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Introduction

Why I Worry About Your Divorce

During 35 years as a lawyer and mediator, I've seen too many people achieve too little in their divorces, while spending and suffering far too much. I don't want that to happen to you, and I wrote this book so that it won't.

A lot can go wrong during divorce, to be sure. Some folks damage their prospects right off the bat by choosing the wrong lawyer, the wrong kind of divorce (yes, you have a choice!), or the wrong divorce goals. Others make poor decisions based on emotion rather than logic. Still others, overwhelmed by anxiety or cost, abandon their goals too early and easily.

And there are even more mistakes that are made much too often. Parents with solvable child-related disputes endanger their children's emotional health by choosing court battles over cooperative problem solving. Self-represented spouses, and even those with attorneys, hurt themselves in court with poorly prepared paperwork and testimony that damages their cases.

This book shows you how to avoid those kinds of mistakes using methods I've developed over the years for my clients.

But you'll learn much more than how to avoid mistakes. This book will prepare you to achieve realistic goals at the least financial and emotional cost to you and your children.

For example, you will gain an understanding of how your budget, income, assets, and liabilities will shape what you need to achieve in your divorce. From there, you can select from a menu of skills designed to maximize your chances of getting what you need. The material in this book can be classified along those lines as follows:

1. The legal rules and financial principles that determine outcomes in family court cases.
2. Strategies, tactics, and tips to help you *use* what you learn to further your goals.

To achieve your divorce goals, you must use your time, money, and energy efficiently. That begins with the learning process in this book. To help you learn efficiently about divorce, I make frequent use of lists to convey information. Much as a straight line is the shortest distance between two points, lists deliver the most information in the fewest words. That's efficient—or put another way—that's *Divorce, Simply Stated*.

For example, the lists in this book will help you:

- Select and work efficiently with skilled divorce professionals
- Decide if mediation or other alternative dispute resolution (ADR) methods are right for you
- Choose realistic divorce goals by getting an idea of the range of likely outcomes in your case
- Increase your chances to achieve your goals by becoming an effective advocate for yourself
- Learn the details of how divorce works in your state
- Enhance the value of your divorce outcome by, for example,
 - Taking full advantage of tax breaks and other divorce “break-opportunities”
 - Identifying hidden costs that can erode the value of property you receive in your settlement
 - Discovering your spouse’s undisclosed income
 - Avoiding excessive legal fees by
 - Discovering the “bargain table” of quality divorce lawyers
 - Paying lawyers only for services you need
 - Using non-lawyer professionals who charge substantially less than lawyers
 - your own paralegal

And if you doubted the efficiency of lists to convey information, consider how much is contained in the one you just read.

Some of the lists in this book summarize typical state laws regarding child support guidelines, alimony formulas, determining what property is in the divorce “pot,” grandparents’ rights, and numerous other divorce and custody case issues. The lists do not contain the laws of every state. Instead, they illustrate common approaches to issues that arise frequently

in family court cases. That information will enable you to identify what more you need to learn about your state's laws.

In Chapter 17, in the section called “Resources For Federal and State Family Law,” you will find resources to help you get any state-specific information that you might need, and to access your state's court forms.

Notwithstanding these tools, I will remind you periodically—including right now—that your best source of information regarding your state's law is an experienced local matrimonial lawyer.

What's So Funny About Divorce? (Nothing.)

Q. What's so funny about divorce?

A. Nothing.

So why are there jokes and silly dog photos here and there within the chapters, and dopey (yet instructive) quizzes at the end of them?

The occasional silliness in this book is meant to give you a break from the bleakness of divorce and ... despite my best efforts to avoid it ... the boredom you might experience reading about it.

It is *not* meant to make light of what you're going through. Quite the opposite; it's there in recognition of how miserable divorce can be and the importance of getting some relief from it.

Laughter may not always be the best medicine, but psychoneuroimmunological research suggests that it does reduce stress and can even boost the immune system.^[1] And hardly anyone questions that research—quite possibly because hardly anyone can pronounce “psychoneuroimmunological.”

