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DIVORCE MAGAZINE

BREAKING FREE FROM GUILT

Overcoming Victimhood

Saving on Legal Fees

25 Tips for Divorced Parents

Child Support Overview

Glossary of Divorce Terms

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Breaking Free from Guilt

Do not mix your feelings of regret and culpability with the integrity of the legal process. Allow your divorce negotiations to be driven by law and equity — not your feelings of guilt.

By Rebecca Zung

Carla knew that her husband was a good man and a good provider who was a dependable and loving dad. But she simply didn't love him anymore. She wanted a divorce. The guilt was nearly unbearable.

Mitch was a sex addict and married to his high school sweetheart. Conducting a double life for years, he was seemingly a model husband and family man. But the guilt he harbored about his clandestine activities caused him to be hospitalized due to a nervous breakdown.

Marlene hadn't seen her children in nearly a year. Her daughter's high school graduation was her chance to reconnect and begin to rebuild their relationship. Feeling guilty for having left her daughter's father, and for having been absent for so long, she chickened out and didn't show up – yet again.

Closely intertwined with shame and regret, guilt shows up in many different ways in divorce. Nearly every divorce has at least one party who is feeling some sort of guilt, shame or regret. This guilt comes from a sense that you have done something wrong. It may be from feeling that you have committed an offense against your spouse or children (that they won't grow up in a home with two parents, etc.), your family, or your god (divorce often has religious ramifications). Guilt is regret that has been fed hormones and steroids and has grown out of control.

Free from Story, Free from Guilt

Often times, at least one of the following three "deadly marriage sins" are present before divorce: abuse, addiction, and adultery. But what if none of these "sins" were a factor in your divorce? Then your reasons are much less overt. Perhaps you honestly no longer love each other, or you've grown apart. Perhaps you no longer have anything in common. You never fight and maybe you even consider the other person to be a good friend, but you no longer want to be married. Guilt will make its presence known in this situation because you'll question whether you are making the right decision. You'll wonder if you should stay in the marriage because things aren't dreadful.

Society has established the ideal that we get married and stay married until we are parted by death. This ideal was created thousands of years ago, when life expectancy hovered around 40 years of age. Today, living robustly into our 90s is common. Being able to choose a life mate that will be the absolute right one for potentially 70 years is a tall task. People evolve, change, and develop in different ways and at different paces. Sometimes, we get lucky and find that person who

will progress in the same way we do. Sometimes, that person serves a purpose in our lives for a period of time, but the relationship has a natural life cycle that comes to an end organically when it begins to outlive its usefulness. It doesn't make one of you wrong and the other one right. It just is. Free from story and free from guilt. But that may not stop you from feeling guilty about it.

As if the guilt you feel naturally isn't bad enough, there may be some who seemingly take delight in practically ensuring that you feel guilty. From your soon-to-be former spouse, to your children, friends, co-workers and sometimes, even your own parents or family – everybody has an opinion (or more likely a judgment) about how you should conduct your life, and they may do this by casting shadows of doubt on your decisions. Because we spend an inordinate amount of time trying to look good and avoiding looking bad to others, this is precisely the type of interaction that has a deleterious effect on you.

Feeling guilty serves no purpose whatsoever. Becoming a masochist and crawling into a hole does not change the past or the present. It does not take away what you did or did not do. It does not heal the other person's hurt or anger. What it *does* do, however, is affect your future.

The Effect of Guilt on Negotiations

The impact of guilt on negotiations in a divorce is huge – and usually not positive for at least one of the parties. Guilt can become the third entity in a negotiation and is definitely a foe. In the context of negotiation, usually the party who feels the most guilt will respond in one of two ways.

The first way goes something like this: "I am horrible. I don't deserve to have anything. Please just don't hate me forever. Please don't tell all of our friends and family what a bad person I am. Just take whatever you want. You deserve it and not me." This person has become their own worst enemy, and without careful supervision, might give away the entire proverbial farm.

The second way that guilt shows up is more difficult to spot because it sends signals to attempt to throw the other party off the trail. This person projects his or her guilt onto the other person, usually in an angry, forceful, and vengeful way. This party is likely to highly litigate the case and take unreasonable positions in order to attempt to extort the other. While this kind of behavior seems counterintuitive for a person who is feeling guilty, it makes perfect sense. The attempt is to deflect wrongdoing away from themselves with a lot of "noise".

Guilt Does not Serve You

Regardless of whether you are more like the first kind of guilty person or more like the second, one thing is clear: guilt does not serve you, especially in negotiations. The end result is that the guilty party will end up with an unsatisfying result, one that will likely have a lot of regret attached to it.

You are good a person who may or may not have behaved badly. The first step to overcoming guilt is separating who you are from how you behaved. For example, parents can be angry at their child but still know that they are inherently good. Give yourself that same benefit of the doubt. You are not your behavior.

Do not mix your feelings of regret and culpability with the integrity of the legal process. Allow your divorce negotiations to be driven by law and equity – not your feelings of guilt. Separating these will be your first step in relieving yourself of these poisonous feelings.

The next step is to look forward and not back. In *The Power of Now*, Eckhart Tolle writes that the past no longer exists. You can't go back and touch it, interact with it, or be with it. It is gone. The future doesn't exist either. The only moment that exists is the present moment. I recall a saying that has stuck with me: "Don't be stressed over something in your past, because there is nothing you can do to change it. Focus on your present and create your future." Seize your present moment and decide that this moment for yourself will be free from guilt and regret. ■

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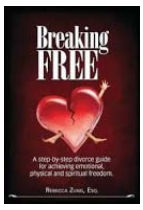

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Child Support Overview

All parents have a legal obligation to support their children. The amount of child support payable/receivable post-divorce is based on a number of different factors; here's a general overview of how child support works.

By Diana Shepherd

Regardless of whether or not they were ever legally married, all parents have an obligation to support their children. In situations where the marriage (or marriage-like relationship) has broken down, the non-custodial parent is usually ordered to pay child support to the custodial parent; the custodial parent is expected to use these funds to pay for the child's expenses. In this situation, "custodial parent" means the one that the children live with most or all of the time after divorce; the "non-custodial" parent would have visitation or access rights, which might or might not include a certain number of overnight stays per week or month.

The amount of child support is based on a number of different factors, including the annual income of each co-parent, the total number of children in the family, and the custody arrangements for the children.

Child Support Guidelines

If there is one custodial parent (in most jurisdictions, this means that the children reside with this parent more than 60% of the time; ask a family law lawyer about the definition of sole physical custody in your area), then the state or provincial Child Support Guidelines set out the base level of child support payable for one or more children. The Guidelines are intended to cover necessities: food, shelter, clothing, healthcare, public education, etc. (For more information about the US child-support guidelines, see: www.supportguidelines.com. For more information about the Canadian child support guidelines, see: www.canada.justice.gc.ca/eng/fl-df/child-enfant/look-rech.asp.)

