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Tips On Divorce



Your Divorce
Made Simple

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Kitchen Table Divorce

Most people getting divorced are going through it for the first time.

They don't know what to expect, what questions to ask their professional team, and how to develop a plan or process for going through this journey. Instead, they rely heavily on their attorneys to help them through the emotional, legal, and financial aspects of their divorce.

One thing they don't realize until well into the process is that their attorneys are there to give legal advice, not to offer sound financial advice or emotional support.

I created Your Divorce Made Simple more than seven years ago to give individuals and couples going through divorce the information they need to navigate this difficult journey. Drawing upon knowledge from my own three divorces as well as my skills as a Certified Divorce Specialist (CDS®), Certified Divorce Financial Analyst (CDFA®) and Family Law Mediator, I am able to help clients gain the necessary education.

Through my work at Your Divorce Made Simple, I have created a unique new approach for helping people navigate this emotional and stressful time.

It is called the Kitchen Table Divorce.

This process helps clients save money, save time, and creates an amicable environment that allows for win-win outcomes.

My team and I have worked with both individuals and couples to help them negotiate the division of assets, child considerations, as well as financial and tax planning needs both during and after the divorce. We educate our clients on the different options available, the likely outcomes, and the financial and tax ramifications of their decisions. This approach guides them through the divorce process with civility and saves them thousands of dollars through sound advice.

Because most people fight over money during divorce, getting advice from a financial professional who understands the nuances of divorce is essential to reaching a beneficial settlement that can work for both spouses. That's something they will rarely get from working only with attorneys.

We have seen firsthand how the Kitchen Table Divorce process inspires our clients to move forward with confidence and make better financial decisions during one of the most stressful life transitions they'll ever go through. After all, the decisions they make during divorce will affect them for the rest of their lives.

This process is viable whether you come to Your Divorce Made Simple as an individual or as a couple. It also has helped people who have already hired lawyers.

Amy Colton

Your Divorce Made Simple

yourdivorcemadesimple.com

Quick Statistics on Divorce

Let's start with some interesting statistics on divorce:

- The average cost of a divorce in the U.S. is \$15,000.
- Women are more likely than men to file for divorce.
- In 2019, 750,000 divorces were registered in the U.S.
- Luxembourg had the highest divorce rate of any country at 88.9%.
- Divorce is illegal in the Philippines and Vatican City.
- The divorce rate in the U.S. was highest in 1981 at 53%.
- Arkansas has the highest divorce rate in the country at 10.7%.
- Maine has the lowest divorce rate in the country at 4.8%.
- In 2022, the U.S. family law industry was at \$12.1 billion.
- Most divorces occur in January.
- Marriages in the U.S. last an average of 8 years.
- 41% of first marriages end in divorce.
- 60% of second marriages end in divorce.
- 73% of third marriages end in divorce.
- 60% of marriages between couples aged ages 20-25 end in divorce.
- In the U.S. a divorce occurs every 13 seconds.
- During a wedding ceremony and celebration of 5 hours, 1,385 divorces occur.

Before Getting Started

The Kitchen Table Divorce started when a local family law attorney decided that she didn't want to handle divorce anymore because it was too stressful. She would send her clients to me to see if I could help them work out their differences. Once we got to an agreement I would send them back to her to file the paperwork with the court and write up the divorce decree.

When working with these clients, I realized that I could get the divorce finalized quicker this way than if they had both hired attorneys. I also realized that this approach saved my clients money both by getting financial advice and by not paying the hourly rate of the attorneys. I also discovered that if the couple would come to the table and negotiate, we could do this more amicably.

The process has evolved over the years as I learned the pitfalls that clients have experienced when going through divorce.

Sometimes I work with a couple and sometimes just one party. I also have worked with one or both parties even after they have hired attorneys. By doing so, we can come to an agreement much quicker than using two attorneys and entrusting the conversations to the attorneys as opposed to the conversations occurring between the couples themselves.

A survey of 401 people conducted by Wentworth Divorce Financial Advisors provided some surprising results that support my observations:

- 76% of people going through divorce said they looked only to their lawyer for financial advice.
- 77% wished they had worked with a financial specialist throughout their divorce.*

I also learned that divorce has three components:

- Emotional
- Legal
- Financial

It is important that you have a guide to help you in these three areas. Most people are aware that they need legal advice. But emotional support is key as well. You can use a professional or a support group, but you need to take care of yourself during this time as it is deeply emotional and stressful. The one professional that people often overlook is their financial guide, yet money is the area that they fight about the most.