I've used humor over the years to assist struggling clients to get through rough patches, to help clients (and myself) keep things in perspective, and even to clear away obstacles to settlement during negotiation sessions. Still, I understand that the humor in this book may not work for you. So I've made it easy to ignore by tagging it with one of these smiling faces:



So if you encounter a smiley and aren't in a laughing mood, simply skip the text that accompanies it!

In case you were wondering, the grinning dog is Chuck, my loyal companion while I wrote this book.^[2] I've included pictures of Chuck, like his selfie, to give you an occasional healthy... chuckle.

Whether or not you feel like chuckling during this very *unfunny* phase of your life, use the silly stuff as a reminder that you need breaks from your divorce. Catch a movie, go on a hike, drop in on a yoga class or meditation group, or even YouTube some *Too Cute* pet clips—whatever it takes for you to get the relaxation you need to stay in balance.



Chuck's selfie

You owe that to yourself—and to your kids.

Speaking of Your Children...

The well-being of my clients' children has always been a priority for me in my law practice, and it remains so in this book. In that spirit, I'll be reminding you from time to time to stay focused on your kids. Children need not be harmed by divorce—conscientious, mindful parents can prevent that.^[3]

You might feel you don't need me to remind you to look after your children. And you might be right. But I've seen the most well intentioned divorcing parents become preoccupied with their own concerns, and lose sight of what's best for the young ones around them.

With that in mind, I've illustrated this book with pictures drawn in school by my then 9-year-old granddaughter Laila—a gentle soul offering you gentle reminders of what matters most.



Laila's selfie portrait

Break-Opportunities

After you've completed your divorce journey, you may realize that you learned quite a bit along the way about finance, parenting, handling conflict, and other adversity ... and about yourself. Though it might be difficult to imagine while you're in the thick of it, divorce can provide extraordinary opportunities for learning and personal growth. Over the years, I've enjoyed watching people acquire insights, knowledge, and skills that served them well during their divorces and long afterward.

It's my sincerest hope that this book helps you become one of those people.



Finally, if you visit www.DivorceSimplyStated.com for the free updates and supplements available there, use the "Contact Us" page to email me and let me know how you're doing, how this book helped you, or how you

think it might be improved for those who use it after you. I'd love to hear from you!

I wish you all the best of luck.

Larry Sarezky
Fairfield, CT

Chapter 1

Ending a Dysfunctional Marriage With a Functional Divorce



*“I am not afraid of storms for I am learning how to sail my ship.” —
Louisa May Alcott*

The Functional Divorce

In this chapter we begin gathering the tools necessary to end a dysfunctional marriage with a “functional divorce.” A functional divorce achieves reasonable goals at the least financial and emotional cost to you and your children. That requires 2 willing players (you and your spouse) who will:

- Agree upon ground rules to communicate productively, and protect your children from the harmful impact of a high-conflict divorce^[4]
- Formulate reasonable goals
- Share all necessary information and documents necessary for a fair and efficient resolution of all issues

What you read in this and the chapters that follow will help you accomplish a functional divorce by:

- Making your children’s needs a priority
- Reducing your and your children’s stress by
 - Demystifying divorce
 - Enabling you to handle whatever arises during your divorce

- Helping you find affordable divorce professionals who meet your needs
- Showing how to use lawyers creatively to get more for less
- Showing how to save money using the tax code
- Showing how settlement agreement language and seemingly small adjustments can protect you and maximize your divorce results
- Providing you with resources to find
 - Additional information about your state’s divorce laws
 - Local lawyers and other professionals
- Showing how to reach a fair agreement that both spouses will want to uphold

Deciding When to File

The decision to “file for divorce” is a momentous and emotionally challenging one. As if that weren’t difficult enough, deciding *when* to file involves a number of considerations, namely:

- Whether you are emotionally prepared to proceed and have identified a therapist or divorce coach who you (and your children) can see if necessary
- Whether reasonable attempts to save the marriage have been exhausted
- Whether you have decided between a “court-based” or alternative dispute resolution divorce
- Whether you have chosen a lawyer or mediator, or have at least consulted with one or both
- Whether you have begun the document gathering and other work described in this chapter
- Whether you have reached out to other professionals you may need, such as divorce coaches and divorce financial analysts