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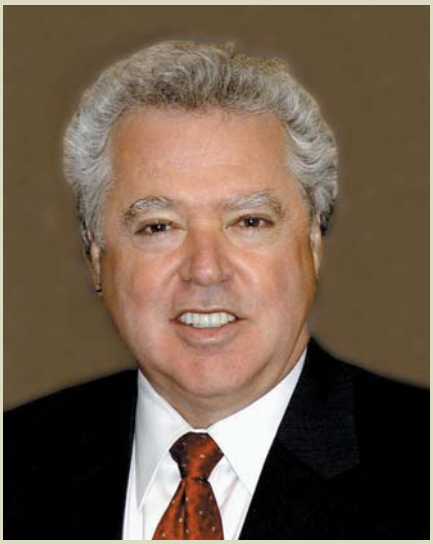

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You and the other parent can agree to pay for special expenses that go above and beyond what the child support guideline amounts will cover. These additional expenses generally need to be considered both necessary and reasonable by *both* parents: necessary because they are in a child's best interests, and reasonable in relation to both parents' incomes. (See "Special Expenses" for more information about this.)

Child support is generally payable until the children finish school or are emancipated (reach the age of majority, leave home, get married, or drop out of school). If the children are going to attend college, child support will generally continue until they obtain their degree; in some cases, courts have ordered child support to continue through a second (Masters level) degree. Make sure your divorce agreement states when child support will end (child's age and/or of level of education).

In the case of a special-needs child who will be dependent and living with a parent for the rest of his/her life, child support may be permanent. This is a complicated situation, so make sure you get good legal and financial advice before finalizing your divorce agreement if you have a special-needs child.

Opting out of the Child Support Guidelines

You and the other parent can choose to opt-out of the Guidelines and set up your own child support agreement as long as it is considered fair. If you choose to go this route, put your agreement in writing and sign it; this will reduce the risk of a misunderstanding, and it is easier to enforce a signed agreement. If you and the other parent wish to opt-out of the Guidelines, you should ask your divorce lawyer how much child support a judge would likely order to be paid in your situation and use that number as a starting point.

Before finalizing an agreement – especially if it diverges from the Guideline amounts – you should talk to a family law attorney. He/she can help you understand your legal rights and obligations, which guidelines apply to you, how to use those guidelines to calculate a child support amount, and provide the right documents if you go to court. You should also obtain advice from a financial professional – particularly about your ability to pay child support above and beyond the Guideline amounts.

Special Expenses

In many cases, children may have additional expenses that go beyond what the Child Support Guideline amounts will cover. As stated above, these special expenses generally need to be considered both necessary and reasonable by *both* parents: necessary because they are in a child's best interests, and reasonable in relation to both parents' incomes.

Special expenses could include items such as:

- **Child-care expenses**. The custodial parent incurs as a result of his/her job, illness or disability, or educational requirements for employment (e.g., returning to college to finish a degree in order to qualify for a job).
- **Medical and/or dental insurance**. The portion of the custodial parent's medical and dental insurance premiums that provides coverage for the children.
- **Healthcare not covered by insurance**. Examples might include medication, orthodontics, counselling, elective surgeries, eye exams and glasses, etc.
- **Extracurricular activities**. For instance, extra fees for sports, music, arts, and school trips.
- **Private school or tutoring.**
- **Post-secondary education**. Usually, this is for a first degree; however, it could include a second (Master's level) degree.

If both parents agree that additional expenses are both reasonable and necessary, then they will usually each contribute to them in proportion to their incomes – but they may also agree to an alternate division in which one parent pays anywhere from zero to 100% of the expense in question. Both parents are free to decide if a special expense is reasonable and necessary and how much each of them will contribute to them.

All parents have an obligation to support their children – whether or not they were ever legally married.

For instance, Frank and Judy have agreed to split expenses for their two children's private school tuition proportionate to income. However, they disagree about ballet lessons for their daughter and rep hockey for their son, so Frank has agreed to fund 100% of the hockey and Judy will fund 100% of the ballet lessons.

In your divorce agreement, you can list special expenses that you expect to incur today, in the near future, or many years later. For example, you can specify who will pay for what proportion of uninsured orthodontic expenses, your children's daycare, and your children's college tuition.

What if you and your Ex Can't Agree?

Special expenses are often a hotly-contested area. If you can't agree on whether an expense is both necessary and reasonable, ask an objective financial professional to analyze your situation and let both of you know whether you can truly afford the additional expense. You should also speak to a family law attorney about how judges in your area are ruling on special expenses — and how the judge would likely rule if you took your case to court.

If you still can't reach agreement, you could hire a divorce mediator to help you resolve your differences, retain divorce lawyers to advise and assist in your negotiations, or go to court and ask a judge to decide. ■

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Coming to Terms:
Divorce Terminology in Court

Here's a glossary of some of the most common divorce terms used in divorce litigation and court.

If you've chosen to litigate your divorce, you're going to be hearing lots of unfamiliar terms as well as common words that have a very specific meaning in family law. Here's an explanation of some of the most common divorce terms.

Absolute Divorce: The absolute ending of a marriage, leaving both parties free to remarry.

Adversarial Divorce: When a couple cannot come to an agreement about the terms of their divorce.

Ab Initio: Latin phrase meaning "from the beginning."

Action: Lawsuit or proceeding in a court of law.

Affidavit: Written statement of facts made under oath and signed before a notary public or other officer who has authority to administer oaths.

Agreement: Verbal or written resolution of previously disputed issues.

Annulment: The legal end of an "Invalid Marriage". In the eyes of the law, the parties were never married to each other, but all children of their relationship remain legitimate.

Answer: Written response to a complaint, petition, or motion.

Appeal: The process by which a higher court reviews the decision of a lower court to determine whether there was reversible error. If so, the appellate court amends the judgment or returns the case to the lower court for a new trial.

Change of Venue: A change of judges or geographical location.

Collusion: An agreement between two or more persons where one of the parties brings false charges against the other. Collusion is illegal.

Common-Law Marriage or Relationship: Based on cohabitation where no formal marriage ceremony has taken place, this is a judicially recognized marriage in some U.S. states. All Canadian provinces recognize common-law relationships, but the rights and privileges are not the same as for those couple who entered into a legal marriage.

Complainant: The one who files the suit, same as plaintiff.

Complaint: This is a legal document filed by the plaintiff to start the divorce process. It states that the marriage has ended and lists the grounds and claims for the divorce. In some states it is also known as a petition.

Condonation: The act of forgiving one's spouse who has committed an act of wrongdoing that would constitute grounds for divorce. Condonation generally is proven by cohabitating with the spouse after learning that the wrongdoing was committed.

