

THE DIVORCE SURVIVAL GUIDE

BY DAVID W. WYNNE, JD

How to Prepare For Divorce
And Protect your Children, Your Wealth, and Your Emotional Health



Table of Contents

Page 4	Part 1: Introduction
Page	Part 2: How to Stop Your Divorce
Page	Part 3: A Brief History of Divorce
Page	Part 4:
Page	Part 5: Finding Freedom

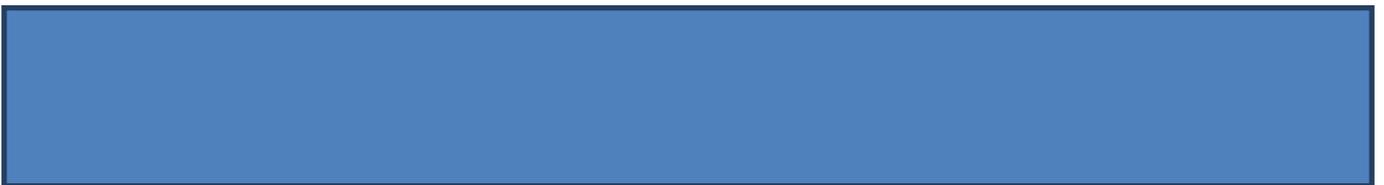
THE DIVORCE SURVIVAL GUIDE

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This article and the information contained herein is intended to be used as an authoritative guide for individuals facing a divorce in Texas. It is not intended to replace legal counsel. This article is intended to provide general authoritative information to assist the reader in preparing for a divorce. The information contained herein should not be relied on as legal opinion or advice. Final determination of the suitability of the information for use by the reader is the sole responsibility of the user. The law varies from state to state and the usefulness of the information contained herein, depends upon and is affected by the laws of the user's home state.

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By David W. Wynne, JD



INTRODUCTION

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If you have been through a divorce, you know how stressful and difficult divorce can be on not only you, but your friends, family, and most importantly your children. I have watched divorcing couples spend their life savings needlessly fighting. I have seen children's lives destroyed by parents who used them as weapons against one another.

My name is David W. Wynne. I have been a divorce attorney practicing in Fort Worth, Texas, since 1996. I have to tell you, there are no winners in divorce courts. I learned from very early on that individuals going through divorce or child custody proceedings are usually at the worst point in their lives. The pain and uncertainty of divorce can be overwhelming, causing good people to behave poorly. Divorce leads to bad choices that can affect your life and your children's lives forever.

If you are facing a divorce, I hope this book will change the way you proceed with your divorce, the way you treat your spouse, and most importantly, I hope this book helps you protect your children.

After decades of helping clients through divorce and child custody, I know for certain:

1. No one wins in a divorce court;
2. Divorce is expensive;

3. Children will deal with the divorce and they will be ok if, and only if, the parents learn to effectively co-parent;
4. The key to success in divorce court is finding a good, ethical attorney who will provide you with competent, sound legal advice;
5. To be successful the client and attorney must work together; and
6. If you can save your marriage and avoid divorce, you should do so.

Part 1: How to Stop Your Divorce and Save Your Marriage

The path to divorce can seem like a runaway locomotive. Divorce, though, is not unstoppable. My decades of practice have taught me that many marriages can be saved. I have even seen contentious divorces end in reconciliation.

Clients are often surprised when I ask if they really want this divorce. After all, I am a divorce lawyer. Divorce is my business. But I care about families, too, and my experiences have taught me a lot about how families work.

When you know what tears families apart, you also know what holds them together. Your divorce is not a runaway locomotive. It's a choice—a choice that you and your spouse can choose together to reverse.

If you don't want this divorce, find out why your spouse does. Sometimes it's as simple as asking them. A broken marriage is often marred by poor communication. You might spend endless weeks trying to figure out how to talk to your spouse about something, but there are no special tricks. Just asking with respect and love might get you the answer you've sought for months.

Many spouses are surprised by the reasons their partners seek divorce. Maybe the problem is constant fighting. Perhaps it's different goals. Infidelity might even be at the core of your divorce. You might not like the answers you hear, but understanding why your marriage is falling apart is

the only way to fix it.

You can't change your spouse, and any attempts to do so will make you both more unhappy. Don't ditch your principles or discard your own goals either. But if you want to stop the runaway train of divorce, empathy is key. Arguing with your spouse about why they're wrong will never work. You must see things from your spouse's perspective.

What is so bad about breaking the cycle of disagreement and agreeing with your spouse? We have seen couples so used to fighting that it has become habit. If they don't have something to fight about, they'll create it. Stop it. It takes two to fight, but only one to end the cycle.

It's hard to argue with someone who agrees with you

The psychologists call it negative suggestibility. Some spouses are used to a constant barrage of disagreement from their partner. Their automatic response to a suggestion or an idea from their spouse is to fight that idea like their life depends on it. That's the way they've become wired. The spouse is finally tired of it and files for divorce.

The solution is to stop the automatic disagreement. We don't suggest that you stop voicing your opinions. Sometimes all it takes is waiting a beat to think about the merits of whatever your spouse said. You might be surprised at how often you decide that yes, you can live with that. Make a few modifications and suddenly you've initiated a productive, positive conversation about something important to you both. In our experience as family law attorneys, that is what marriage is about--conversation and communication.

I had an affair—I deserve to be divorced

Well, that's a beginning. Coincidentally, that is probably just how your spouse feels. We watch both sides take their corners and come out fighting. Hurt and humiliation at being deceived on one side, justification at being forced into the affair by a laundry list of failures and inadequacies on the other. The only way out is to empathize with your spouse.

Acknowledging their feelings won't make your own any less valid.

If you are the one who had the affair and want to stop the divorce, try this: Stop defending yourself. Just stop.

An affair is about more than sex. It's an act of disrespect that leaves your spouse humiliated, jealous, and hurt. By agreeing with your spouse, you display respect. You also remove the power of their hurtful words. In so doing, the door to communication can begin slowly cracking open, allowing the light of resolution to shine into your marriage.

After weeks, months, or even years of fighting, your spouse may be so stunned by your sudden agreement that the entire tenor of your marriage changes. Suddenly communication opens back up. Your spouse might even begin to take some responsibility, reassuring you that you're being too hard on yourself. There is power in remorse.

Give your spouse respect

People often file for divorce because they don't feel respected or loved. There are many ways one spouse reinforces that lack of respect. For example, you may swear that you've changed and insist you try the marriage one more time. This insistence can backfire, convincing your spouse that you're only asking for another chance to win them back. Once you're back together, he or she thinks, things will return to how they were. Essentially, you want your way, just like always. Your spouse sees that nothing has changed. You are placing your own interests ahead of theirs.

Perhaps later your spouse may consider slowing or stopping the divorce process. But not right now. Right now they don't care what you want. So what should you do? You can't just let this divorce happen, after all.

Listen to them. Consider carefully what they say, but go deeper. Think about the history behind what they've said, the feelings they must be experiencing. Give them the respect of your complete attention and thoughtful understanding. Don't practice this just once. Do it every time. Make it a habit. It doesn't always work. But if your situation is at all salvageable, this may create the opening you're looking for. There's no downside to trying this tack.

10 Tips for Avoiding Divorce

After nearly twenty years of collecting data and anecdotes about the experience of divorce, the editors of *Divorce Magazine* combed through their archives and created a list of ten things couples can do in order to *avoid* divorce:

1. **Make time to lovingly connect with your partner every day.** Couples significantly improve their chances of marital success by devoting as little as 15 minutes a day exclusively to one other. Take time every day to talk and listen to each other with the same intensity as when you were dating. Show affection and discuss your feelings about your marriage. This time should be positive. Fighting, planning the day, and worrying about finances don't count toward your 15 minutes.
2. **Compliment your partner regularly--both in private and in front of others.** Even if your partner seems embarrassed, he or she won't forget it. Everyone wants to feel loved and admired. Everyone wants others to see their marriage as successful. Public compliments accomplish both goals.
3. **Love your partner in the way he/she wants to be loved.** We all speak different love languages, and what makes you feel loved might be meaningless to your partner. Some people love gifts. Others need encouraging words or acts of service. And for some, sex is the

key to feeling loved. If you don't already know, find out what your spouse *really* wants, and then provide it with love—and no judgments. It doesn't matter if you don't understand why your partner needs something. What matters is delivering on your marital promise to love your partner. And that means learning how to make your partner feel loved.

4. **Learn how to offer an authentic apology.** If you have hurt your partner in some way, sincerely apologize *without* trying to shift the blame to your partner or justify your actions. An authentic apology never includes the word “but,” and does not begin with “I'm sorry if.” Not sure how to authentically apologize? Know that an apology should include an acknowledgment of responsibility, an assurance that it won't happen again, and a kind word designed to undermine the hurt your actions caused.
5. **Remain faithful.** In her book *For Keeps: Marriages that Last a Lifetime*, Dr. Finnegan Alford-Cooper studied 576 couples who had been married for 50 years or more. She found that 95% of the spouses agreed that fidelity was essential to a successful marriage, and 94% agreed or strongly agreed that marriage is a long-term commitment to just one person. Infidelity is the fastest way to destroy a marriage. If you've been unfaithful, saving your marriage begins with ending the affair and taking full responsibility.
6. **Do things together.** Ballroom dancing, bowling, playing cards, SCUBA diving, or skiing—no matter what it is, find at least one activity that you both enjoy every week. Marriage needs to be fun to be fulfilling. Research shows that couples who do new things together are happier. They also report more feelings of romance, and are less likely to feel bored. Getting the spark back means finding something to be excited about together.
7. **Spend time apart.** While “togetherness” is important, you and your spouse are separate people, each with a right to his or her own hobbies. You each need the freedom to pursue your passions and interests. Time apart adds to the mystery that keeps romance alive. It also affords you a chance to continually learn about yourselves and one another.