Filing Now

If the answer to all of the above is “yes” and you still haven’t filed, you may simply be procrastinating. That’s certainly understandable given the magnitude of the decision you are making. However, delay might not serve your interests. Below are some reasons you might *not* want to wait:

- Filing protects you by activating automatic court orders prohibiting your ex-spouse (who I'll be referring to as your "STBX") from taking unilateral action regarding finances or your children
- Filing begins resolution of conflict that is stressful for you and your children
- Filing starts the clock ticking toward the beginning of the rest of your life

Filing Later

On the other hand, there may be reasons to put off filing, such as:

- It's not uncommon to be on the fence about filing for divorce

You want to delay your divorce to delay the beginning of the 3-year post-divorce period during which federal law ("ERISA") guarantees availability of health insurance comparable to your current coverage through your spouse's employment.



It's not uncommon to be on the fence about filing for divorce.

- Your marriage is nearing the 10-year mark and you wish to preserve your rights to Social Security retirement benefits based on your spouse's income (rather than yours). You can become entitled to those benefits if
 - You claim benefits after a marriage of at least 10 years
 - You claim benefits at least 2 years after that 10-year marriage
 - You and your former spouse are both over 62
 - You are not remarried at the time you apply for benefits
 - You are not already receiving Social Security benefits
- Your marriage is nearing the 10-year mark throughout which time your spouse has been in military service and you want to preserve your rights to military retirement pay and to receive enforcement assistance

through the Department of Defense under The Uniformed Services Former Spouses Protection Act (USFSPA).^[5]

- Your marriage is nearing the 20-year mark throughout which time your spouse has been on active duty and remains in the military, entitling you to full USFSPA benefits.^[6]
- You need to file joint income tax returns and thus must still be married on the last day of the year.

Alternatives to Divorce

There are two ways for spouses to resolve support, property, and child-related matters without filing for an “absolute divorce”:

- **Filing for a “Legal Separation.”** If you are hesitant to initiate a divorce action, consult an attorney about commencing a “legal separation” or “limited divorce” action that will resolve all issues just as a divorce or “dissolution of marriage” case does. In most states, these cases can be easily converted to a divorce, so you don’t have to start over if you decide you want a divorce. Also, if your soon-to-be-Ex (“STBX”) wishes to file for divorce by way of a “counterclaim” or “cross-complaint,” the case will then proceed as a divorce action.
- **Signing a Marital or “Postnuptial” Agreement.** A marital agreement settles support, property, and children’s issues much in the same way that a divorce settlement agreement does. The differences are that:
 - Because there are no orders from a court, spouses seeking to enforce such agreements will not be able to initiate contempt of court proceedings that divorced individuals use for expedited access to the courts. Instead, enforcement would require a new lawsuit to enforce the agreement just like any other contract. And that could take several years.
 - If spouses later decide to incorporate a marital agreement into a divorce decree, a court usually must find that the agreement:
 - Was fair at the time it was signed, and
 - Remains fair under the circumstances existing at the time it is presented to the court for incorporation into a dissolution decree

States with statutes or case law (court decisions) that have been interpreted to approve marital agreements are: Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada and New York.

Residence Requirements

One good reason not to file for divorce is that you can't. Nearly every state requires that one of the parties reside in the state for a minimum period before divorce proceedings may be commenced or judgment is entered. Those requirements are as follows:

- 12 months: Connecticut, Iowa, Maryland, Massachusetts, Nebraska, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, West Virginia
- 6 months: Alabama, California, Delaware, District of Columbia, Florida, Georgia, Hawaii, Indiana, Kentucky, Louisiana, Maine, Michigan, Minnesota, Mississippi, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Vermont, Virginia, Wisconsin
- 3 months: Arizona, Colorado, Illinois, Missouri, Montana, Utah
- 2 months: Arkansas, Kansas, Wyoming
- 6 weeks: Idaho, Nevada
- No statutory requirement: Alaska, South Dakota, Washington

Quickie Divorces

States such as California and Connecticut offer expedited or "summary divorces" for short-term marriages with no children, very limited assets, and where neither spouse owns real estate.