A lawyer is not a financial professional and in most cases doesn't have the expertise in the financial and tax ramifications that could affect their clients. Yet most people tend to rely on their lawyer for both financial and tax advice. Sometimes they use them for emotional support as well. This is a very expensive use of their time.

This booklet is designed to help you understand some of the key elements you may face on your divorce journey. It outlines the top questions that I get asked during the divorce process. You can read all of them or go to the ones that directly relate to your situation. It is my intent to bring you some clarity and confidence as you navigate your divorce.

* Survey of 401 individuals conducted by Wentworth Divorce Financial Advisors through Survata, Inc.

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Discovery

The Beginning of Your Journey

01

Tip On Divorce

You Need a Guide

Everyone going through divorce needs a guide who understands the financial, legal, and emotional aspects of what they are going through.

You can use three different guides through the process or find someone that can help you with all three areas.

I believe a lawyer is the best guide for the legal process. A therapist or support group is good for emotional support. And a financial professional is best to support you through the complexities around the financial and tax aspects of your divorce.

Most people going through divorce choose the wrong guide or guides. You might think you need an attorney—maybe you do. But most of the time if you start with an attorney, it will take more time and cost more money.

Keep in mind that the financial decisions you make today will affect your future:

- You will need a budget that supports the next chapter of your life.
- You will need to understand how taxes play into the divorce. Some assets are taxable, and some are not. It is unlikely that your attorney will know how to help you pay less taxes or avoid them all together.
- You need to make sound investment decisions based on your personal goals.

In my experience, a financial professional who understands divorce is the best guide.

02

Tip On Divorce

No Two Divorces Are the Same

Each divorce journey is unique, and no two divorces are the same.

Many times friends and family members can't wait to give you advice about your impending divorce. Although they mean well, they are often not the best sources of advice. Why? They are viewing your divorce through their lens. Your divorce is not their divorce. Your experience is not their experience.

If you are going through divorce for the first time, you probably are not sure what to expect or what questions to ask. And if this is not your first divorce, this time will not be the same as the last.

That's true even for me or other divorce professionals. Every time I go through this journey with a client, I learn something new. I have accumulated all this knowledge to help my clients avoid pitfalls others have experienced.

This is another reason to consider a financial professional who specializes in the divorce process.

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Tip On Divorce

Divorce Is Mostly About the Financials

Divorce is about the division of marital assets and debt, spousal support, child considerations, child support, and the impact of taxes on the decisions you make. You must understand the ramifications of all the decisions you make in these areas.

Most people focus on the legal side of divorce, but they end up spending the most time on trying to reach agreement on the financial aspects.

When it comes to child support and spousal support, the attorney may be able to help you. But for other financial decisions, an attorney is not always the best professional.

Many financial and tax decisions may come into play that you haven't considered, such as:

- Capital gains on the marital home
- 401(k) and IRA distributions
- Stock options and Restricted Stock Units (RSUs)
- Pension evaluation and distribution
- Social Security benefits

Again, this is another reason why you may prefer to start with a financial professional who specializes in divorce.

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Tip On Divorce

The Traditional Family Law Process Is Broken

Even though family law is a \$12.1 billion industry in the United States, it's broken, and there are better ways to navigate your divorce.

It is important to understand what you want to accomplish with your divorce settlement. Devising a sound financial plan before hiring an attorney can save you time and money. And if you come away with nothing else from these tips, please understand this one.

Too many times when couples start the process by hiring attorneys, they don't have a plan and neither do the attorneys. Creating a realistic and sound financial plan to start helps everyone involved in the process.

As I mentioned earlier, the Wentworth Divorce Financial Advisors survey of 401 divorced people discovered that:

- 76% of people going through divorce looked only to their lawyer for financial advice.
- 77% wished they had worked with a financial specialist throughout their divorce.

It is highly unlikely that your lawyer has the knowledge that a financial professional does when it comes to guiding you through the financial and tax ramifications of your divorce.

You will need a lawyer at some point in your journey, but in most cases it is not the best place to start.

Most people assume they need an attorney to start the process.

They may need one eventually, but it is not always the best place to start. In fact, most of the time they do not need an attorney in the beginning.

