there is doubt, faith.*
- *Where there is despair, hope.*
- *Where there is darkness, light.*

- *Where there is injury, pardon.*
- *Where there is sadness, joy.*
- *Let me not so much need to be consoled, as to console.*
- *To be loved, as to love.*
- *To be understood, as to understand.*
- *For, it's in the giving that we receive.*
- *It's in the pardoning, that we are pardoned.*
- *It's in the letting go of our old ways that we are born to the new ways.*

Your mind believes everything you tell it, so start telling it that you want peace, now.

Start your meditation practice today. ■



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