Contempt of Court: The willful failure to comply with a court order, judgment, or decree by a party to the actions. Contempt of Court may be punishable by fine or imprisonment.

Contested Divorce: Any case where the judge must decide one or more issues that are not agreed to by the parties. All cases are considered contested until all issues have been agreed to.

Corroborative Witness: A person who testifies for one of the parties and backs up their story.

Court Order: A written instruction from the court carrying the weight of law. Orders must be in writing. Anyone who knowingly violates a court order can be held in contempt of court.

Cross Examination: The questioning of a witness presented by the opposing party on trial or at a deposition. The purpose is to test the truth of that testimony.

Decree: The final ruling of the judge on an action for divorce, legal separation, or annulment. Decree has the same meaning as judgment.

Decree Nisi / Rule Nisi: An order by the court stating that a conditional divorce will become absolute by a certain date, unless a party contests the order.

Default: A party's failure to answer a complaint, motion or petition.

Defendant: The partner in a marriage against whom a divorce complaint is filed. Defendant has the same meaning as respondent.

Deposition: The testimony of a witness taken out of court under oath and reduced to writing. The deposition may be used to discredit a witness if he changes his testimony.

Direct Examination: The initial questioning of a witness by the attorney who called him or her to the stand.

Discovery: In the U.S., Discovery is a procedure followed by attorneys to determine the nature, scope, and credibility of the opposing party's claim. Discovery can include depositions, written interrogatories, and notices to produce documentation relating to issues relevant to the case.

Dismissal: Occurs when a party voluntarily drops the case (in some states) or when a judge finds that a case totally lacks merit.

Dissolution of Marriage: The legal process of ending a marriage. In most U.S. states, this is the legal term for divorce.

Divorce: The legal proceeding by which a marriage is legally terminated. It may be contested (where one party denies the allegation or wants to keep the marriage in place) or uncontested.

Equitable: Means fair; does not necessarily mean equal.

Evidence: Proof presented at a hearing, including testimony, documents or objects.

Exhibits: Tangible things presented at trial as evidence.

Ex Parte: An application for relief conducted for the benefit of one party only. These judicial proceedings are generally reserved for urgent matters in which requiring notice would subject one party (or his/her property) to irreparable harm. Examples include a Temporary Restraining Order (TRO) against an abusive spouse to stay away from the abused party, or a TRO stopping a spouse from removing or destroying family property.

Expert Witness: In court proceedings, the expert witness is the professional whose testimony helps a judge reach a decision.

File/Filing: To place a document in the official custody of some public official.

Financial Affidavit/Statement: Key document used to collect financial data; in some states and provinces, it may be known as a "Financial Statement" and may use a standard form. This document becomes part of the record of documents that are filed with the court.

Foundation: The evidence that must be presented before asking certain questions or offering documentary evidence in trial. If a piece of evidence lacks foundation (proof, facts to back it up) it will not be admitted or considered as evidence in the court case.

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seeking a divorce, such as incompatibility, mental cruelty, physical abuse, or adultery. While some states allow fault grounds for divorce, all states have some form of no-fault divorce. Marriage breakdown is the sole ground for legally ending a marriage under the terms of Canada's *Divorce Act*.

Guardian-ad-Litem: A person appointed by a judge to prosecute or defend a case for a person legally unable to do so, such as a minor child.

Hearing: Any proceeding before a judicial officer.

Hearsay: Hearsay is an out-of-court statement offered to prove the truth of the matter asserted. Generally speaking, hearsay cannot be used at trial, but there are exceptions that permit it to be admitted to court.

Incompatibility: The inability of persons to get along; a ground for divorce.

Interrogatories: A series of written questions served upon the opposing party in order to discover certain facts regarding the disputed issues in a matrimonial proceeding.

Judgment: The order of the court on a disputed issue; same as decree.

Jurisdiction: The power of the court to rule upon issues relating to the parties, their children or their property.

Legal Separation: Court ruling on division of property, spousal support, and responsibility to children when a couple wishes to separate but not divorce. A legal separation is most often desired for religious or medical reasons. A decree of legal separation does not dissolve the marriage and does not allow the parties to remarry. Some states (e.g., Texas) do not recognize legal separation.

Lis Pendens: A piece of property cannot be transferred during a pending lawsuit that may change the disposition of it, once a notice has been filed in the public record.

Litigation: The process by which a civil case settles parties' rights.

Modification: A change in the judgment, based on a change in circumstances.

Motion: An application or request to the court for an order. May be written or verbal.

No-Fault Divorce: A marriage dissolution system whereby divorce is granted without the necessity of proving one of the parties guilty of marital misconduct.

Nuptial: Pertaining to marriage.

Order: A ruling by the court.

Pendente Lite Orders: A temporary order of the Court that provides support until the divorce is finalized. Pendente Lite or Temporary orders are automatic in some areas.

Perjury: The act of lying while under oath.

Petition: A written application for particular relief from the court. In some jurisdictions complaint for divorce is entitled "petition for dissolution."

Petitioner: The person who filed the Petition or Complaint. Also referred to as the Plaintiff.

Plaintiff: The spouse who initiates the legal divorce process by filing a complaint or petition stating that the marriage is over and listing the grounds and claims against the other spouse. Plaintiff is the same as Petitioner.

Precedent: Decisions found in other pre-existing cases that factor into the case at hand.

Prenuptial Agreement/Marriage Contract: Prior to a marriage, partners contractually agree how assets and liabilities will be divided in the event of a divorce. In Canada, this is known as a "Marriage Contract".

Privilege: The right of a spouse to make admissions to an attorney, clergyman, psychiatrist or others as designated by state law that are not later admissible as evidence.

Pro Se Divorce: A divorce wherein the divorcing partners represent themselves in court (with or without a mutually agreeable separation agreement) without the assistance of attorneys.

Qualified Domestic Relations Order (QDRO): In the U.S., this is a court ruling earmarking a portion of a person's retirement or pension fund payments to be paid to his/her ex-

spouse as part of a division of marital assets.

Quid Pro Quo: The giving of one valuable thing for another.

Rebuttal: The introduction of evidence at a trial that is in response to new material raised by the defendant at an earlier stage of the trial.

Reconciliation: When parties decide to get back together. They may sign a reconciliation agreement, which is enforceable by the court.

Respondent (Defendant): The party defending against a divorce petition (complaint).

Restraining Order: A court order prohibiting a party from certain activities. Restraining orders are often issued to protect against domestic violence or to protect marital assets. In some jurisdictions, violating a "domestic restraining order" is a criminal offense.

Retainer: Money paid by the client to the lawyer or expert witness to obtain a commitment to handle the client's case. A retainer can be a deposit against which the lawyer or expert witness charges fees as they are earned.

Rules of Evidence: The rules that govern the method of presentation and admissibility of oral and documentary evidence at court hearings or depositions.