There is no wrong or right way to start the journey, but starting with an attorney—or even two if your spouse decides they need one—will take more time and cost more money.

Most people don't know they have other options, such as mediation.

The other thing that most people don't know is that there are multiple styles of mediation. The one that is practiced most commonly is the style where both parties are in separate rooms and the mediator goes back and forth between the two parties having private discussions with each party. This takes place in one day over four to eight hours or more.

At Your Divorce Made Simple, the Kitchen Table Divorce process is an informal form of mediation. It is different in that it allows for several sessions of negotiation usually around one to two hours. The reason we have multiple sessions is because it takes time to process the information presented, especially during this highly emotional time. This is why we don't believe that a mediation in one sitting is in the best interest of the couple.

When people are at a high stress level, it is often difficult to make decisions, especially those that can dramatically affect their financial future.

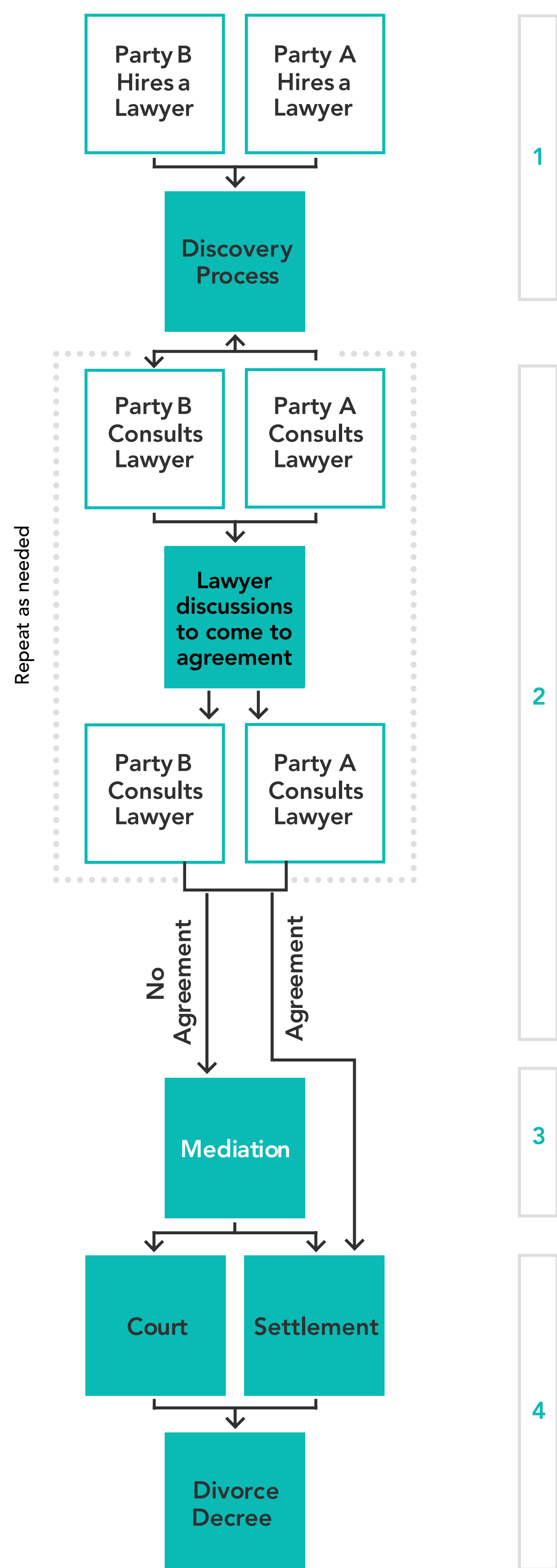
This also allows them time between sessions to gather the information they need to be better prepared at the mediation sessions. Sometimes it is wise to consult with an attorney to get a better understanding of the law especially if you haven't hired one already. You can talk to a lawyer and pay them an hourly fee for their time without having to pay them a retainer. It also allows you to interview the lawyer to see if they are a good fit.

Even if the couple can come to an agreement during the Kitchen Table Divorce process, they will still need a lawyer in the end to write up the divorce decree. This is a legal document that should be written by a lawyer.

Why Should You Plan Your Divorce?

Hiring a lawyer doesn't have to be your first step. If you chose this path to start your journey, it could be a costly regret. Your Divorce Made Simple can help prepare you, and your partner, to hire counsel after you've worked through discovering your priorities and dividing your assets.