8. **Be friends with your partner.** Psychologist John Gottman claims that his research predicts with 91% accuracy whether a couple will stay together, and that the key to marital happiness and success is *friendship*. Gottman based his findings on 25 years of marital research, collected in his book *The Seven Principles for Making Marriage Work* (Crown). Friendship means sharing your feelings, your passions, and your life. Treat your spouse like your best friend, and watch your marriage flourish.
9. **Take care of your health--and your appearance.** You already know that eating well and exercising is important for your own long-term health. Your appearance is more than just a superficial matter. It reflects how you feel about yourself, and how much effort you're willing to dedicate to pleasing your spouse. You don't have to dress up every day, wear things you hate, or look like a twenty-year-old forever. But basic self-care, good hygiene, and a willingness to wear things you know your partner loves can help maintain the spark well into your golden years.
10. **Say "I love you" every day.**
The fires of romantic passion, like any other flame, must be continually stoked to burn brightly into your senior years. Everyone craves love. Remind your spouse of your love each and every day. Like adding kindling to a campfire, your reminder of love will keep the romance burning even through life's storms.

Despite your best efforts, you may eventually find yourself butting up against a troubling reality: Not all marriages can be saved. If your marriage is unsalvageable, or your spouse is unwilling to entertain any thoughts of reconciliation, it's time to arm yourself with the knowledge that can help you survive your divorce.

Three Factors for a Mid-Life Marital Crisis

Many divorces occur in midlife, a time of immense transition. Dr. Thomas Plante, Augustin Cardinal Bea, SJ University Professor at Santa Clara University and Adjunct Clinical Professor of Psychiatry at Stanford University, writes in *Psychology Today* about three risk factors he has seen in his practice that he believes often contribute to the breakdown of many marriages when couples reach midlife: "mid-life:"

1. **A me-first mentality. me."** The needs of others are simply not important to a narcissist, and this makes it extremely difficult to adjust to the ongoing "give and take" of married life. Narcissism can occur in both sexes, but is more prevalent in men. A large number of narcissistic men think that that they can always do "better" than their wives, and consistently seek out new partners for thrill of the conquest. "the thrill of it." Narcissists lack empathy for anyone impacted by their decisions, those their decisions affect, even their spouses or children. even including their spouses or children.
2. **Unrealistic expectations.:** Looks can be deceiving. Many of us are on a quest for endless fulfillment, and may be envious of the apparently perfect lives of celebrities and our peers. It is easy to get caught up in the "picture perfect" lives of celebrities, along with an ongoing search for fulfillment. These celebrities may appear to be so "happy," without a care in the world. We may compare our lives to those of others—sometimes to an unhealthy degree. It is completely unrealistic to think that everyone is happy all the time, while we are not. It's simply not true; everyone has problems. There is no use comparing your life to that of anyone else. No one is happy all the time, and comparing yourself to others will only yield more unhappiness. Seeking success in life is one thing. But if you continually strive for higher and higher expectations and assume that there is something "wrong" with your life, it may be easy to think that you can just "throw away" your old spouse (and maybe even children) and "start over." you may see your spouse, and even your children, as disposable possessions you can throw away in favor of a better life.
3. **Lack of "guard rails" for behavior.** For myriad reasons, some people today seem to view values such as fidelity, loyalty,

commitment, and kindness as “old-fashioned.” some people discard values such as fidelity, loyalty, kindness, and commitment, deeming them too old-fashioned. Religion, morals and ethics have been tossed to the side. Many have been encouraged to simply “do whatever you want.” A “do as you please” mentality has caused some people to cast aside simple morality. This can result in the use of (and even addiction to) pornography, adultery, prostitution, or simply “hooking up” with random partners, whether one is married or not. Pornography, hook-up culture, and infidelity are depressingly common. It may seem that no one is telling you *not* to do these things, so why not “go for it?” They may even seem normal.

If any or all of these factors have crept into your marriage, you may be considering getting a divorce. But professional help might still save your marriage. If you feel that divorce may ultimately be the right choice for you, speak with an experienced Texas divorce and family law attorney to discuss your options.

Divorce Through the Ages

Divorce, like marriage itself, has evolved for generations. Consider how different divorce was even just a century or two ago:

Renowned gunsmith Russell Bean and his wife both suffered through the couple's divorce in the early 1880s. The newly married Bean delivered a large order of his excellent guns to customers in New Orleans. They treated him so well that he stayed on for two years, engaging in horse racing, gambling, and cock fighting. When he finally returned home to Jonesboro, Tennessee, he walked into his cabin where his wife, Rosamond, was nursing a newborn infant. Like spouses before and after, Russell was confronted with the harsh reality that a neglected spouse might not stay a spouse for long. Rather than learn from the lesson, Bean was incensed by this blatant infidelity, and responded with an act of immense cruelty. He cut off the infant's ears so he could tell it apart from his other eight children.

Rosamond was granted a divorce for cause from Bean. The courts didn't stop there. The judge threw Bean in jail, ordered him to pay a substantial fine, and branded the palm of his right hand as a sign of the terrible crime he had committed. Today's divorce courts, to the chagrin of some and the relief of others, don't embrace this retaliatory version of justice.

The early 1800's was a time when the simplest solution was usually the best. Take the case of William B. Travis. Travis was a star student despite his humble beginnings in Sparta, Alabama. Though he later led the Texas Army at the Battle of the Alamo, his humble beginnings led to a troubled marriage.

At 19, he married 16-year-old Rosanna, and had a son nine months later. When his teacher's salary couldn't support the family, he apprenticed with James Dellet, one of Sparta's best attorneys. One year later, Travis passed the Alabama bar.

Travis still couldn't make enough as a lawyer to support his small family. He started a newspaper that failed in a matter of years. With mounting bills and another child on the way, Travis took the way of so many at the time. He left Alabama and headed to Texas. The law, his creditors, and his irate wife had no jurisdiction over him from the moment he crossed the Sabine River. Travis later died at the Battle of the Alamo.

Divorce customs date from 1073

The divorces of the 1800s were downright civilized compared to the earliest divorces. The earliest divorces date to 1073. Back then, unhappy men could sell their wives to the highest bidder. Women were quite literally slaves to their husbands. This troubling approach to divorce continued well into the 1800s.

The Israelites of the Old Testament required a justification for divorce. Infertility was a popular cause for dismissing your wife and banishing her from your home. Infertility was always the woman's fault, and women

could never divorce their husbands.

In a strange twist, the first hint of equality comes from Biblical instructions to conquering soldiers. Rape was impermissible. Soldiers had to house and feed a woman for a month, allowing the woman to grieve for lost loved ones, before making her a wife. Though no divorce papers were necessary in the event of a split, men could not sell their wives into slavery. This “equality” might not seem like much, but was progressive for the time.

Who changed family law forever?

It probably won't surprise you to know that a woman led the charge to change family law. Her name was Caroline Norton. Nearly two centuries ago, she sought a divorce from her husband. George Norton was a member of Parliament, and a veteran wife beater. The two fought constantly.

Caroline found refuge in the arms of Lord Melbourne, a future Prime Minister. When George Norton discovered his wife's infidelity he banned her from their home and refused her visitation of the children. She had no land, no assets, and no children. Under English common law, a woman's property became her husband's upon marriage.

Undaunted by hundreds of years of history, Carolina Norton persuaded parliament to allow wives who had been faithful to gain custody of their children. This monumental change transferred jurisdiction over the family from the Church to civil courts. The family law system has continually evolved since that time, producing the imperfect—yet greatly improved—system we have today.

What was the most liberating advance in marriage dynamics?

The great equalizer in marriage, divorce, and gender dynamics was almost certainly The Pill. In the early 1960s, sex outside of marriage was taboo. But Enovid, the first mass market contraceptive pill, gave women near-complete control over their reproductive lives.

I believe the pill has contributed to stronger families and a better society. Women are no longer tied to men or trapped in unhealthy marriages. Motherhood does not have to hold them back. Some of the finest family law attorneys I know are women. Many of them work in my firm.

Divorce reflects cultural changes

Better books, endless online information, and greater commitment to family harmony mean that clients have never been better informed. Many of our clients are realistic and professional, hoping to peacefully move on. Moving on is never a simple matter, though, since it involves complex financial entanglements, child custody, and perhaps the division of a beloved family home.

There's little reason to wage war

A protracted legal battle will only drain your bank account and your motivation. In most cases, the outcome is the same as could have been negotiated—except that a lawsuit costs more, and gives clients less control over the final outcome. Anger and revenge cost you your dignity, your money, and your well-being. They are not worth your time.

The Divorce Bible: Winning Your Case, Thriving After Divorce

This is not your parent's divorce

Many of today's adults had ringside seats to their parents' divorces. They watched the horror of the two people they loved the most enter mortal combat. The outcome was often both emotional and financial devastation for both sides for years to come.