Separation or Settlement Agreement: A written contract dividing property, spelling out rights and obligations, as well as settling issues such as spousal and child support and custody.

Service: Providing a copy of the papers being filed to the opposing party.

Standard of Living: A factor when determining spousal support, allowing the recipient an adequate amount to maintain their current lifestyle.

Stipulation: An agreement between the parties or their counsel, usually related to matters of procedure.

Subpoena: A court order requiring a person's appearance in court or at a deposition as a witness or to present documents or other evidence for a case.

Summons: A Summons is a written notification to the defendant or respondent that an action has been filed against him or her. It notifies a spouse of his/her rights and obligations in responding to the Complaint for Divorce.

Testimony: Statements under oath by a witness in a court hearing or deposition.

Transcripts: The written record of the divorce proceedings, testimony or depositions.

Trial: The time when a judge hears the contested permanent or temporary issues, with supporting evidence and witnesses, in a couple's divorce decisions. The judge may take a few hours or a few weeks to review the

information presented and issue a court opinion.

Uncontested Divorce: When the defendant is not going to try to stop the divorce and there are no issues for the court to decide about the children, money or property.

Venue: The County in which the case is heard.

Voir Dire: Where the opposing counsel has the opportunity to disqualify an expert witness.

Writ of Summons: A form issued by the court directing a party to respond to a complaint, motion or petition. ■

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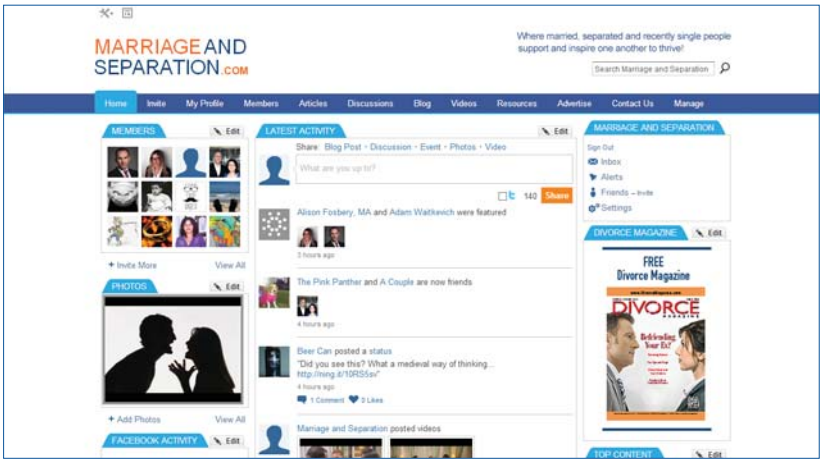

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Common Divorce Questions

Answers to some of the more frequently asked questions about the divorce process in New York

Legal Issues

"My spouse and I wish to put our divorce behind us quickly and quietly. We are not angry with one another; the marriage is just over. What is our best approach?"

Stephen I. Silberfein, a family lawyer in New York City, answers:

In order to accomplish your goal of finalizing the divorce as quickly and quietly as possible, the two of you first need accurate information. While the Internet is a good source for browsing, the best thing to do is to schedule a consultation with an attorney who specializes in Matrimonial and Family Law.

Choosing the right attorney can be a critical part of ensuring that you achieve your goals — not only as quickly and quietly, but also as economically as possible. By speaking with family, friends, and co-workers who have been divorced, you may be able to get the name of an attorney that they utilized and would recommend. Other means of locating an attorney include the Internet or a local bar association. If at all possible, secure the names of least two attorneys to interview before selecting one to represent you.

Prior to meeting with the attorney for the first time, the two of you can work together to create a list of your assets and liabilities that is as complete as possible. You can also work together to try to decide which personal property, such as furniture, each of you will keep.

Since New York does not permit one attorney to represent both of you, and to proceed as economically as you can, one of you should make an appointment for a consultation. At that consultation, the attorney you have chosen will clearly explain the laws of the State of New York and discuss how those laws are applicable to your particular situation. Once you have provided sufficient details to your attorney, he or she will then be in a position to advise you as to any specific areas that you should further discuss with your spouse in order to reach decisions on remaining items. For example, if one or more children are involved, you and your attorney might discuss issues surrounding the choice of joint custody as well as a proposed parental access schedule; the attorney might even provide a draft schedule for the two of you to consider.

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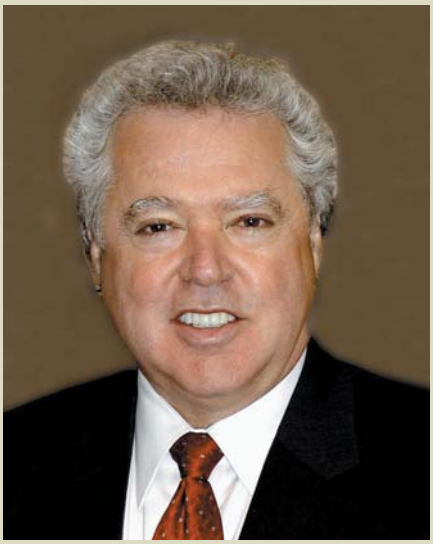

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After you have communicated to your spouse the information that you secured at the consultation — and come to agreements on whatever issues were still up in the air — you will then provide that information to your attorney. Then the attorney will draft a proposed settlement agreement — sometimes called a separation agreement — and forward that proposal for the two of you to review and discuss further. Your spouse should then schedule a consultation with a different attorney to review the proposed agreement to ensure that he or she completely understands all of the provisions, as well as the applicable law, and that the agreement is fair to both of you.

Once any final changes are made, the two of you can go to your attorney's office together or separately to sign the final agreement under your attorney's supervision, as well as necessary documents to file for an uncontested divorce. Neither of you, nor your attorney, will actually have to go to court for your divorce to be finalized.

A final suggestion: now that you have reached the point where you are not angry with each other but just want to finalize the divorce, you should try to do so reasonably quickly. Long delays in responding — either to each other or to the attorney — may cause the other party to believe that one of you is delaying the process unnecessarily. That belief can lead to frustration, which gets in the way of open communication and fair decision-making.

Finally, always remember that the attorney is your "guide" through the process and can help you reach your destination as quickly and fairly as possible, but it is your right to make whatever final decisions are necessary and appropriate for you.

Financial Issues

"Will I have enough money to live on? I am wondering about the rules

for spousal and child support in New York."

Janet Porro, a family lawyer in Jeffersonville, answers:

Support is an important aspect of any matter involving a marriage, partnership, or a couple who has had a child together.

Child Support Guidelines exist in New York that assist individuals in arriving at a support figure anticipated to cover certain costs as to the child(ren) that a couple has together. The relational status of the parents (married, unmarried, separated, or dating) does not impact upon the amount of support.