Some states also require a couple to be separated before filing for divorce. For example, Maryland and New Jersey require separation periods of 12 and 6 months respectively before filing. Such periods are not to be confused with "cooling off" periods that many states require *after* a divorce is filed. In those states, a divorce can't be obtained until after a specified period.

For example:

- California – 6 months
- Rhode Island – 5 months
- Connecticut – 3 months
- Vermont – 3 months
- Texas – 2 months
- Michigan – 2 months

Parenting During Divorce

A functional divorce in families with children must begin with those children. Decisions regarding them must be governed by *the children's*—not *your*—best interests. Your conduct should be guided by the children's well-being, not your parental “rights.”

More on Divorce Parenting

In Chapter 10 you'll find pointers on parenting during divorce, including:

- Do's and Don'ts of Divorce Parenting
- Do's and Don'ts of Breaking the News to the Kids
- Questions Your Children May Ask About Your Divorce

The 10 Steps to a Functional Divorce

Functional divorces require planning. Each of the following 10 steps to a functional divorce is discussed in more detail below.

- Obtaining Professional Advice
- Protecting Yourself with Automatic Restraining Orders
- Protecting Yourself Financially and from Violent Confrontations
- Thinking About Your Divorce Goals
- Locating Key Documents
- Beginning to Plan for the Future
- Creating a Paper Trail to Success
- Educating Yourself About Divorce in Your State
- Caring for Your Children
- Caring for Yourself

Obtaining Professional Advice

Even if you don't feel that you can afford an attorney or other divorce professional, try to consult with one or more of the following anyway. If you can only meet with one, choose a lawyer who is experienced in both traditional divorce and alternative dispute resolution (ADR), which is discussed in Chapter 5.

- **Divorce Lawyers:** An hour or 90 minutes with a local divorce lawyer can be hugely informative. It might also help eliminate those 3:00 AM anxiety attacks. Download from www.21stCenturyDivorce.com the Initial Consultation Checklist (ICC) and Statutory Criteria Summary (SCS) that appear in Appendices 1 and 2 to this book. You can make your initial consultation much more productive by bringing a filled-out SCS with you, and selecting a few questions from the ICC to ask. Always ask the lawyer about the benefits of ADR.
- **Mediators & Collaborative Divorce Lawyers:** ADR should always be considered for a more efficient and less stressful divorce.
- **Certified Divorce Financial Analysts (CDFAs) and Certified Financial Divorce Practitioners (CFDPs):** CDFAs/CFDPs provide financial advice for less than lawyers charge. They can help with organizing finances, preparing disclosure statements, understanding tax and retirement plan issues, and projecting the impact of settlement alternatives. As discussed in Chapters 3 and 6, you may save even more by having some of this work done *before* hiring a lawyer.
- **Mental Health Professionals:** Consider checking in with a therapist both for your benefit and the benefit of those around you. If you notice any behavioral changes in your children such as declining grades or changes in eating or sleeping patterns, consider counseling for them.
- **Certified Divorce Coaches (CDCs):** Although not a substitute for an attorney, mediator, CDFAs, or CFDP, a CDC can help you:
 - Manage emotions
 - Communicate goals
 - Maximize your attorney/client relationship
 - Transition to post-divorce life

- **Forensic and Other Experts:** Generally, the decision to retain an expert comes later, with the advice of your lawyer. However, you should be aware of the following experts who are sometimes needed in divorce cases:
 - Actuaries used primarily to value defined benefit pensions
 - Accountants to explain (or analyze) tax returns and “financials” of a self-employed spouse’s business
 - A consultation with a divorce professional can help relieve some of the anxiety that keeps you up at night.
 - Business appraisers to
 - Calculate the value of a business interest
 - Calculate the actual compensation a spouse receives from a business
 - Personal property appraisers to establish values for antiques, artwork, collectibles, or technical equipment
 - Real estate appraisers
 - Vocational experts and forensic accountants to determine earnings potential that courts can impute to voluntarily unemployed or under-employed spouses
 - Forensic psychologists and other mental health professionals to evaluate fitness of parents (and sometimes grandparents and other third parties) in child custody and access cases
 - Computer forensic experts to recover and analyze data that has been deleted or otherwise lost from electronic devices



A consultation with a divorce professional can help relieve some of the anxiety that keeps you up at night.