Traditional Divorce: 12 - 18 months



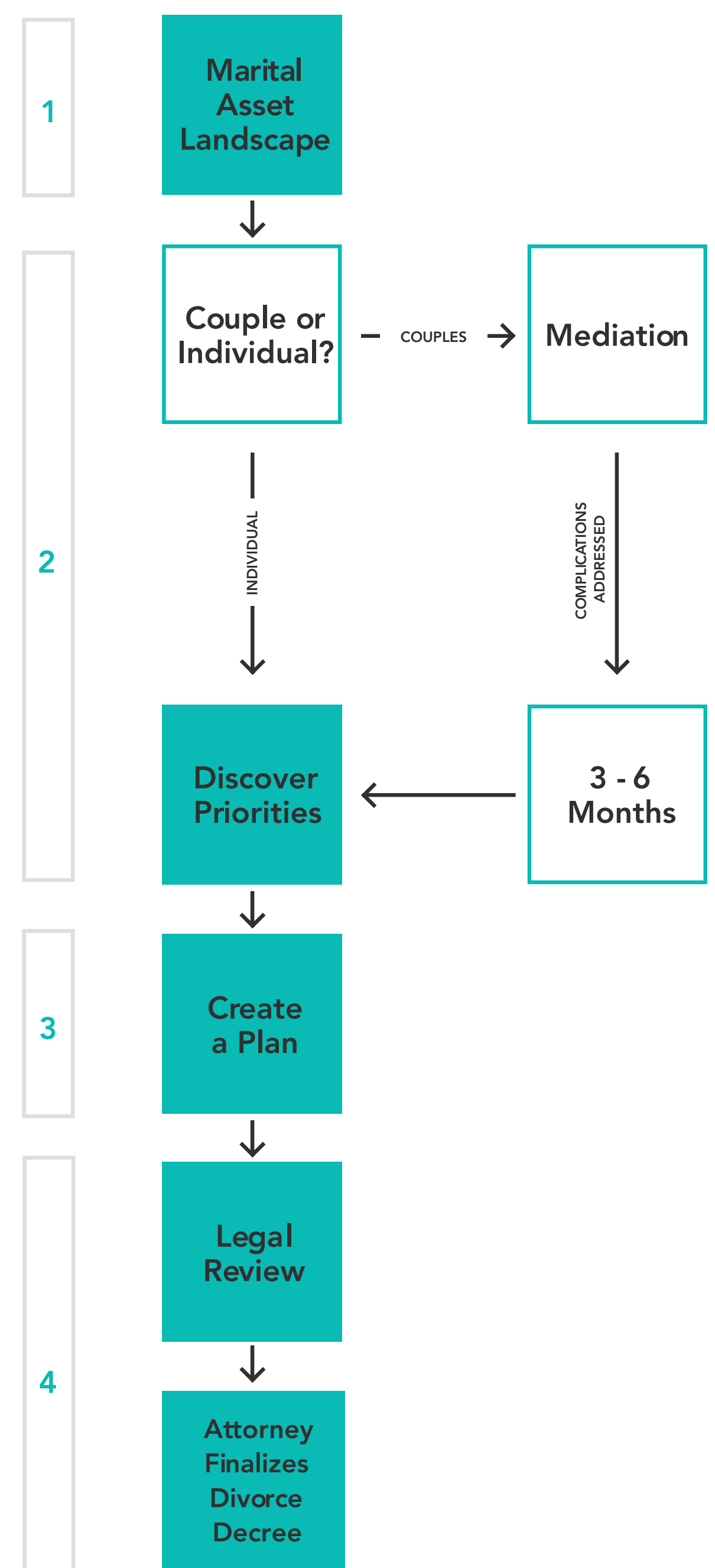
1 DISCOVERY

2 ALIGNMENT

3 PLANNING

4 SETTLEMENT

Divorce Planning: 3 - 6 months



Understanding the laws around child support support is crucial.

Even though the guidelines can vary from state to state, the general rule is that child support is shared by both parents in proportion to their income. But many other factors go into determining how much each parent will actually pay, such as:

- Who is the custodial parent?
- Who is providing health insurance coverage for the children?
- Who will pay for educational expenses?
- Who will pay for child-care expenses?