Child support is calculated taking into consideration a number of factors such as the income of both parties, or in the case where one parent does not work (or is underemployed), what that parent is capable of earning (imputed income), the age of the child, and the amount of time each parent spends with the child. You can deviate from the Child Support Guidelines under certain circumstances, such as: a child with special needs, parents whose income exceeds the guidelines, or other economic contributions made by one parent or the other.

There are a number of instances under which child support may be reviewed and adjusted upwards or downwards, including: a substantial change of circumstance (such as an increase or decrease in one parent's income), the emancipation of a child, or merely the passage of time.

Other aspects that are considered in calculating child support include medical insurance premiums, contributions to mandatory retirement plans, expenses such as union dues, and whether the payor spouse is obligated to support other children from another relationship (e.g., children from a previous marriage).

Alimony (or spousal support) is another potential source of income to enable an ex-spouse to maintain a standard of living comparable to that which was enjoyed during the course of the relationship. There are limited circumstances where support will be ordered for individuals who were not married but lived together in a marriage-like relationship. Issues that factor into an alimony award include:

- the length of the relationship
- whether one partner gave up a career for the relationship or to raise the parties' children
- the disparity in income
- the age of the parties
- the earning ability of the parties
- medical conditions that may prevent a spouse from being gainfully employed.

Many people are of the belief that if the breakup of the relationship was the fault of the one party (e.g., one spouse had an affair), that the at-fault party must pay alimony to the other. This is not necessarily the case: fault is only one small factor that a court will consider in awarding alimony.

For more FAQs and answers by divorce professionals, please visit www.divorcemag.com.

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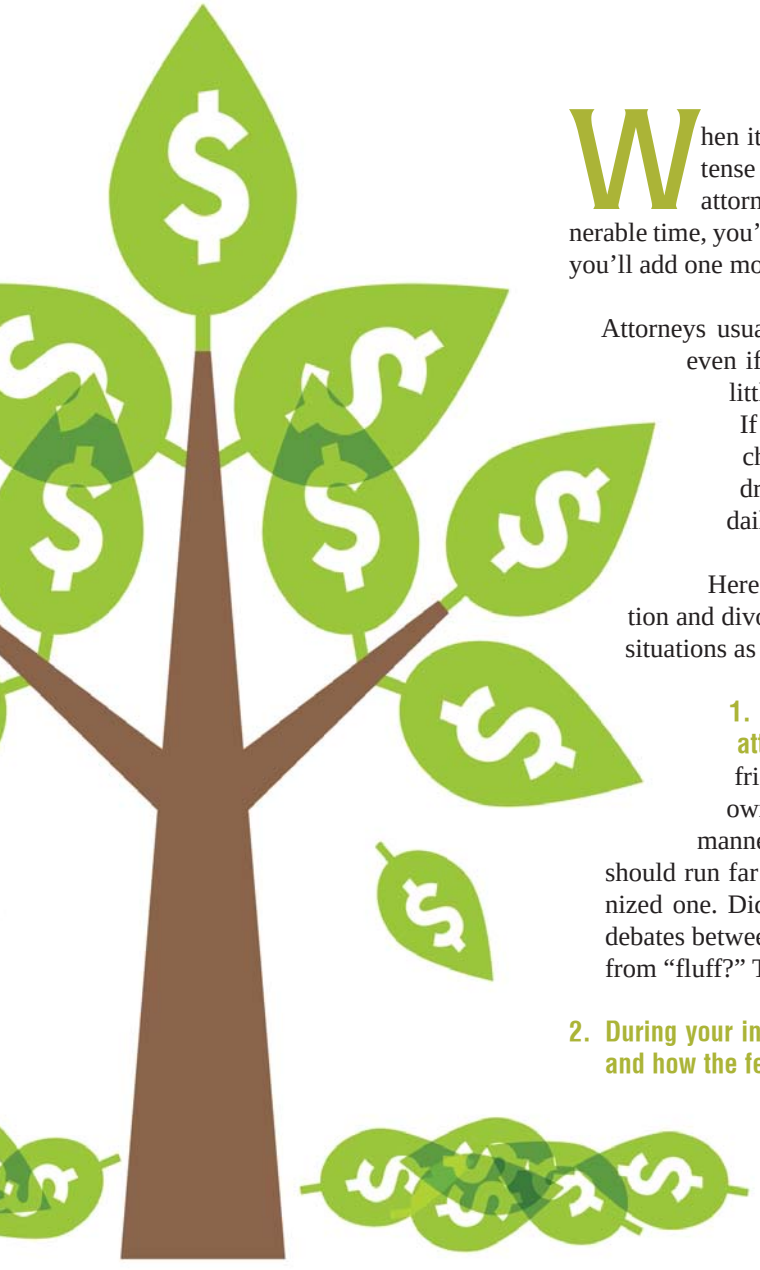
Top Ten Tips

Here's the inside scoop on how to save on legal fees in a divorce.

By Linda C. Senn



When it becomes clear that your marriage is over, and no amount of pretense or counseling can fix what is broken, you'll need to line up an attorney to represent you in the divorce process. At this extremely vulnerable time, you'll be placing your life and your future in your attorney's hands, and you'll add one more worry to your ample list of stresses – the high cost of divorce!

Attorneys usually charge an hourly rate calculated in 15-minute increments – even if the service takes only a minute or two of his time. That "quick little call" you make to your lawyer could cost you from $50 and up. If you succumb to the temptation to call every day, your monthly charge just for phone calls can run well over $1,000. If the process drags on for a year, you'll pay $12,000 and up just for those brief daily calls!

Here are ten simple steps for saving big bucks over the course of separation and divorce; some of the tips are general and can be applied to other legal situations as well.

1. Saving money on legal fees starts before you have your first attorney interview. Round up all the personal referrals you can from friends, family, colleagues, and neighbors who were happy with their own divorce lawyers. Ask if the client's calls were returned in a timely manner, or if sustained nagging was required to get a call-back. The bill should run far less for a focused, efficient attorney than it would for a disorganized one. Did that attorney stall or delay the process? Did she favor lengthy debates between opposing attorneys? Was her billing accurate, detailed, and free from "fluff?" These factors can have a major effect on the final cost.

2. During your initial telephone interview with the attorney, ask what he charges and how the fee is calculated. Is it a flat hourly fee charged in 15-minute increments, or is it figured by some other method? Ask if he requires an initial retainer, and if so, how much for your situation. Complex divorces often call for a more substantial amount. Tell the lawyer that you want to keep the costs to a reasonable minimum and ask if he'll help you to do so.

3. **Don't discuss the weather, the baseball playoffs, or your mother's petunias: chit chat is expensive.** Even though she's holding your future in her hands, and there's a natural inclination to talk to your attorney as a friend, socializing can become expensive. Allow a brief time to reconnect either in person or over the phone, then get on with business. By the same token, if you have a gabby attorney, learn how to gently but firmly bring her back to the business at hand.