Why Is There So Much Bad Advice Out There?

The good news is there is a wealth of advice available about divorce.

The *bad* news is there is a wealth of advice available about divorce.



You'll hear a lot about divorce from well-meaning friends, family, and members of divorce support groups. And you'll look at blogs, articles, and unnerving official-looking websites. Information from all of those sources is often misleading because it is offered:

- With no knowledge, or little understanding, of the facts of your case
- With no knowledge, or little understanding, of the relevant laws in your state
- By friends and family members who care dearly about you and whose advice is biased as a result
- By folks who will care dearly about you (briefly) after you buy their products or services, help promote their causes, or “like,” “follow,” or listen to them grouse about their own divorce experiences

In this Chapter and in Chapters 2–4, we will address the “bad advice problem” by:

- Clearing up common misconceptions about divorce (Chapter 2)
- Sharing basic truths about divorce (Chapter 3)
- Helping you find a competent, affordable lawyer who knows how to apply your state’s law to the facts of your case (Chapter 4)

In deciding whether to accept a particular piece of advice, ask yourself if:

- The advice is designed more to make you feel better than to help you achieve your goals

- The advice is consistent with principles that are important to you, such as
 - Protecting your children from your conflict with your spouse
 - The desire for fairness
- Whether there are other options that
 - Are less stressful to you and your children
 - Move you more efficiently (and less expensively) toward your goals

Protecting Yourself With Automatic Restraining Orders

In most states, “restraining” or “injunctive” orders take effect automatically upon the filing of a divorce or legal separation case. These orders are designed to prevent either party from:

- Gaining advantage over the other
- Taking action that alters finances
- Taking action that alters children’s living circumstances

In situations where one spouse might try to hide money, transfer property, or act irresponsibly regarding the children, automatic orders are a good reason to file for divorce sooner rather than later. These orders typically prohibit:

- Selling, transferring, concealing, wasting, dissipating or encumbering (e.g., borrowing against) marital property
- Failing to maintain, modifying, changing beneficiaries, or assigning life, health, disability, homeowners, or automobile insurance policies
- Spending or incurring debt except in payment of ordinary and normal expenses and attorneys’ fees related to the divorce
- Relocating children, except if they are at risk, without written permission of the other parent
- Harassment of the other party
- Destroying, hiding, or spoiling potential evidence including electronically stored material

Some spouses use the period before a divorce is filed to buy big-ticket items, squander or hide cash and other property, or run up debt.

Depending upon the severity of the situation, you may need—with a lawyer’s advice—to take drastic steps to protect yourself from such conduct, by:

- Freezing or closing joint credit card accounts and home equity credit lines
- Placing in an account in your name
 - 50% of joint bank accounts
 - 50% of available home equity line credit
- Preserving (or improving) your credit rating by arranging with your STBX to pay bills on time
- Triggering automatic restraining orders by commencing a divorce or legal separation action
- Filing a motion for temporary support and contribution to attorneys’ fees
- Placing in a safe place items with substantial monetary or nostalgic value

Protecting Yourself From Violence



If you have been the victim of violence in the past or feel that your spouse may become violent, *call 911 at the very first sign of danger*. Before things get to that point however, prepare and protect yourself as follows:

- Inquire at your local courthouse about protective or “restraining” orders that can keep your spouse away from you. Note that under federal law, one who is the subject of a domestic violence protective order cannot possess a firearm while the order is in effect.^[7] If you seek a protective order against a gun owner, bring this issue to the court’s attention.
- Reach out to additional resources such as
 - Your local domestic abuse hotline for information regarding local facilities and resources available to violence victims
 - National Domestic Coalition against Domestic Violence State Coalition list for local resources, at <http://www.ncadv.org/resources/StateCoalitionList.php>
 - The National Domestic Violence Hotline at www.thehotline.org

- If you feel violence may be imminent and you cannot move elsewhere
 - Keep your cell phone with you at all times.
 - Keep a spare car key concealed with you or near your car.
 - Establish a code word for texting or calling family members, trusted friends, or co-workers that will prompt them to call for help.
 - Secure your computer with a code.
 - Choose a room in your home with outside access if possible, for you (and your children) to go in a threatening situation.
 - Store with a trusted friend or family member items such as:
 - Jewelry and other valuables
 - Important documents
 - Evidence of past abuse
 - Keep key items such as credit cards and your social security card in a safe place that you can access quickly in an emergency.
 - Arrange with a friend to take you (and your children) in.