These same [former] spectators have learned what not to do. Many are professionals spend their days identifying and implementing novel solutions to complex problems. They apply these same skills of logic and management to their divorce. They know that litigation draws out the process, is more expensive, and rarely produces a superior result. "Why go there?" they reason. Many first choose mediation to get closer to an amicable and workable settlement.

The Oprah effect

Oprah Winfrey got it right in her *O* magazine, when she advised readers looking into divorce to first seek the counsel of a mediator. Oprah may help drag divorce out of the court room and into a more family-friendly approach.

The late comedian Robin Williams and his wife chose a collaborative divorce, choosing the privacy a settlement offers. In so doing, they kept their baggage out of the public eye and focused on their children.

Two avenues for a smart divorce

There are two ways to intelligently divorce. Collaboration and mediation between two people who do not want to destroy one another is key. As Oprah and Robin Williams demonstrated, negotiation is civil. Mediation offers a dispassionate analysis of what will work best for your family and children.

A second option uses attorneys with a pragmatic approach. They know they won't get rich from your case—they don't try. Instead, their focus is on serving you in the best way they can. They define that service as a fast and fair resolution to your case. They manage the case toward that end goal.

Selecting an attorney who understands "smart divorce"

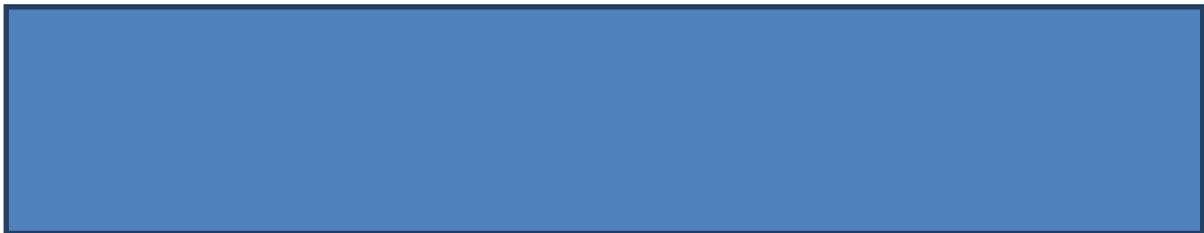
Family law attorneys come in all stripes. Some are service oriented with a focus on their clients. Others have a more predatory approach to the practice of law. Here are the questions to ask when seeking a lawyer who knows "smart divorce":

1. What will be your approach to my case?
2. How many cases do you settle versus the number you take to court?
3. How do you feel about mediation and collaborative divorce?
4. Did the attorney answer your questions honestly or did they tell you what you wanted to hear? *Did they tell you anything you did not want to hear but that you needed to know?*
5. Did they listen more than they talked?
6. Was the attorney a problem solver or a warrior?

Smart divorce means realistic expectations

Smart divorce requires managing a client's expectations. Your divorce attorney must at all times work for you. That means that you are the chief decision maker. Your attorney advises you on Texas law and what it will and will not allow. Your attorney should describe for you the likely outcome of your decisions or strategies if they go to a courtroom hearing.

Smart divorce means that your attorney teaches you about the process and the law. They are in your corner for the purposes of facilitating a settlement that is fair to you. Smart divorce does not permit going after an unreasonable goal, using questionable ethics and methods. Such tactics rarely work, or if they do, the costs are so exorbitant as to make them not worth the outcome.



Obtain Competent Legal counsel

The other side will get the best attorney they can. So should you. Unless you are represented by an experienced and aggressive attorney who is in

complete control of your case, you will not get the result you want. By that I mean specifically:

- Child custody will not be to your liking;
- Child support will be set in accordance with state guidelines, not your family's needs;
- Alimony or spousal support will fall short of what you should have received;
- Disposition of property in the marital estate will be skewed in your spouse's favor.

Who do you want on your bench?

Divorce requires an expert team. Start with your divorce lawyer. This is the team's quarterback. Your divorce lawyer will strategize and form the nucleus around which everything revolves. It's not enough to find the most competent and experienced law firm available. That's obvious. You also need someone with whom you are financially, personally, and professionally comfortable. You're not hiring a best friend; however, you will be spending considerable time with this person. Choose a lawyer with whom you have some rapport and whose judgment you respect.

You'll also need a lawyer you can afford.. Ask them to estimate the total legal fees for your case. Ask about their rules for contacting them such as:

- Calls and meetings outside of normal business hours;
- Cell phone contact—will they provide you with their personal cell phone number;
- Will they return your call within a promised time frame—say by end of the business day—5:00 pm;
- Flat fee billing options and payment plans;
- Hire a Divorce Lawyer who knows the local family courts. You wouldn't hire a dermatologist to perform surgery. You shouldn't hire a criminal lawyer to handle your divorce;
- Meet the attorney's staff members. You will be working closely with the paralegal, office manager, and receptionist. An attorney who

lacks office staff might not be successful enough to afford them. Family law is demanding, requiring a large staff to assist clients.

Finally, let them know that you are interviewing several other law firms to represent you. Competent attorneys never flinch at competition.

After your initial conversation with a family law attorney, you should know if:

- The lawyer listens to you when you talk;
- He or she is interested in you and understands your needs and goals;
- He or she has experience in the courtroom?
- Is the attorney's staff interested in you and your needs? The law office staff will be the people you deal with the most so you should meet the paralegal and other staff members.

You and your attorney will become partners. This partnership requires clear communication and a solid relationship. You should interview several attorneys, and you should only hire an attorney that you are comfortable with.

Tips to help you prepare to meet with a Family Law attorney

As you get ready for your first meeting with your attorney, you should prepare certain documents and information to bring with you. The information you provide will help us assess your situation and develop a plan that will be the best fit for your objectives. This list is a guide to help you get started. Not all items listed may be applicable to your situation, and we may ask you for additional information and/or documents not on this list.

The attorney will need to know your financial information. Bring a list of all your assets and liabilities to your first meeting, including:

ASSETS

- Financial Information (including account names, numbers, balances, and current statements)

- Individual income tax returns for the past three to five years (state and federal)
- Business income tax returns for the past three to five years (state and federal)
- Recent income pay stub
- Your last twelve months of bank statements
- Statements from trusts, stocks, bonds, or US Treasury notes
- List of safety deposit box contents
- Investment accounts (annuities, mutual funds)
- Retirement savings information (including balances, beneficiaries, outstanding loans, and current statements)
- 401(k)s
- 403(b)s
- IRAs
- Life insurance policies (including cash value)
- Social Security statement
- Pension statement
- Property Information (including property description, address, ownership interest, market value, outstanding mortgage and loan balances, source of mortgage and loan payments, and most recent tax assessment)
- Primary residence
- Rental properties (including any rental income)
- Vacation homes
- Business property
- Personal property of value (antiques, collectibles, automobiles, jewelry, art, computers, electronics, clothing, furs, etc.)
- Inheritance (current or anticipated)
- Interests in trust (current or future)
- List of property owned by each spouse prior to marriage
- Automobile(s), boat(s), or other recreational vehicle(s)

Bills and Outstanding Debt (including balances, statements, source of payments/funds)

- Credit card statements
- Loan documents

- Utility bill
- Other bills (school tuition, medical bills, etc.)
- Monthly budget worksheet

Legal Agreements

- Wills
- Living wills
- Trust documents
- Powers of attorney
- Durable powers of attorney
- Advance directives (also termed power of attorney for healthcare, healthcare proxy)
- Prenuptial agreements (also termed premarital agreement)
- Divorce decrees or child support from a previous marriage

Non-financial Contributions

- Contributions of a homemaker
- Contributions made by one spouse to further the educational and/or career goals of the other spouse

Finally, you will also want to start thinking about other issues that may or may not be applicable to your situation. Be very specific and advise the attorney of your concerns and goals. The attorney cannot help you reach your objectives unless he knows your goals for property division, custody, and your temporary needs. These matters may include:

- Child support
- Child custody (legal, physical)
- Visitation
- Residence in the marital homestead
- Beneficiaries of insurance policies and other benefits;
- Spousal support/alimony
- Domestic violence issues (including child abuse)
- Post-divorce non-financial support
- Attorney's fees, expert witness fees and expenses

Don't let emotions defeat you

Unchecked emotions can force very smart people to make very bad decisions. The opposition knows this. They will try to use your emotions against you. There are three things we suggest to neutralize this weapon:

- Engage the services of a therapist experienced in helping people through divorce. They will teach you skills to manage the stress and trauma your spouse and opposing counsel are bombarding you with. Some of my clients have expressed concerns that the court may view someone who sees a therapist as being mentally unstable. In reality it is quite the contrary! Courts generally see someone who has sought help from professionals as being mature and responsible by seeking help for their emotional needs.
- Try marriage counseling one last time. Even if you've been there before and it didn't work, separation can make everything more urgent. Counseling can also prepare you for the weapons your spouse intends to use against you. Forewarned is forearmed.
- And finally, take care of yourself. EAT, REST, and EXERCISE. When we are under stress, self-care is crucial. You cannot make healthy decisions or properly care for your children if you are tired or undernourished. It is essential for you to have a support network. Talk to your friends and family about your situation. There are many divorce support groups that connect you to others who are in similar life-changing situations.