4. **Although you may find a genuinely sympathetic attorney, don't use him as a counselor.** Go to a licensed therapist. An experienced mental-health professional will be more effective, will cost less per hour, and will help you deal with the emotional peaks and pits that continually throw you off balance. In addition to that, you'll have developed a relationship with a therapist who can guide you through the rocky recovery period after the divorce is granted.

5. **Don't ask for special paperwork.** Whenever possible, run your own copies, take notes when you talk to your attorney on the phone (so you don't have to call him later to double-check on the conversation), and look up any phone numbers and addresses he may need in working up your case.

6. **Don't complain about your soon-to-be-ex unless it directly applies to the current procedure.** This is so very tempting during divorce (and subsequent custody and/or maintenance hearings)! You feel compelled to point out how moronic and venal your soon-to-be-ex is, and by implication, how much better a human being you are. Resist the urge. It's both pointless and expensive.

7. **If you invite your attorney to lunch (or vice-versa), find out first if it will be "on the clock."** There may be times when a luncheon meeting is most convenient for both of you – just be sure you know the ground rules going in. If you'll be discussing business, have a pen and paper with you so the lunchtime information doesn't disappear with the last cup of coffee. Be especially vigilant about idle chatter if you're paying attorney's fees for the privilege.

8. **Ask for specific ways you can save on lawyer hours, such as doing your own research, filling out forms, or mailing notices.** You just might be able to shave a few hundred dollars off the final tab by doing some of the routine clerical work yourself. In a long, drawn-out divorce, ask the lawyer periodically if there are any other aspects you can take care of yourself to save money.

9. **Consider hiring a skilled mediator to help you and your spouse arrive at mutually agreeable solutions to your financial and custody disagreements.** Mediators are specifically trained to help you resolve your problems together, and the cost will probably be less that you'd pay for the opposing attorneys to argue with each other. (You'll still need to retain your own lawyer to check any agreement before you sign it, however.) Mediators also allow you to employ cooperation and compromise in arriving at a settlement agreement, which leaves far less emotional scarring than the adversarial attorney-to-attorney method.

10. **Do your own Discovery.** Discovery is basically pre-trial disclosure of pertinent facts and documents, including financial figures, by one or both parties in a divorce or other legal process. It can involve a fair amount of sleuthing time, so you'll be money ahead if you ferret out the hard-to-find information (like hidden assets), rather than relying on your attorney to do it all.

One last word about maintaining control of your legal expenses: request itemized monthly bills from your attorney. Knowing just how your legal dollars are being spent can be the most effective aid in helping you keep them to a reasonable minimum! ■

Linda C. Senn is author of Your Pocket Divorce Guide *and co-author with Mary Stuart, M.A. of* The Divorce Recovery Journal.

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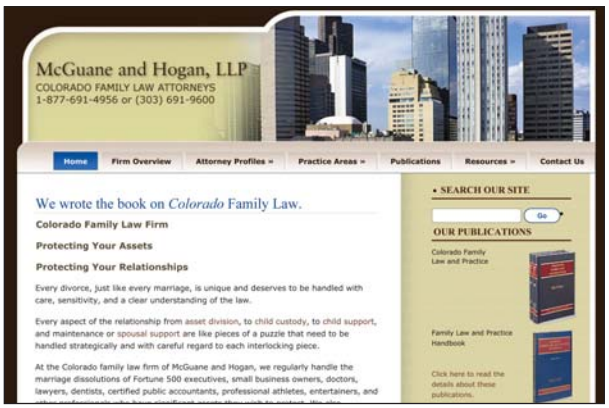

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Victimhood

The Curse of Divorce Recovery

By Shelley Stile

Feeling like or labelling yourself a victim of your divorce is one of the most disastrous moves you can make; it will prevent you from moving forward into a new life. Victimhood renders you powerless. To create a new life after your divorce, you need to be fully responsible for your past, present, and future. Being responsible means having control over your life, and that is what it takes to both recover from the emotional wounds of a divorce as well as plan for your new life.

If you consider yourself a victim, then you believe that you had little to do with what happened to you. You take no responsibility. The responsibility is someone else's, and that leaves you with no power. Victims blame someone else. Blame absolves them of their part in the dissolution of their marriage, and it keeps them stuck in the pain of the past and their divorce.

It is so much easier to place blame on someone else than accept personal res-ponsibility. The fact is that two people inhabit *all* marriages. Those two people are co-creators of their marriage and their divorce. Even if one of the partners was unfaithful or a liar, there are always signs along the way that we either refused to see or to acknowledge. If we are in denial about all the warning signs along the way, we can only look to ourselves for lack of some responsible action.

"If you consider yourself a victim, then you believe that you had little to do with what happened to you."

Blame leads to resentment. Resentment consumes our mind chatter. We spend far too many hours ruminating about all the things that our ex has done or continues to do to us. We resent their new life and our lack of one. Consider the amount of time wasted being in resentment. Exactly who suffers? The answer of course is clear: you. *You* are the one who is angry, sad, bitter, and unhappy — *not* your ex. Your blame and resentment, along with your regrets, are like poison in your system. It completely immobilizes you.

Ten tips to help you overcome these feelings of victimhood:

1. **What is the truth of your marriage?** If you are completely honest and courageous, you will have begun to recognize that indeed, you played an integral part in your marriage and divorce. All too often, we interpret events and situations in our marriage and believe our interpretation to be the truth. For instance, "My husband was cheating and lied to me about it. I interpret that to mean that I am no longer desirable, that I failed as a wife. I live in my marriage as if that is a cold, hard fact." It is not. The fact is that he cheated. Period. That fact could mean a hundred different things. Stick to the facts.

2. **Where are you responsible?** What were the warning signs along the way that you refused to acknowledge? Where were you in denial? Where were you an enabler? For example, I know a woman who was completely surprised when her husband left her. She went on to tell me that she always gave him total freedom to do whatever he wanted: trips that lasted a month at a time, and little or no responsibility in rearing their children are just a couple of items on the list. She handled it all. Translation: she was an enabler and gave him the rope that was needed to strangle the marriage. Acknowledge where you didn't do what you needed to do. Accept responsibility. Responsibility is empowerment.

3. **Exactly what are you resisting?** Why can't you see the truth and accept responsibility? Why do you suppose you cannot accept the reality of your life as it is now? These are questions you must address. What do you gain by remaining a victim? Are you afraid of facing the truth? Are you living in what you think should be versus what is? Do you enjoy being a victim? Do you like the fact that being a victim absolves you of any responsibility and therefore any positive action?

"It is so much easier to place blame on someone else than accept personal responsibility."