Thinking About Your Divorce Goals

It's not too soon to think about what you want to get out of your divorce... besides getting out of your marriage. Below is a list of matters commonly resolved in divorce cases. Child-related issues, support and property distribution will be covered in subsequent chapters, so don't freak out if you don't understand the meaning of everything on the list.

Many of the issues listed will be irrelevant to your case. Similarly, there may be details in your case that are not included. So for now, just scan the items below and as you continue to learn about divorce, return to these pages and use them as a checklist to make sure you've "covered all the bases."

You can download and print the list at www.DivorceSimplyStated.com.

Child-Related Issues

- Legal Custody (decision making regarding children)
- Joint vs. Sole Custody
 - Major decisions

- General health and well-being
- Education
- Religious training
- Day to day decisions
- Whether either parent has the sole right to make specific decisions
- Physical Custody
 - Joint vs. Sole Custody/Primary Residence
- Parenting Plan Schedules
 - School year weekend and midweek time
 - School year vacations
 - Holidays and three-day weekends
 - Summer vacation
 - Special days: Mother's and Father's Days, parents' birthdays, children's birthdays, traditional family gatherings
 - Access to and communication with children
 - Transportation of children to and from the parents' homes
- Relocation of custodial parent with children
 - Notice requirements
 - Prohibition of move without written agreement or court order
 - Defining geographical area within which agreement or court order is *not* required
- Other Considerations
 - Nurturing parental relationship with both parents
 - Communications with and about children
 - Transportation
 - Significant Others
 - Grandparents and other third party access
 - Appropriate role of subsequent spouses

Support Issues

- Spousal Support
 - Amount
 - Flat periodic payments
 - Support as a percentage of obligor's income

- “Base” (minimum) flat amount plus percentage of income exceeding a certain amount
- Alimony (tax deductible spousal support)
 - ◆ Tax considerations and I.R.C. recapture risks
 - ◆ Unallocated alimony & support (single tax deductible payment that includes both child and spousal support)
- Support “floors” (an agreed-upon minimum amount of support)
- Income “caps” or “ceilings” on the amount of the obligor’s income that will be subject to spousal support
- “Safe harbors:” Income increases that cannot trigger, or be considered in, post-judgment modification proceedings such as, for example
 - ◆ New income of a spouse who is reentering the workforce
 - ◆ Anticipated increase in obligor’s income already factored into agreed upon alimony amount
- Health insurance – COBRA rights to equivalent coverage for 3 years (at additional cost)
- Duration of spousal support
 - Transitional (“rehabilitative”) and compensatory alimony
 - Permanent alimony
 - Statutory rights to modification due to changes in circumstances, unless limited or prohibited by parties’ agreement
 - Nominal alimony (\$1 per year) that allows the court to modify if there is a substantial change of circumstances in the future
 - “Wedding Gift:” Alimony payoff or continuing alimony after remarriage in rare circumstances such as recipient’s remarriage is anticipated
- Modification upon substantial change in circumstances
 - Limits on modification
 - Termination, modification, or suspension upon cohabitation by recipient
- Child support
 - Child Support Guidelines mandated in every state
 - Deviation criteria for orders outside of the Guidelines

- Per child amount that allows for automatic reduction upon older children attaining majority; vs. Single amount for several children that may require renegotiation
- Duration
- Modification upon substantial change in circumstances
- “Extras” (e.g. camp, extracurricular expenses, etc.)
- Private school/college obligations
 - Funding plans (e.g. 529 education accounts)
- Allocation of responsibility for children’s health insurance
- Life insurance on obligor’s life to insure spousal and child support
 - Allocation between children and spouse
 - Designation of personal representative to receive life insurance proceeds for minor children
 - Step-downs in amount of required coverage over time as amount of remaining obligation declines