The Three Emotional Stages of Divorce

In my experience, people handle divorce differently and in their own way, but years of observation have taught me three emotional stages of divorce that I believe every divorcing spouse experiences:

DELIBERATION = During this phase the party contemplates the future of the marriage relationship and determines that termination of the marriage relationship is in his or her best interest. During the deliberation phase, the individual deals with feelings of denial, anger, blame, withdrawal, and avoidance.

TRANSITION = The transition phase is the most painful phase to go through and the hardest to get out of. During this phase the party deals with grief, sorrow, bargaining, blaming and fear of loss. Everything that makes us feel safe and comfortable is at stake. Our home, our children, our financial security are up for negotiation. Fear of the unknown causes many parties during this phase to act irrational, threatening financial assets and destroying relationships.

REDIRECTION = The final phase takes some individuals years to reach. Some people stay in the Transition phase too long, drowning in self-pity. I have found that when individuals enter into the Redirection phase they seem to smile more often and have a new found sense of peace. The Transition phase includes learning, strengthening, adapting, and redefining. Something as simple as moving into a new home or apartment and decorating the place can bring someone out of the transition phase and into the redirection phase.

In most divorces, an initiating spouse seeks the divorce. The non-initiating spouse may feel blindsided. The initiator may appear in control of their emotions and better able to deal with the dissolution of the marriage. He or she has already grieved. The non-initiating spouse is navigating the grief process and the transition phase at the same time.

TIPS FOR DEALING WITH ANGER

Divorce sparks feelings of hurt, disappointment, grief, and much more. These are fairly common and easily recognized. What is underlying them all, though, is anger. Not recognizing anger and acting on it can make your divorce worse, and even put you in legal jeopardy.

Cathy Meyer of About.com offers readers anger management tips that can work in any context. Why let your emotions fester and become overwhelming when help is just the touch of a button away?

1. **Don't stuff it!** Think of Edith, Archie Bunker's wife. She had to stuff it all the time. That's the way it was. Stuff it. And still is. Children should be seen and not heard, and that goes for women, too. Well, are you like Edith? Do you want to become like Edith? Anger is a legitimate emotion. Examine it. Take a step back when you feel yourself getting heated. What is it exactly that is getting you all riled up?
2. **Don't fear it.** Girls are taught to be nice. If you expressed anger, you were not being nice. In fact, you may even be punished. This is a very interesting process. We learn to disconnect from our feelings. Disconnecting ourselves from ourselves creates imbalance, making you easier to control. Get in touch with your feelings. Be honest about them. Do not be ashamed of them. Do not!
Sometimes it is helpful to write your feelings down.. Buy one of those beautiful hard bound notebooks and start a diary. Buy a new pen. Starting such a project definitely demands a new pen. Put a lock on it. Sometimes they come that way. Keep it in a safe place after you've carried it around all day.

Talk to someone you trust, but be careful. The things you say could later be used against you in court, so consider hiring a therapist—a paid, safe, confidential listener.

3. **Don't worry about losing control.** Some people do not allow themselves to get angry, to show anger, for fear of losing control. They fear the rage that might come out and what they would do in such an uncontrolled state of mind. Find a safe place to vent. Go to another room. Better yet, go for a walk. If you can, scream! Punch a pillow! Punch a wall! Don't punch any people!
4. **Don't worry about what other people think.** It's socially acceptable to express grief, or even sadness. Yet many people feel embarrassed about expressing anger. Does it cause shame? Why? If

you feel anger, you have a right to feel that way. Allow yourself to feel your feelings, to go through the process every step of the way.

Prioritizing for a Successful Outcome

To succeed in a divorce you must clearly identify and prioritize your needs and concerns. There is a saying at the courthouse that if both divorcing spouses leave the courtroom unhappy, then the judge made the right decisions. Bottom line--you will not get everything you want! Neither will your spouse! Prioritize, clearly identify the things that are most important to you, and clearly express your priorities to your attorney.

To get what you want at trial or through settlement negotiations, you must first know what you want and you must have reasonable expectations. Hopefully you have found a great attorney who will work with you to prioritize. The purpose of a divorce is not to destroy your ex, and using your children as pawns will only harm them—not your former spouse. If a lawyer assures you that you will get everything you want and makes certain guarantees of success, then you need to immediately fire him or her. No attorney can guarantee you success at trial.

Get your ducks in a row. This time honored saying applies to divorce cases as much as anything else. Since a family court judge will be observing both your history and current status, give them a favorable impression. Begin by identifying the things most important to you. For example, if one of your significant interests centers on child custody and visitation, be the kind of parent you want the judge to see. Drive car pool. Attend all the games. Be the parent who goes to parent/teacher conferences. Be seen at the school's open houses.

When you do things that support your case, consider how you might document those actions. The court very well may require some proof that you are the attentive and participative parent you claim to be. Take photos and videos of your activities. Make friends with the other parents at the

games and school dances you chaperone. Know everyone by name and vice versa.

Work with your attorney to form your legal strategy. Two gazelles running from a lion don't have to be the fastest gazelles on the field. One just has to be faster than the other. Same thing with divorce. You don't have to be the Martha Stewart of parenting. You just have to be better than your spouse—and be able to prove it.

Stay in the house. If your spouse moves out, you retain possession and a good deal of control. If the kids remain in the house, you become—by default—their primary caregiver. Certainly, give fair visitation to your spouse during the divorce proceedings. This is in the best interest of your children, and shows that you do what's best for them even when it's not easy. However, such visitation by definition becomes what's convenient for you and in the best interests of the kids—not what your spouse prefers. If you're doing an exceptional job as the custodial parent before judgment is rendered, it will speak in your favor.

Most couple's assets are the home itself, or located inside the home. By remaining in the home you—not your spouse—keeps possession and control of the primary assets comprising the marital estate. This possession ensures that your spouse does not misappropriate certain assets or damage them, thus reducing their value. You want to be the custodian of the marital assets.

Mount a preemptive strike. If you have decided that divorce is the best solution for all involved in your marriage, then you must file first. This preemptive strike places your spouse in a defensive posture. It also shortens the time they have to put their own ducks in a row.

Before filing, take precautionary measures such as closing charge accounts, freezing or closing bank accounts and investment accounts—both to ensure the protection of these assets and prevention of misappropriation

by your spouse during the divorce proceedings.

Being the first to file allows you to control the timing of many things. For example, there are period-ending bonuses to consider and retirement plan contributions. Exercising of stock options and safeguarding the proceeds also falls into this category. Finally, the party filing first goes to court first and usually has the last word during oral arguments. Both are sometimes helpful legal positions.

Disclosure to your counsel

One thing that hinders the efforts—no matter how skilled—of any family law attorney is being blindsided by the opposition. Prevent this from happening by telling your lawyer everything.

Your lawyer is not your moral conscience. No matter how embarrassing or seemingly irrelevant to your case, tell them. Our attorneys are experienced at coaxing the truth from our clients. Most good divorce lawyers are. Your attorney will not judge you. They need to know more than what the opposition can find out about you, your behavior, and the facts surrounding what happened or didn't happen. Even if you've made mistakes, honesty with your lawyer allows him or her to begin mounting an effective litigation strategy.

I have seen clients who altered and spun the story of what happened for so long that they believed it to be the truth. Their argument deflated immediately under attack from the opposition. My advice is to really think about the facts you tell your lawyer. Make sure your version of events is accurate, and not just a version you wish were true.

Quick and consistent access to all evidence and relevant documents makes your divorce easier. If necessary have your public accounting firm compile and review your balance sheet, and report in writing their attestation to the procedures they conducted during their compilation and review. Make certain that the assets and liabilities as stated on the balance sheet do

exist, and the dollar amounts are consistent with that provided by a credible, independent third party such as a bank or other financial institution.

If you or your lawyer make key statements of fact, have documented proof easily available and in admissible form for the court. The intent here is to immediately establish your credibility. So later, when you're dealing with the softer issues like child custody, you are already a reliable source.

Your divorce case will be a seemingly never-ending stream of decisions—some big, some less so, but all important. You both will eventually agree on distribution of specific assets such as the house, cars, investment securities and other assets, bank accounts, retirement plans, and all the debt that accompanies these assets.

You and your spouse should make every attempt possible to settle property and child issues without judicial intervention. Why would you want to place everything you have worked for and the lives of your children into the hands of a stranger? Reaching an amicable resolution of your property and child-related issues will set a tone of cooperation from the very beginning. Not only does this achieve faster and better results for you, but it establishes the pattern of civil behavior that will continue after the divorce is finalized.

I have seen spouses so angry at one another that they cannot wait to get into the courtroom to humiliate the other side. Resist the temptation, and rein in your lawyer. You may want a bulldog in the courtroom. but what you need is an attorney who practices aggressive, controlled representation. A divorce is by nature an adversarial action. Emotional control ensures good judgment.

Airing such private aspects of your life as infidelity, substance abuse, domestic abuse, or child abuse often backfires. Both of you may be dragged through the mud. Reputations will be damaged. Jobs will be lost.

The bitterness and anger can linger for years. This aggressive approach serves no one.

Divorce is a wrenching experience. Your life will be filled with attorneys, accountants, investigators, and others. You will need calm, experienced, and supportive counsel by your side. I often encourage my clients to see a professional therapist or trusted spiritual leader to help them navigate the process. At the very least, everyone needs an objective adult to talk with. Well-meaning friends who agree with everything you say may support you in making bad decisions. Short of losing a loved one, divorce is the biggest change any of us will encounter. The longer the marriage lasted, the greater will be the change. You need and deserve objective, professional support.