4. **If you are resisting the reality of your life, consider doing a turnaround** and simply go with the flow of your life's direction. Fighting reality is a useless business. The more you resist something, the more it will persist. Consider the flow of a river. What does it feel like to swim against the current? That is what you do when you cannot accept what is.

5. **Don't allow your fear of the unknown to run you.** Are you afraid of your future? Are you afraid of being alone? What exactly are you afraid of? I recently heard someone say that they spend so much time worrying and little or nothing of what they worry about actually comes true! Do you see the insanity of that? We don't know from day-to-day what the future holds for us. How about if you believed that your future was going to be just fine instead of being in fear? What if everything happens for a reason?

"Consider the amount of time wasted being in resentment."

6. **Consider your perspective on life.** Your attitude – what is it? Do you believe that life is hard and unjust? Do you see everything that is wrong and nothing that might be right? Not only does your attitude affect how you handle life, it can actually determine your reality. If you believe that life is too hard, then that is exactly what life will be for you: it's a self-fulfilling prophecy.

7. **Do things differently.** If your victimhood along with its blame and resentment is not working for you (and I guarantee it isn't), then for heaven's sake, do things differently! Try on a new perspective. Examine the truth of your life versus your own personal interpretations. Take responsibility. Take actionable steps forward. Stop resisting. Get out and do new things, meet new people, and don't isolate yourself. Get back into the swing of things.

"You are the one who is angry, sad, bitter, and unhappy — not your ex. Your blame and resentment, along with your regrets, are like poison in your system."

8. **Learn from your experience and use that new wisdom for empowerment.** Once you see the life lessons of your marriage and divorce (and believe me, they are numerous and impactful), you can use that wisdom to be a better person – to help you become the person that you truly want to be. Everything that happens to us in life has a hidden lesson for us if we only look for it. Might there actually be a silver lining in this storm cloud?

9. **Consider the costs of remaining a victim.** Do you want to live your life as a bitter and angry person? Is that how you want to be seen? If you have children, is victimhood what you want to model for them? Do you realize that as a victim, you have *no* power to change your life? Remaining a victim is a very bleak picture.

10. **Choose a new and better life.** Think of all the decisions and choices you make during the course of a day. Are they moving you away from being a victim or keeping you stuck there? Stop and think before you make important and even not so important decisions or choices. Our choices define us and determine the course of our life.

In closing, I want to share a few bits of wisdom from the Dalai Lama: When you lose, don't lose the lesson. Follow the three Rs: respect for self, respect for others, and responsibility for all your actions. Remember that *not* getting what you want is sometimes a stroke of luck. Judge your success by what you had to give up in order to get it. ■

Shelley Stile is a Certified Divorce Recovery Life Coach, author and speaker. Shelley has been through her own divorce and has gleaned deep wisdom from her experience. That experience, combined with her extensive training in life coaching and research, has resulted in the Divorce Recovery Plan: an empowering step-by-step actionable plan with proven strategies and tools for letting go and moving on after divorce.
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25 Tips for Divorced Parents

How to create special memories and strengthen your bonds with your children.

By Tommy Maloney

I was five years old when my parents divorced; coincidentally, my son was also five when his mother and I split up. While going through my divorce and travelling for work, I created the following tips from firsthand experience to help divorced parents stay connected with their kids – and to forge a positive bond in each other's lives.

1. Talk to your kids every day

It does not matter if it is just a phone call, long or short. Kids need to hear their parents' voice daily because it reassures them they still have a connection with you.

***Tip**: Don't be afraid to ask them personal questions.*

2. Send your kids postcards or letters

Do this even if you live in the same town. If they are just learning how to read, written notes to your kids are even better. Think about when you were a kid and received mail and how special you felt.

***Tip:** Have them write to you.*

3. Purchase a webcam for yourself and your kids

This is very important if you live far away and cannot spend time with them on a regular basis.

***Tip**: Flip Cam for the kid(s).*

4. Tell them EVERY DAY that you LOVE them

Do I really need to explain this one?

***Tip**: Find out what makes them feel loved – then do it.*

5. Make Quality vs. Quantity time with them

You do not need to create an "event". Just being with and talking to them is more vital than you will ever know.

***Tip:** Make a Gingerbread house together.*

6. Read to one another

Find out what they like to read and buy a few books at the bookstore. Read them one of your books, even if it does not have pictures.

***Tip**: Go to the bookstore together.*

7. Embrace their interests no matter what they are

You need to get yourself out of your comfort zone and learn to embrace their interests – even if that means riding a roller-coaster.

***Tip:** Research their interests to be able to ask them questions – and understand the answers.*

8. Volunteer at their school

You get to see them in their environment, which can sometimes be both shocking and embarrassing. I have learned that teachers love when a parent comes to school and lends a helping hand.

***Tip:** If you can't volunteer at their school, find another one of their activities to become involved in.*

9. Honesty IS the best policy

This is most important when your kids tell you they wish all of you were still a family. Explain to them they will *always* be loved and that you are still a family.

***Tip:** You may need to show it and say it several times.*

10. Create traditions together

Think of things that make your time together special and create your own customs separate from standard holidays.

***Tip:** What traditions did you have as a kid?*

11. You are not the victim

I advise you to see a trusted counselor to help you work through your emotions. Do *not* use your kids for this!

***Tip:** Take control of your own healing.*

12. Respect the rules

Teach them there are rules in your house just like at the other parent's house.

***Tip:** Have your own rules, but try to respect the other household's rules as well.*

13. Two words: Road Trip

Take vacations – even if it is just a weekend in a hotel down the street. Kids love to be in a hotel with a pool.

***Tip:** Try setting up a tent in the living room once in a while.*

14. Understand that they will miss their mom or dad – and that is okay

The bond between kids and their other parent may be different than the one they will have with you. Focus on strengthening your bond with them and try not to compare yours with the other parent's.

***Tip:** Kids will naturally cycle from one parent to another. Be patient – your turn will come.*

15. Let your kids see that you are not perfect

It is okay to admit to your kids that you try your best but can't be perfect.

***Tip:** This will teach them how to handle their own mistakes.*

16. Teach them the importance of being physically active

Encourage your kids to ride their bikes alongside you as you run, or go biking together. Being a role model is tough, but suck it up.

***Tip:** Your kids want you to be around for a long time.*

17. Be in contact with their teachers

Try not to be a pain, but do be an involved parent. Though you won't always get a solid answer, ask your kids how school is going and contact their teachers for updates.

***Tip:** Kids need both of their parents to be involved.*

18. Respect that your favorite sports team is not always going to be theirs

Heck, they might not like the same sports you do or even like sports at all! Enjoy what they *do* like and embrace those things with them.

***Tip:** You can always watch your sports when they are back at the other parent's house.*

19. When you ask them to make their beds, you also need to do the same

Kids want discipline and you need to set the example.