Because child support is complicated and not as straightforward as one might think, it is best to consult an attorney.

When it comes to the children, you will discuss visitation schedules, and who will pay for medical and extracurricular activities.

Historically, many states calculated child support by taking a percentage of money earned by the parent who spent less time with the child. As the number of working mothers has grown, most states have moved to a formula that factors in both parents' incomes. Only four states don't consider the mother's income when calculating child support: Arkansas, Mississippi, North Dakota, and Texas.

Keep in mind that we are talking about guideline amounts for child support. You and your spouse can decide to go with the guideline or not. If you cannot agree, a judge may end up determining the amount. Even if a judge sets the amount of child support, it is not always a given that you will receive what you think you are entitled to.

The judge may look at other factors that come into play, such as the amount of time each parent spends with the child, who is paying for certain expenses, and what financial resources are available to each parent. Given this additional information, the judge may or may not decide to go with the guideline amount.

In Texas, where I live, the noncustodial parent is required to contribute 20% of their net income for one child and an additional 5% for each child. Yet Texas is ranked 23rd in the average amount paid in child support. Massachusetts, Nevada, and New Hampshire have the highest payouts in child support.

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Tip On Divorce

Understand Guidelines for Spousal Support

Another key issue is spousal support.

How spousal support is decided will depend on the state where the divorce is filed, the length of the marriage, and whether one spouse stayed home to take care of the family during the marriage.

If spousal support is part of the discussion, you will need to determine how much will be paid and for what length of time.

Generally, spousal support and child support should be discussed with an attorney.

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Tip On Divorce

Understand Gifts and Inheritance

Understanding how an inheritance or gift is handled during divorce is another consideration.

A gift or inheritance received during the marriage can remain separate property if certain rules are followed. Understanding this is important because if these rules aren't followed, separate property can become marital property and considered to be part of the marital estate, which makes it subject to division during divorce.

The best way to avoid this is to keep separate property separate. For example, if one party received a cash gift from a family member, it would be best to deposit the gift into a bank account in their name only. If they deposit it in a joint bank account, it may be considered commingled and now has the potential of becoming a marital asset.

A gift given by one spouse to the other during the marriage is considered marital property instead of separate property, unless specifically stated otherwise.

This can be complicated, and it is best to seek the advice of an attorney when dealing with inheritances and gifts and the nature of the property.

Alignment

Understanding Your Options

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Tip On Divorce

Consider All 3 Aspects of Divorce: Emotional, Legal, and Financial

Divorce is a process that takes multiple professionals. I look at divorce through three lenses:

- Emotional
- Legal
- Financial

Many times people start their divorce journey with a therapist or close friend to help them through the emotional aspects of divorce. That's a perfectly valid place to start, as long as they are getting the support they need.

Once they have decided to actually get divorced, they almost always start with getting an attorney. They don't often think about getting a financial professional. Yet what they have the most difficult time coming to agreement about are the issues around finances and money. In a survey of 400 people 76% of people going through divorce have used their attorney for financial advice. And 77% of people going divorce wish they had hired a financial professional.

In my experience of working with people going through divorce, only a small percentage of people need to hire an attorney at the beginning of their divorce journey.

Hiring a financial professional to guide you through your divorce will save you time and money and help you go through the process more amicably. Additionally, a financial professional can help you put together a strategy and a financial plan before hiring an attorney.

Yet most people think they need a lawyer at the beginning.

Once a woman came to me who was afraid her husband might kill her. She needed a lawyer right away. Then I met with another woman, who owned a business with her husband. Her major concern was that he was running the business into the ground intentionally so he wouldn't have to show the business was profitable. She needed a lawyer right away as well.

But those are both rare instances. Most of my clients are better served by determining their financial picture before hiring an attorney. Going to an attorney with a divorce financial plan in place is the most efficient way to navigate your divorce.

If you start with an attorney this is what happens:

- You hire an attorney, so your spouse feels the need to hire an attorney as well.
- Now you each will rely on your attorneys to communicate with your spouse's attorney. That means that there are now four people having a conversation, and only the attorneys are talking to each other.
- Invariably, conversations back and forth between attorneys take more time. And every time your attorney has a conversation, it costs more money, because you and your spouse are each paying your attorney's hourly rate.
- Along the way, you'll discover that your timeline and your attorney's timeline are not necessarily the same. This is why divorce with attorneys takes much longer.