Do not speak through your lawyer

Breaking off all personal communications between you and your spouse and putting such critical issues in the hands of the lawyers is a recipe for disaster.

Leaving everything to your lawyer is terribly expensive. It will also greatly increase the time required to resolve your case. Because lawyers bill by the hour, a speedy resolution is not in their interests.

Except for debating legal matters, you are almost always your own best representative. Attorneys sometimes get your intentions wrong or misinterpret what you told them to do. Such mistakes need to be first identified then fixed. This takes time in the form of billable hours that were never really necessary

If possible you should maintain open communications with your spouse. Don't let the attorneys get in the way. Negotiate issues and decisions together as much as possible. When you encounter a sticking point, bring

in a mediator to resolve the issue. Where your children are involved, always focus on what is best for them.

How to help your lawyer represent you

When both spouses are motivated and reasonable, divorce is relatively painless. The pain of a divorce can spur either or both parties to take an unreasonable stand on most every issue. This produces a blizzard of paperwork. Your divorce attorney will manage this for you. Preparing some specific information at the very start can greatly expedite the process and save you thousands in legal fees.

At my law firm, we suggest clients create a Divorce Bible. Include in this indexed, tabbed, 3-ringed binder all the motions and pleadings your lawyer will file on your behalf. Add to this indexed and referenced database five new sections:

- Identification
- Financial statements and tax returns
- Financial records
- Family-owned business records
- Asset disposition

Identification

In addition to these identification items, provide independent verification of each item wherever possible:

- Your full name, address, and all telephone numbers, email address, FAX number(s), place of employment, address, and telephone number
- Your spouse's full name, address, and all telephone numbers, email address, FAX number(s), place of employment, address, and telephone number
- Both spouses' dates of birth
- Names and birth dates of children
- Date and place of marriage. The marriage date is among the most

important items for property disposition.

- Date you took up residence in Texas and the date (if any) you left the state to establish legal residence elsewhere
- The final, executed prenuptial or post-nuptial agreement along with all subsequent amendments and updates
- Specifics about each spouse's previous marriages: Who, what, where, when and why the divorce
- The names and Social Security numbers and copies of the birth certificates of children from previous marriage(s), date of marriage and divorce, final divorce decree
- Both spouse's Social Security numbers
- Income of each party: This is stated on Form 1040 of your joint Federal Income Tax return. You might also corroborate this with the matching Forms W-2 and/or Forms 1099 that served as source documents for the Form 1040.
- Educational history, college degrees, and any special training of both spouses. To corroborate this, you might include a copy of the college diploma.
- Employee benefits for both spouses. These are often spelled out in the Employee Handbook that each employee receives on their first day of work.
- Copies of retirement plans for both spouses

Yes, this is a lot of information that may be difficult to produce—especially for marriages that lasted for many years. Just do the best you can. If you want to know why your attorney needs all of this, our answer is: We're professionally skeptical. Especially in cases of infidelity, if they lied about that, what else have they lied about? This information helps us find out.

The family's balance sheet

This is not just the family's financial statement. Instead, your attorney needs to know the details of the assets and liabilities that *comprise* the balance sheet. Compile records to prove the following:

- Assets that comprise the marital estate. Among these are probably:
 - Homes
 - Real estate owned for investment purposes

- Securities accounts held at money managers and broker/dealers
- Accounts held by financial institutions such as banks or credit unions
- The contents of safe deposit boxes
- Retirement accounts such as 401(k) and IRA accounts
- Vehicles such as cars, boats and aircraft
- Live stock
- Works of art
- Collections
- Life insurance policies:
 - Cash value
 - Beneficiaries
- Liabilities and debts associated with the assets:
 - Mortgages
 - Loans and notes payable
 - Credit card balances
 - Margin accounts at securities firms
- Assets owned by both spouses outside of the marital estate:
 - Trust funds
 - Inheritance proceeds payable

Financial records

The best financial records are those compiled by independent third party professionals. These experts sign off as the preparer, staking professional license on the accuracy. Another excellent source of credibility comes documents filed with a governmental authority attesting to the accuracy of the information on pain of perjury. Adding a section to your *Divorce Bible* containing complete and accurate financial records will greatly aid the computation of child support, alimony, and asset disposition. Compile records for the following:

- Complete state and federal tax returns executed and filed with the taxing authorities. Be sure to include all supporting forms and schedules. Compile these for as far back as possible.
- Evidence of payment of personal and real property taxes along

- with what the payments were for.
- Bank statements and bank account reconciliations with your personal account records
 - Investment account statements and the blotter records of securities trading
 - Loan applications that contain financial statements and tax returns

Family-owned business records

For many families, the business they own is their most valuable asset. When the marriage ends, the business becomes the most coveted asset. Accurate and complete records of the business will greatly assist your divorce lawyer in presenting your case and obtaining the result you want. Here are the records to compile related to the family business:

- The complete legal name of each family-owned business. Include addresses and taxpayer ID numbers as well.
- Identify the shareholders or partners.
- Have copies of the shareholder certificates or partnership agreement granting partnership interest in the firm.
- Know how much of the business your family owns.
- Complete set of financial statements—preferably audited by an independent public accounting firm. These should go as far back as possible. Also gather internally prepared financial statements by month for the year prior to filing for your divorce.
- Copies of bank statements for the business, if possible, with specific attention to the months preceding the divorce filing
- Tax returns of the business with all accompanying schedules
- Loan applications and all accompanying schedules
- Buy-sell agreements if it is a partnership
- Life insurance policies designed to fund the buy-sell agreement
- Appraiser's report if the business was valued recently or if you had it appraised during the divorce

Strategy for asset disposition

Getting the result you want from your divorce requires forethought and a

strategic plan. That strategy involves all aspects of the case, from child custody, to child support, alimony and asset disposition. We urge our clients to think about the following questions related to the family's assets . This helps us chose the path down which the case proceeds.

- List the assets. Rank them according to importance, noting which you are willing to use as bargaining chips, as well as which you are willing to sign over without a fight.
- Along with the list of assets you will go to the mat to keep, determine if you have the financial resources to service each asset's debt and maintain the asset. For example, homes often have mortgages that require monthly payments. Boats are notorious money pits. Aircraft are even worse. Horses and other livestock require upkeep. Depending on your post-divorce cash flow, you may need to rethink your list of must-keep assets.
- Often the most emotionally contentious asset is the family home. Decide how you feel about giving it up. It could be sold. It could be negotiated in exchange for other assets that can be bartered for the house. Decide how your children would feel living somewhere different.
- The family business may be the most valuable asset. Decide how you wish to participate in it. Are you qualified to run it? After the divorce could you continue working with your ex? Would you trust your ex to run it and distribute to you the agreed-upon share of the profits? Also, find out the value of the business by engaging the services of an independent professional appraisal firm. Find out how that valuation might change depending on when the case actually values the business. It could be when you filed, when you settled or not until the divorce is finalized.
- Determine the tax implications of your decisions related to asset disposition. For example, keeping the commercial income property may provide certain tax advantages that other assets would not.

Is there a "best" or "worst" time to divorce?

A June 2014 article on MarketWatch.com relays the story of David Tepper, a hedge fund billionaire with a fortune estimated around \$10 billion. The

site, a subsidiary of the Wall Street Journal, uses Tepper's divorce from his wife after nearly 30 years of marriage as a "cautionary tale" to illustrate how the timing of a divorce can greatly affect its outcome, particularly in high-value divorces.

Some advice from Marketwatch:

- **Be mindful of potential "windfalls."** Being a savvy businessman, Tepper purchased billions in shares of failing banks during the 2009 mortgage-backed securities crisis. Tepper's investment did indeed pay off to the tune of around \$7.5 billion in profits, over half of which went to Tepper himself—making these profits eligible for community property division as part of his divorce five years later.
- **If your company is about to go public or you expect a large inheritance to arrive soon, it may be financially wise to delay a divorce.** This is especially true for couples whose home may be "under water." Any profits will automatically be applied toward the past-due mortgage. The housing market is slowly making a comeback, so it may be smarter to wait until the family holds more equity.
- **Health insurance may be changing.** The advent of the Affordable Care Act, aka "Obamacare," along with potential changes in how businesses of all sizes handle employee health insurance, may make waiting to divorce a smart choice until both spouses know what their health insurance options will be.
- **If you are in the midst of selling a company, it's wise to put off a divorce.** Case in point: the pending divorce of Roger and Shelly Sterling, co-owners of the LA Clippers. When Shelly Sterling accepted an offer from former Microsoft executive Steve Ballmer for around \$2 billion, Roger Sterling took steps to block the sale. The situation, to put it mildly, is a (very public) mess.

Divorce: there is an app for that

There's an app for everything—including divorce. . In fact, there are several. [An article in the Huffington Post suggests a few apps](#) that can be especially helpful before, during and after a divorce.