When they are at your place, have chores for them to do just as they do at the other parent's house.

Tip: *Kids need normalcy between the two houses.*

20. Fast food is too easy

Doing things such as cooking together is a great learning experience for both of you. Make the fast food runs only on special occasions.

Tip: Home cooking is less expensive and healthier, too.

21. Have sleepovers with their friends

When possible, have their friends over for playdates and sleepovers. It is a special feeling for your kids to show off their bedroom.

Tip: *It's a great way to learn about their friends.*

22. Take the high road

If your former spouse is not being reasonable, or if you are being hard-headed, remember it is not about winning disagreements – it's about successful co-parenting. Co-parenting is about the kids.

Tip: *You won't regret taking the high road in the long run.*

23. You need to be a positive role model

Though actors, musicians, and sports stars are modern role models, the bottom line is to fill that role yourself and be there for them.

Tip: *Do your best to be involved with their lives and be a positive influence.*

24. Do not be hung up on dating right away after a divorce

Work on *yourself* before bringing someone new into the equation. Kids need to know they are your highest priority.

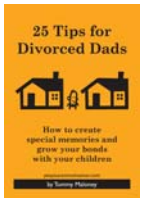
Tip: *There is someone out there for you, but just make sure they are the right one for you and your kids.*

25. Help make your house a home for all of you

Kids need to have some of their own "treasures" around to be comfortable at your place.

Tip: *Take the time to learn from your past mistakes, so you don't repeat them.* ■

This article has been adapted with permission from the book *25 Tips for Divorced Dads* © 2011 Tommy Maloney.



Tommy Maloney is a speaker, consultant and author. He is a member of the National Speakers Association and the Colorado Speakers Association. www.tommymaloneyinternational.com

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Divorce Magazine: Who has helped you the most with your divorce or separation? Maybe it is a friend, a relative, a co-worker, a divorce professional, your ex?

MSH: My first job outside the home — I met a single divorced mom of 20 plus years — we were both nurses — will never forget what she shared with me — " you cant make someone stay — and someone can not make you have a life — in other words there is life after divorce

RC: About 40,000 men and women around the world. Between sites i host or the radio show i co host they have all helped me.

HM: You'd think the $25K I gave to lawyers would place the lawyers at top but NO. A Family Court Watcher helped me the most — Cathy Sloper — www.divorceinconnecticut.blogspot.com

DB: My life love and now my wife who I have known since I was 12.

DP: It was a lot of people from an ex to my cousin and best girlfriend.

MA: My attorney worked miracles fell in love with him and eventually dated. He sucked at relationship but he saved my life lol

CH: My friend Holly who was deep in nursing school, told me that I wasn't crazy, and held my hand the whole time.

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"How can I be sure that I will get my fair share from my divorce? My husband owns his own business and I am a stay at home mom with 2 children (6 and 10 years old). I was never involved in his business, but I know there is a lot of cash money because it is a restaurant. I know he does not declare all his income. My divorce lawyer says he can get to the bottom of it but my husband is not very co-operative. He wants to keep the children so he does not have to pay child support. I am very concerned that I won't get custody because I can't afford to fight."

MM: I just recently got divorced. My ex and I owned our own businesses as well. I know state laws vary but you should be entitled to half of everything. As far as your children go, I have never heard of a mom losing custody unless she is deemed unfit or voluntarily gives them up. The ex and I agreed on joint custody with primary placement with me and he was ordered to pay me child support. It shouldn't matter if you can't afford to fight. That doesn't define what type of parent you are. Maybe a mediator might be as better option for you financially. Stay strong and stand your ground. Believe me... mine dragged out for 18 months and it was killing me. Don't give in to him, especially if it doesn't feel right. Divorce is brutal... you will be ok:) Good luck!

DS: First of all do you honestly believe he only wants the children for monetary reasons why can't a mother believe a father loves and wants his children.

CH: Most dads do love their kids. But some situations they don't, sadly. And hopefully the mom is seeing it correctly. I had a situation where he had 50% parenting time, and gave it up 6 months later to 13%.

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MM: I know lots of dads who love their kids and don't want to pay support... my ex included. Every case is different.

DS: The system goes against the father. It's always about money.

KJ: DS you are really opening up my emotions on this one. How dare you say the system goes against the father- maybe in Nebraska but that is certainly not the case everywhere. But you did get something right...it's always about the money...and I know a lot of fathers that want more custody just because they won't pay as much child support

DS: KJ the system is against men everywhere and yes I dare say it the system always goes against the father and I know a lot of mothers who only want custody for more money read the posts here there all against fathers the wife gets this she gets that and fathers get screwed it cost me 1200$ just to get the standard Christmas time because she refused before we were even divorced 3 weeks to see my child because she didn't think I had a need and a court order is what it took to make it happen. Don't you dare say fathers have just as munch right to there children as the mother and the courts side with the mother.

CH: No, not all moms are saints. I question my goodness as a mother every day. I'm human. I have seen plenty of great dads do the job because the mother has poor parenting skills.

MM: My ex wanted me to say we have shared custody, which we don't, so he wouldn't have to pay as much child support.

YSTW: I very much doubt he will get custody of the children, the courts usually award to the Mother unless abuse is involved, which it doesn't sound like. Your husband doesn't have to be very involved and Your attorney can do specific searches to find hidden money. Your husband will have to provide certain things if he is court ordered. You don't have to be involved in his business to get half (if community property is the law in your state). Your job has been raising the children and running your home so he could run a business. I know this sounds like a lot but please don't just give in which is what I did 20 years ago and had to go back to court to get more spousal support. You are entitled to spousal and child support. Stay strong, you will get through this and will move forward from a place of power. Lots of luck and many blessings.

DS: All your lawyer wants is your money.

CH: If it becomes something you can't afford then you can have your bills become his bills. Stand your ground. You may need to go into discovery. My ex told the judge he makes the same amount of money as I do after child support, I work 2 jobs and pay considerably less rent than his property taxes a year, and he drives a Bently. So anything that he doesn't have to pay because the business pays those expenses are income.

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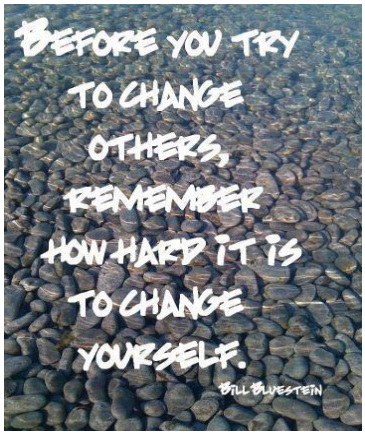

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SB: Why don't they put one out on how to commit, devote and learn to work on a relationship

DM: Actually, we just posted an article entitled "Divorce Prevention: Valentine's Day Tips from DivorceMagazine.com"

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