Additionally, working with attorneys sets up a situation that is increasingly contentious, because each attorney wants to get the most for their client. Since each attorney represents only one party, their job is to get the best outcome for their client. A financial advisor is a neutral third party who can often represent and communicate well with both parties, guiding them toward a fair outcome.

Starting with a financial professional can save you and your spouse time and money, not to mention stress. And that can ensure that you go into your negotiations with the knowledge you need for win-win scenarios that benefit all parties involved.

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Tip On Divorce

What Are Your Options?

If you are thinking about getting a divorce, it is important to know what your options are. Most people don't understand—or even know—all of the options that are available to them.

Hiring an Attorney

This is the most common option. Typically, most people only consider the legal aspect of divorce and rely on the attorney to help them with the financial and the emotional aspects. That's a costly way to navigate divorce when you consider that the hourly rate for a lawyer is generally higher than those for the other professionals.

Collaborative Divorce

The best thing about the collaborative process is that it utilizes all three professionals. Each party hires an attorney to represent them. As a couple, they then seek out a financial professional and a therapist or social worker to assist with the financial and emotional aspects of the divorce.

Mediation

A mediator is a neutral third party hired to facilitate the negotiation process and get the couple to reach agreement. Most people are surprised to learn that they don't need an attorney to go through mediation, even if they have already hired an attorney. An attorney may want to accompany you to mediation. If they do, you will have to pay their hourly rate for them to join you.

Do-It-Yourself

This may be an option if you and your spouse have no children and no assets or debt to split. As soon as you add any complexity to your situation, this is probably not the best way to get divorced.

In addition to understanding the different divorce options available, you should also evaluate the costs associated with each of them.

Some other things to consider are:

- To what degree are you and your spouse willing to compromise?
- What level of confrontation are you willing to withstand?
- How much professional assistance do you desire?
- How quickly do you want the divorce to be completed?

There are so many things to consider when contemplating divorce, and as mentioned earlier, no two divorces are the same. That is why it is important to know your options and determine which path is the best for your situation.

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Tip On Divorce

Have a Clear Strategy for Getting to Win-Win

If you want to save time and money, you should have a clear strategy and follow a proven path.

A journey like this requires a proven process. At Your Divorce Made Simple, we have taken the best practices and combined them together into the Kitchen Table Divorce process.

Our approach is called the Kitchen Table Divorce because both parties are sitting at the same table and we have a discussion. Instead of forcing the couple to come to agreement in one sitting as in traditional mediation, we have multiple sessions of one to two hours, trying to come up with a solution that both parties feel good about. This allows the parties to think about what they want, get an opinion from a lawyer if needed, and process what is going on emotionally in between sessions.

I often work with clients before they have hired an attorney or where only one party has hired an attorney. Sometimes we can reach agreement in one or two sessions, and sometimes it can take as many as four. It depends on how realistic both parties are being and how well they can communicate.

The Kitchen Table Divorce can save you time and money and achieve win-win outcomes with minimal conflict. We try to resolve differences amicably in an open and transparent environment whenever possible.

Our goal is to help you develop a strategy and a divorce financial plan to present to the attorney once you understand what is at stake. This puts you in control of the situation and helps eliminate unnecessary delays as well as keeping costs down. Going through the planning process and creating a strategy can also give you more clarity around your future and lessen the level of stress during the divorce.

Keep in mind that if you can't come to the table as a couple, we offer a modified version of the Kitchen Table Divorce for individuals that want to create a divorce financial plan.

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Tip On Divorce

Your Attorney Is Not a Financial Professional

In most divorces, when one spouse hires a lawyer, the other party feels compelled to do so as well.

As we've explained above, this not only gets expensive very quickly, but it can slow down your divorce and escalate conflict and contentiousness. It also takes more time to discuss an issue, and every time you talk to your lawyer, it costs you money. Doesn't it make more sense to have these discussions with a financial professional prior to hiring an attorney?

The divorce industry is a \$12.1 billion industry because people use their attorneys for the wrong reasons. They use them to vent their frustrations with their spouse. They use them in lieu of a financial professional. They use them instead of a mediator or a therapist. And all of this costs more time and money and creates more conflict.

In my work with individuals and couples through the Kitchen Table Divorce, I have found that it is best to start with a financial professional, especially one who understands the divorce process. Putting together a financial plan and strategy before bringing in the lawyer or lawyers can save you a lot of time as well as money.