- **Houses:** This app can facilitate communication between ex-spouses. Each parent is able to edit a shared calendar that resides in the app to update information about their children's schedules or other happenings. If one parent makes a change to a schedule, the 2Houses app sends a message about it to the other parent. **2**
- **DivorceLog:** DivorceLog is also a calendar-based application, but its focus is helping divorcing couples monitor information and schedules related to their divorce. Entries might deal with aspects of the divorce such as court schedules, expenses, dates on which payments are due, child visitation, etc. Information can be forwarded to an email address right from the app and shared with an ex-spouse, family member or attorney. **D**
- **Split Divorce:** This app aids in dividing community property (marital assets) by allowing users to assign an icon to individual items, even "high-value" items such as homes and vehicles. Users can enter the value of each piece of property, and the app will calculate the value of the assets assigned to each spouse. The tally can also be exported in the form of a spreadsheet and printed out to share with one's attorney or financial consultant or an ex-spouse. **i**
- **Child Support Calculator:** This app can help divorcing **C**

couples calculate the expected cost of regular child support (or spousal support) payments. Users can enter the state in which they are getting divorced, their incomes and the amount of time children will spend with each parent (as a percentage). The app will then provide the expected amount of support to be paid based on these factors.

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arenting Apart: This app provides advice on demand to parents who may be separated, divorcing, or divorced. Some sample topics include effective co-parenting strategies and helping children acclimate to life after divorce.

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APE A CALL: I recently discovered a new smart phone app that allows the user to record phone conversations. A free version, Tape A Call lite, can be downloaded from the Apple App Store. Spend the \$8.99 and purchase Tape A Call Pro. I really like the format of this recording app, and the user can easily forward the recoded conversation to another via e-mail. Most recording devices I have experienced are difficult to use in the courtroom. I find the Tape A Call Pro App to be user friendly. This App is perfect for recording conversations regarding child visitation exchanges or other areas of conflict. In Texas it is legal to record a conversation as long as you are a party to the call. You don't need your ex's permission.

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Ten things you should really avoid doing while you are getting a divorce

If you are in the process of getting a divorce, you may be feeling a million different emotions all at once. You might feel you've earned the right to do as you please. [This is a BAD idea. LegalZoom.com](http://www.LegalZoom.com)

[offers some suggestions for ten things you should really *avoid* doing while you are getting a divorce](#)—for a lot of reasons.

1. Don't Increase Your Debt: Divorce itself is a costly endeavor, and depending on your new living situation, it is a good idea to “live below your means.” Save money wherever and whenever possible. It will pay off in the long run.

2. Don't "Settle" Early: Don't accept a bad deal just to get your divorce “over with.” Keep meticulous records of your property, and of any debts you may have incurred with your spouse during the marriage. If you are able to settle your divorce through mediation or collaborative divorce and avoid court, that's probably in your favor, but you and your spouse would both have to agree to these forms of divorce. If you can't agree and you decide to hire an attorney to represent you, be sure to bring three things to the first meeting with your lawyer: a spreadsheet of your separate and marital assets and debts, an accounting of your personal income and expenses, and your tax return.

3. Don't Forget About Taxes: Single people do not get the same tax advantages that married people do. You may also now owe capital gains taxes on property and assets you receive in your divorce. You may wish to add a tax advisor to your divorce team.

4. Don't Wait Until After the Holidays: If the marriage has already failed, waiting until after the holidays may not help. It might be easier for all concerned to make a “clean break,” and begin getting accustomed to your changing lives. Staying married into the new year may also change your tax liabilities; speak to your attorney and/or tax professional about your options.

5. Don't Dismiss the Idea of Seeing a Therapist: Divorce is often very emotional, and the help of a therapist can be a godsend.

6. Don't Take It Out On the Kids: Divorce is typically a very emotional time for children, too. Even if they are "acting out" or otherwise making your life difficult, don't take your feelings out on them. They need your support now far more than you need theirs. Whether or not you decide to seek help from a therapist for yourself during the divorce, it might be a good idea to take your children to see one.

7. Don't Get Too Personal with Your Lawyer (or Your Spouse's Lawyer): While you might have a great relationship with your attorney, don't let that relationship cross the line. Engaging in a romantic relationship with your attorney or your ex-spouse's attorney is an extremely bad idea, as such a relationship can negatively impact the outcome of your divorce and may even affect attorney/client privilege. It would also be a very serious ethical breach on the part of the attorney(s).

8. Don't Dismiss the Possibility of Collaborative Divorce or Mediation: Collaborative divorce is far more cooperative and much less adversarial than traditional divorce. In a collaborative divorce, you and your spouse agree to the terms of your divorce with the help of attorneys out of court. In mediation, a neutral third party works with you and your spouse to come to an agreement. Attorneys are usually not allowed in mediation.

9. Don't Forget to Change Your Will: Divorce does not revoke a will; you must update your will upon divorcing (unless you want your ex-spouse to remain the beneficiary of your will). If you die before you are granted a divorce and you haven't changed your will, its terms will be enacted. If

you left your spouse nothing in your will and you die before your divorce is final, he or she may sue and recover part or all of your personal estate.

10. Don't Get Pregnant (or Get Someone Else Pregnant): Judges are well aware that people are people. Things happen. While a child may certainly be a blessing, bringing a new child into the world while seeking a divorce can complicate matters tremendously. For example, a Texas judge will probably not grant a divorce while the wife is pregnant. Paternity of the child is assumed to be her husband—whether one or both spouses know that he is the father or not. Additionally, if you engage in a relationship with someone other than your spouse during the divorce, your spouse could charge you with adultery, which may affect the outcome of your divorce.

Things no one tells you about getting a divorce

iVillage.com offers some ideas many couples say they wish they knew before their divorce. Benefit from their wisdom:

You're braver than you know. Change is always hard; give yourself some credit. It is important that you model healthy relationships for your children.

Telling the kids will be one of the hardest moments in your life, and you'll have to explain it more than once. When the time comes to tell your children about your divorce, you and your spouse should do it together. You may also want to enlist the help of a professional therapist. Your kids may blame themselves, and they'll need encouragement that the divorce isn't due to anything they did.

Once news is out, people will tell you they've had a bad feeling about your ex for eons. This information probably isn't helpful to you now. It's okay to tell people that.

Friends will disappear and/or take sides. It's almost inevitable. Divorce makes a lot of people uncomfortable, and they'd rather avoid it. While that may be unfair, it may be for the best. You need to be surrounded by people who will support you.

You may cry spontaneously—and that's okay! Crying over a commercial? A picture of a cute animal? Repairman is late? Go ahead and let it out. You'll feel better—and it *will* stop eventually.

You must find ways to be kind to yourself. Divorce is always hard, and can be downright nasty. Take time to pamper yourself when you can.

Seeing your kids on a schedule will feel completely wrong. But you'll get used to it; it will become your new normal.

You will eventually want to date—and it will be weird, but insanely fun. Always be responsible (especially if you have kids!), but when you're ready, get out and have some fun!

Divorce is a thousand little goodbyes. Putting away your old wedding pictures, sending your kids off to holidays with your ex-spouse, starting a new relationship, or seeing your ex start one may trigger a flood of emotion, especially the first time. But that's normal. Feel it, and move on.

You'll be wiser in your next relationship. Really, you will be, even though you've made mistakes. Learn from them.

Late life Divorce

Baby Boomers are setting new records for divorce, with the divorce rate for those over 50 doubling in the past 20 years. Late-life divorce presents its own set of emotional and financial challenges, since the primary bread-winning years are behind divorcing boomer couples, retirement is on the horizon, and there are usually more assets to divide. Financial mistakes late in life can be more costly, since you have less time to recover.

Financial experts advise divorcing Boomers to consider the following:

Know the real value of retirement accounts. Retirement accounts can be the largest asset that divorcing Texas boomer couples have, and many make the mistake of not considering the real value of those funds, which are taxed upon withdrawal. Realistically, the real value will be about 65% of the account balance. If retirement funds are overvalued in a settlement negotiation, this miscalculation can have dire consequences in the future, especially in community property states like Texas.

Overvaluing alimony. Alimony for those over 50 assumes the additional risk that the payer may not live long enough to fulfill the purpose of alimony--balancing the income discrepancies of a lesser earning spouse. Alimony in late life divorces should be supplemented with a life insurance policy on the payer as a precaution against premature death.

Undervaluing Social Security. In marriages that last longer than 10 years, the lower income spouse is entitled to half the higher earning spouse's Social Security benefits at age 62, provided that he or she has not remarried. This should be included in negotiations over alimony.

Texas Divorce Parenting Classes

As part of some divorce cases, parents may be either asked or ordered by the Texas court to attend parenting classes.. These "family stabilization classes," are offered by the Texas Department of Family and Protective services. They are usually mandatory if child abuse or neglect has been an issue in a marriage.

The goals of these parenting classes include:

- Teaching parents basic child development milestones, so they will know what changes they can expect to see in their children over time
- Teaching parents appropriate, non-aggressive discipline and ways to manage and correct their children's behavior when necessary
- Helping parents to recognize and use their strengths as parents.

- Giving parents information about resources available to help them address parenting and family issues
- Connecting parents with other parents so they can provide one another with support and encouragement.

No central agency regulates parenting classes throughout Texas. Your local court and your caseworker can help you find parenting classes near you.

The Texas Department of Family and Protective Services also maintains a website titled "[Help and Hope](#)," which also offers information such as parenting tips, how to recognize abuse and neglect, and how to find parenting classes in your county.

Your children will have a difficult time adjusting to their new situation. After all, they are witnessing mom and dad at war. We recommend a course called *Children in The Middle*. It's inexpensive and is offered throughout Texas. You and your spouse will come away with an understanding of how sniping at one another can have lasting and devastating effects on your children. Many family law courts require litigants to attend a parenting class prior to completion of the divorce process.