Property Issues

- Property Distribution
 - Identification and valuation of “marital property” that can be distributed by the court
 - Identification and valuation of separate or “non-marital” property in some states
 - Date of acquisition (before or after marriage)
 - Nature of property (e.g., inheritance, gift, etc.)
 - “Transmutation” of non-marital property to “marital property” e.g., through con-mingling of funds or augmentation of an asset’s value with joint funds or other contributions
 - Continuing occupancy of family home by 1 party
 - Ownership
 - ◆ Legal effect of divorce on joint ownership and rights of survivorship
 - ◆ Transfer of property to spouse in residence with note and mortgage to other spouse
 - Details of eventual sale of residence such as
 - Buy-out provisions

- Allocation of responsibility for
 - ◆ Pre-sale “fix-up” expenses
 - ◆ Necessary repairs and capital improvements
- Mechanisms to resolve disputes
- Valuation, vesting, and tax issues regarding pensions and other pre-tax assets such as 401(k) plan, IRAs, stock options, and stock plans
- Personal property
 - Personal effects
 - Valuables (e.g. antiques, artwork, and collectibles)
 - The rest
- Valuation of spouse’s business
 - Whether minority or marketability discounts apply
 - Whether valuation would “double dip” alimony
 - Whether a business’s “goodwill” should be valued
- Trusts
 - Established by spouse for benefit of children or third parties
 - Established for others for benefit of a spouse
- Life Insurance Surrender Value
- Frequent Flyer Rewards Points
- Digital assets such as
 - Websites
 - Domain names
- Allocation of debt between the parties
 - Credit cards, credit lines, etc.
 - Indemnification of other spouse by spouse responsible for a debt

Miscellaneous Issues

- Taxes
 - Filing Status (e.g. head of household) In Current & Future Years
 - Allocation Of Exemptions & Child Tax Credits Between Parents
 - Entitlement To Refunds: Obligations For Payment regarding Past & Future Joint Returns

- Entitlement To Deductions (e.g. mortgage interest, property tax, and charitable contributions)
- Professional fees
 - Contribution by one spouse to attorneys' fees of other spouse
 - Allocation of other professional fees

Deciding on Your Divorce Goals



Don't sacrifice long-term needs to scratch a momentary itch.

Once you have familiarized yourself with the issues requiring resolution in your case (and have learned more about them), you can decide how you'd like to resolve them. When that time comes, use the following approach to formulate your goals:

- **Think long term:** Consider what will matter to you 3, 5, and 10 years from now, rather than focusing only upon immediate cash flow or other current problems.
- **Consult with an attorney:** Even if you plan to represent yourself or use alternative dispute resolution (ADR) methods such as mediation, consult a divorce lawyer for assistance in formulating goals that are realistic in light of your circumstances and your state's laws. Straying too far from the likely range of outcomes can prolong or doom attempts to negotiate settlement. Discuss with the attorney whether the following common outcomes are likely in your case, and whether you might be able to do better:
 - Roughly equal division of marital property in long term first marriages or "principal" marriages that produced children
 - Restoration of pre-marriage financial positions in short term marriages (equitable distribution states)^[8]
 - Duration of spousal support consistent with your state's law and customs

- Child support per your state's Child Support Guidelines
- **Prioritize your goals:** You are highly unlikely to achieve all of your goals, so decide which are the most essential, and which can be “horse-traded” or abandoned if necessary during settlement negotiation.
-  **Emphasize needs over positions:** For example, if you wish to maximize your time with your children whose primary residence will be with your STBX, you might decide to demand “joint custody.” Joint custody is a “position.” Your “interest” is to have as much time with your children as possible. Focus on the latter and avoid problematic labels like “joint custody.”
- **Familiarize yourself with legal terms:** Learn some “Lawglish” words like “permanent alimony” and “marital property” so that you ...
 - Understand the legal advice you receive
 - Don't take positions based on a misunderstanding of legal terms
 - Don't misunderstand your STBX's positions