Can Divorce be a Good Thing?

"Divorce" is often used in tandem with terms such as "difficulties," "depression," "stress," and, perhaps most frightening of all, "attorneys."

Divorce can be miserable, but it offers a host of positive lessons and experiences, too. Dr. Mark Banschick, a medical doctor and author of *The Intelligent Divorce* series of books, offers "[Five Good Things](#)" which you may be able to do to help you through a divorce and come out the better for it:

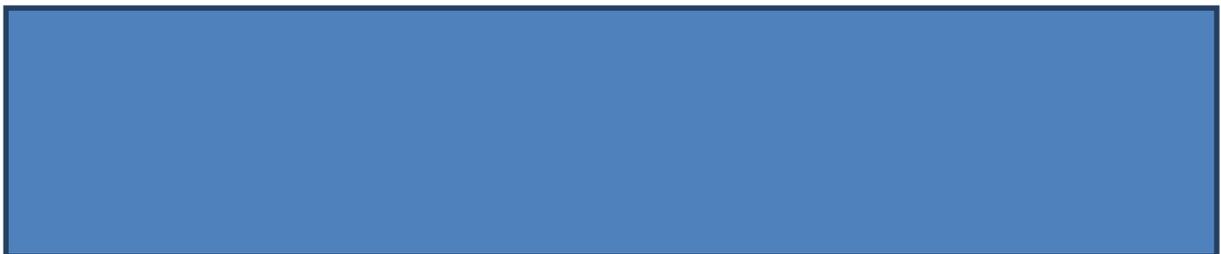
1. Identify what YOUR true values are. These may not be the same values you got from your parents or other authority figures in your life. Take time to consider whether you are living *your* life *your* way—now. If not, it might be time for some real change!

2. Look at parts of yourself you'd like to improve upon so that you are living a life you love, not one of reaction. Would you describe yourself as a "victim?" While you—like many of us—may have been faced with very unfair circumstances which weren't your fault, "victimhood" puts you in a defeatist mindset, and will keep you stuck where you are.

3. Start paying attention to the way you internalize what everyone (especially your ex) says to you. If and when someone—such as an ex-spouse—says hurtful, unkind things, it reveals *their own* wounds, fears and insecurities. If we take insulting comments personally, we insult ourselves.

4. Surround yourself with positive people who lift you up, not bring you down. This is critical. Have you ever heard the old phrase, "Show me your friends, and I'll show you your future?" People naturally take on the values and attitudes of people with whom they associate. Put yourself under the microscope and take a good hard look at yourself, your friends and your family. Do you see any "negative Nellie's" in the group? If so, feel free to devise strategies to avoid sinking into negativity yourself. But remember, you may have to be gentle as you extricate yourself from relationships which may not be in your best interest.

5. Get some help to stay accountable for your shift in thinking, perspective, and actions. During a divorce—and many difficult experiences—we tend to wallow in our own emotions a bit too much. Try to get perspectives from others. Negative emotions are signals that you may be falling victim to false beliefs. It is sometimes difficult embark on a journey to self-discovery when you are still in the eye of the storm.



To file for a divorce in Texas, you must in fact be a resident of Texas. The State requires that you or your spouse have lived in Texas for at least six months immediately preceding the filing of your divorce petition. Further, you must be careful to file your divorce petition in the county that either you or your spouse has resided in for 90 days preceding your petition filing.

Do-It-Yourself Divorce in Texas

Divorce can be a complicated, expensive, and time-consuming undertaking. It doesn't always have to be that way. In some cases you can negotiate and represent yourself in your divorce action.

When is do-it-yourself representation appropriate?

I recommend only the simplest divorces be attempted by non-attorneys. If your divorce is of the plain-vanilla variety--with no property and no kids--then you might be successful in achieving the results you want.

You should not even consider a do-it-yourself divorce unless you and your spouse agree on the need for a divorce and the details surrounding the settlement of your divorce. These include:

- Child custody
- Child visitation arrangements
- Child support amounts and timing of payment
- Spousal support amount and timing of payment
- Property disposition

It also helps if both spouses have at least a cordial, working relationship and can communicate effectively with one another. If these ingredients are not present, then you should not attempt a do-it-yourself divorce.

Grounds for Divorce in Texas

Each state has its own divorce rules. The divorce process in Texas follows many of the same procedures found in states around the country. Texas is

a “no-fault” divorce state, which means that couples may divorce without cause. No-fault grounds for divorce are those where the marriage has so much discord and conflict that there is no reasonable expectation of reconciliation. It is no spouse’s fault.

If one spouse can prove that the other caused the divorce, then the alimony, child support, and property distribution may shift in their favor. Contrast the no-fault divorce above with one where the marital division was [allegedly] caused by the direct actions of one spouse.

The State of Texas recognizes the following seven grounds for divorce:

1. **Insupportability.** A Texas divorce may be granted without fault if the court deems the marriage “insupportable” because of “irreconcilable” differences (conflict or discord that has destroyed any reasonable expectation of reconciliation).
2. **Cruelty.** If one spouse is found guilty of cruel treatment toward the complaining spouse of a nature that renders co-habitation insupportable, the court may grant a divorce.
3. **Adultery.** If one or both spouse have engaged in adulterous activity, that is considered grounds for divorce in Texas.
4. **Conviction of Felony.** The court may grant a divorce if one spouse has been convicted of a felony; has been imprisoned for at least one year in a state or federal penitentiary; and has not received a pardon. The court may choose not to grant a divorce against someone who was convicted based on the testimony of his or her other spouse.
5. **Abandonment.** If a spouse left the other spouse with the intention of abandonment, and remained away for at least one year, a Texas divorce may be granted.
6. **Living Apart.** Texas courts may grant a divorce if a married couple has lived apart (with NO cohabitation) for at least three years.
7. **Confinement in Mental Hospital.** Divorce may be granted if, at the time the suit is filed, the other spouse has been confined in a state or private mental hospital for at least three years, and it appears that the hospitalized spouse's mental disorder is of such a degree and nature that recovery is unlikely, or that a relapse is probable if recovery does occur.

Each of these allegations requires substantiated evidence and/or witness testimony that supports the allegation(s). In short, such cases require the skills of an experienced family law attorney.

Common Law or Informal Marriage

The issue of legal marriage comes up more than you might think. Common law marriage is what the Texas Family Code calls *marriage without formality*.

Why prove a marriage existed?

Good question. The simple answer is to follow the money. Texas is a community property state. Couples who have met the informal statutory requirements of a marriage in this state have the same rights and obligations as others who obtained a marriage license and were married by a state-sanctioned official. Mostly this has to do with dividing the marital estate when the marriage is legally dissolved.

Rights of the parties in an informal marriage depend on several things. Some couples who lived together for years, had children, and accumulated assets may still not fulfill the legal qualifications for a marriage. In such cases, the partners cannot claim a division of property by the court if the relationship dissolves. Other couples who sought to hold themselves out as being married and who fulfilled the statutory requirements of an informal marriage are indeed subject to a court-ordered property division, should the informal marriage dissolve.

Written Declaration of Marriage

Texas Family Code §2.402 provides for a written document declaring a marriage between two qualified adults. Briefly, the document must contain the following:

1. The heading must be: Declaration and Registration of Informal Marriage, _____ County, Texas

2. Both parties' full names, including the woman's maiden surname, address, date of birth, place of birth, including city, county, and state, and Social Security number
3. Description of the document tendered by each party as proof of age and identity
4. Family relationships. The document must provide a declaration that neither party is related to one another in a variety of ways such as by blood, brother or sister, etc.
5. A printed declaration and oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS CORRECT.";
6. Below the signature is space for a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.
7. The County Clerk records the declaration of marriage.

Absent a ceremonial marriage or the execution and recording of a declaration of marriage comporting with Texas Family Code §2.402, a party claiming an informal marriage must meet a three prong test. Credible evidence must be presented that the parties: Agreed to be married; represented themselves as being married; and cohabited together in Texas.

Cohabitation is complicated. Contrary to popular belief, there is no prescribed time to establish cohabitation. One night in a hotel is sufficient. If a man and woman agree to be married and within two years after the date of the agreement begin living together in Texas as husband and wife, *and* they represent to others that they are married, then they are presumed to be married.

This requirement of representation to others is fairly straightforward. Both parties simply have to publicly tell others that they are husband and wife. If just one party declares this without confirmation or affirmation by the other, then the law does not consider them to have held themselves out as married.

Like most things in the law, having something in writing is the best evidence. A federal income tax return is excellent evidence of two people publicly holding themselves out as being married. All they have to do is check the box that says they're filing jointly as married, then both sign the return. Bank loans, real estate documents, or leases work equally well as long as somewhere it says under penalty of perjury they are signing as husband and wife or as married.

Filing for Divorce in Texas

If you have made the difficult decision of filing for divorce in Texas, you should be aware of the processes which the state will require in order to ultimately finalize your divorce. Please know that divorce in Texas will likely take months (two months, or 60 days, is the minimum duration of the Texas divorce process).

Step 1: Petition

The first step in the Texas divorce process is to file a Petition for Divorce with either the District Clerk or County Clerk, depending upon the county in which you reside. You must state the grounds for your divorce in this petition (i.e., why you are asking for a divorce). The petition must be delivered to your spouse after it has been processed. A law enforcement officer or private process server typically delivers the petition. Your spouse will also receive a citation explaining the action. This citation provides the time limit your spouse has to respond (often a number of days).

Serving your spouse

If your spouse is not properly served, the entire process either stalls completely or becomes more complicated than it should have been. The

three ways to serve your spouse with your divorce petition or to satisfy the service requirements include:

- Your spouse signs a *Waiver of Citation* that relieves you of the responsibility to serve them.
- You hire a private process server or constable to conduct the service on your behalf
- You cannot locate your spouse. For such cases, you have two options: You can *post* the petition at the court. Or you can publish notification in a newspaper in the county where your spouse resides or where you know they last resided. After the newspaper ad has been published, the court will appoint an attorney ad litem after citation by publication to attempt a search for the missing party.

Time to wait

Once served, your spouse has 20 days to answer the petition. Texas also has a mandatory 60-day waiting period from the date of filing before a divorce can be finalized.

Step 2: Temporary Orders

You and your spouse may request that the court issue a number of temporary orders between the divorce petition and a final decree of divorce. Temporary orders may address topics such as (but not limited to) child custody, child support, and/or spousal support (alimony). These temporary orders will only remain in place until your divorce is final.

Step 3: Discovery

“Discovery” refers to the time during which each party learns about the other’s case, and may include a number of “requests,” such as requests for admissions, requests for disclosure, and/or requests for production of documents, such as taxes, financial statements, or depositions.

Step 4: Settlement or Trial

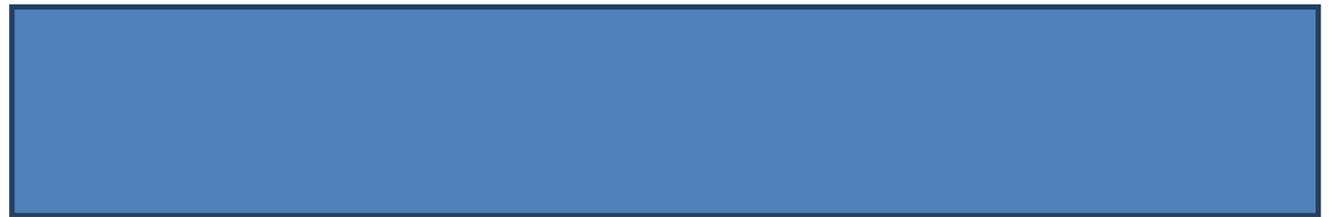
After the discovery phase is over, your attorney(s) will confer about whether they can reach a settlement or go to trial. Settlement is often the better option, as it is nearly always less expensive. Settling also allows you

and your spouse to divorce on your own terms, instead of allowing a judge or jury to determine the specifics of custody and other personal matters. If you and your spouse choose to settle, your divorce case will go through mediation to help you resolve any disputes.

Divorcing couples who cannot agree to a settlement must go through a trial. Trial is almost always recommended in divorce cases involving domestic abuse.

Step 5: Final Decree of Divorce

The Texas court can grant a Decree of Divorce when both parties have reached agreements regarding child support, child custody, visitation, spousal support (alimony), and joint assets. or after hearing evidence at a final trial, the court can render a decision on all matters in controversy.



Property Division in Texas Divorces

Texas is a community property state, which means that any and all income and property acquired by either spouse during the marriage belongs

equally to both spouses. In the event of a divorce, this income and property must be equally split between the spouses. Any debts incurred by either spouse during the marriage are considered "community debts," and belong to both spouses.. But if the Texas court finds "just and right" reasons why marital assets should be distributed in another way, then an "unequal result" may be ordered.

Community Property vs. Separate Property

The court will presume that all property held by either spouse during marriage is community property. A spouse who prefers to remove an asset from the property division process must prove "clear and convincing evidence" that the asset is separate property.

Separate property includes property that belonged to one spouse prior to the marriage and which was kept separate throughout the marriage, or property that was given only to one spouse during the marriage, such as an inheritance which one spouse received from a relative. If a spouse successfully proves that an asset is separate property, then the asset must remain in his or her hands, and the court may not award it to the other spouse.

Property which is typically divided during divorce includes real property such as the home(s), personal property (clothing, art, jewelry, etc.), and intangible property such as income, employee benefits, and/or stock dividends. All community property and debts will be divided between the spouses in a divorce. Couples divorcing in Texas also have the opportunity to agree on how to divide their community property. If they cannot come to an agreement, then the court will divide the property for them.

The Court retains the discretion to distribute community property fairly, as it sees fit. If, however, the court believes that an unequal distribution is warranted, it must provide a valid reason. Texas judges may consider factors such as the ages, health and educational levels of each spouse, as well as each partner's skills, capacities for earning, and business

opportunities. The court may consider which spouse will be the primary caregiver of any children, the amount of separate property owned by each spouse, and whether one spouse was at fault in the divorce.

Alimony vs. Spousal Maintenance/Spousal Support in Texas

Moneys paid from one spouse to another after a divorce are commonly referred to as "alimony." But in the state of Texas, there are actually two kinds of "alimony," and it is important that those going through the Texas divorce process know the difference.

One type of "alimony" is payment(s) received by one or both spouses once the marital assets have been divided. Such payments are negotiated between and agreed upon by the parties themselves. For example, consider that a couple jointly owns a business valued at \$1 million, and the business is deemed community property by the court. If one spouse is granted ownership of the business, then that spouse may "buy out" the other by paying \$500,000 in alimony to offset the other spouse's loss of the value of the business.

Spousal maintenance, also referred to as "spousal support," is monetary payment from one spouse to the other to help the recipient meet

“minimum reasonable needs” after a Texas divorce. Spousal support is not included in a division of community property, and is adjudicated separately and must be ordered by the court. The court will also consider the duration of the marriage, whether a spouse contributed property or homemaking services during the course of the marriage, and the health, age, and earning capability of the recipient spouse. The court will also consider any “bad acts” by either spouse, such as misuse or theft of assets considered to be community property.

Texas courts hesitate to award spousal maintenance unless one spouse has been convicted of violence against his/her spouse or children. If violence has not occurred, then the spouse seeking maintenance must be found unable to earn an income due to disability, must be the custodian of a disabled child, or must lack the ability to earn sufficient income (in marriages which lasted ten years or longer).

Even in situations in which one of these factors is applicable, the spouse seeking maintenance must prove that s/he is making a “good faith” effort to be self-supporting. Otherwise, the court will likely presume that no spousal support is warranted. If and when the spouse seeking maintenance overcomes this presumption, the court considers factors such as each spouse’s level of education and skill, and whether one spouse contributed to the other spouse’s education, as well as both spouses’ ability to provide support.

Communicating with your spouse during the divorce process

It’s difficult to avoid. Too often conversations you intend to keep civil end in shout fests. Here’s how we coach our clients to talk with their spouses when we are not present to protect them:

1. Never have any spur of the moment conversations.
2. Schedule the talk, whether on the phone or in person. This gives you time to prepare.

3. Clearly identify the agenda the conversation will cover to accomplish your goals. Put the agenda in writing. Review the agenda and your goals for this conversation with legal counsel, and form a strategy to accomplish what you want. Share the written agenda with your spouse via email before the conversation takes place. This helps you avoid deviating into emotional topics that can trigger a fight.
4. During the conversation, don't allow your spouse to push any emotional buttons. Stick to the agenda. You have planned this talk; now talk your plan.
5. Stop the conversation when you have covered the agenda, and/or have accomplished your goals. Stop the conversation if your spouse refuses to stay on point, and certainly stop if they become abusive.
6. Be firm, polite, but businesslike.
7. When the conversation is over, document the conversation and any agreements you arrived at, then send this documentation to your lawyer for their files.

You need a financial expert

If your marital estate is greater than \$500,000 you will need financial advice. If there is a question of hidden assets or full disclosure about just what is in the marital estate, you'll also need a financial professional. Engage a public accounting firm that provides not only tax advice and planning, but also forensic accounting services. The AICPA has a certificate program for forensic accounting practices. Make sure the firm you select is qualified to do the work you require.

Ensuring the retirement plan division

Once division of any retirement plans involved in the property settlement is agreed upon, there's one last item on the checklist. It's sometimes overlooked, much to the financial disappointment of the spouse who was supposed to be paid a share of the other's retirement benefits. It's called a

qualified domestic relation order (QDRO, for short). This is a court order that proves existence of an spouse's right to receive the stated portion (all or a percentage) of the retirement plan benefits payable. The QDRO is filed with the retirement plan. Without this order on file, the retirement plan administrator may not pay the favored spouse the share of retirement benefits the parties negotiated.

Protecting your interest in the real estate

Say that your property settlement gives you an interest in certain of the marital estate's real property assets. You and your spouse share responsibility for servicing the debt on this property. What happens if your ex suddenly stops paying their share of the debt service? You need a *Deed of Trust* for all real estate in which you have a shared interest with your ex. The Deed of Trust allows you to foreclose on the property if your ex fails to honor their part of the negotiated settlement agreement as related to that property.

We know how to win at divorce

Family law is a complex discipline. There are so many moving parts. Everything is up for negotiation. If you are contemplating divorce or your spouse has already filed, we can help. Call us at 817-332-2202. Or complete our contact card in the Contact section of our Website.

We know how to negotiate, and we know how to win. Stop worrying about your divorce and hire us.