It is also a more effective way to start the process in a more amicable way and ultimately results in win-win negotiations that truly benefit both parties.

Planning

Putting Together Your Strategy

The national average to complete a divorce is 12 months. If the case goes to trial, the average time is 18 months. By comparison, a Kitchen Table Divorce takes less than 6 months.

How much time it takes to get divorced can depend on the state you are filing in. Some states require a legal waiting period before the divorce can be final, typically 30 to 90 days, but it can be as long as 6 months. Some states require a legal separation of up to 18 months prior to getting divorced, and others may require mediation before going to court.

How long it takes to get divorced also depends on the issues that take more time in divorce, such as discovery around financials, motions and hearings, settlement negotiations, and communication between lawyers.

The time required to negotiate settlement agreements can vary widely. This can depend on various factors, such as how many contested issues and disagreements you and your spouse have, the nature of the contested issues, how well you and your spouse communicate, and whether or not both of you have hired lawyers and how much they are willing to agree with your settlement.

The most important issues that take time to resolve are:

- Child support, custody, and visitation
- Alimony or spousal support
- Dividing marital assets and debt

Couples who start out by agreeing on these issues or who don't have children or property to fight over can get through the process relatively quickly. Sometimes couples start the divorce without disputes, but as they work through the process, they start to disagree once they explore the issues further.

If you opt to go to trial, the timeline gets even longer. Preparation for the trial may include gathering more evidence, filing and responding to pretrial motions, attending a pretrial conference, the trial itself, and waiting for the final divorce judgment after the trial is over.

Financial discovery is the information-gathering process around all the assets and liabilities from the marriage. This may include getting the details on:

- You and your spouse's income
- The value of any assets, including investment accounts and property as well as any retirement or pensions accounts
- Marital debt and outstanding loans
- The evaluation of a business if one party is self-employed

Financial discovery can be done formally with attorneys or informally with a financial professional. It can take months or longer, depending on whether you are dealing with complicated assets and a spouse who is willing to cooperate.

Usually, the marital home is the biggest asset that most couples have. The most common questions around it are:

- Will the marital property be sold?
- Does one party keep the house?
- What are the tax ramifications of selling the home?
- If one spouse keeps the home, can they qualify for a mortgage based on just their earnings?

First, you need to determine if you or your spouse wants to keep the marital home. There is no right or wrong answer here. Sometimes both parties agree that neither spouse wants the home nor can qualify for a mortgage based on one salary. In that case, they usually decide to sell the home and split the proceeds.

Other times, you may want to keep the home for the continuity of the family. But, for example, if you keep the house, your spouse may want to be taken off the mortgage. You would also need to determine if you can buy your spouse out of their equity in the house, possibly with other marital assets. This is something that can be negotiated and written into the divorce decree.

The other factor that needs to be discussed is how much equity there is in the house and whether capital gains will be taxed. As a couple, the first \$500,000 of equity is forgiven for tax purposes. But for an individual the amount is only \$250,000.

Years ago I advised a couple, where the wife wanted to keep the marital home. She and her spouse had about \$500,000 of equity in their home. I reminded them that if they sold the house when they were a couple, their tax bill would be zero. But if she were to stay in the house and then decided to sell it after the divorce, her tax bill could be as high as \$50,000 given her salary.

I also worked with a client who had sold the marital home during the divorce and had a gain of \$1 million. In this case, the spouses had to split the additional \$500,000 in capital gains that they would pay in taxes as part of the divorce settlement. The tax ramifications for both parties would be different since the husband made more money than the wife. Ultimately, they agreed to split the tax burden 50/50, with each taking on the \$250,000 in capital gains despite what they would actually be paying in taxes. Given that she had no income and he made around \$500,000, their tax bills would be significantly different. This is a decision that needs to be taken into consideration when negotiating the division of assets and debt.

If you decide to stay in your home, you need to make sure you can qualify for the new mortgage. If your home is now worth much more than when you and your spouse bought it, it must be refinanced at the current market value. Also, current interest rates have to be assessed. Given these two considerations, as well as the fact that you would need to buy your spouse out, this option might not always be feasible.

Making sure you have a budget and can afford your life after divorce should be one of the first things you do.

A budget is always important, but it is especially so during and after divorce. When you are going from two paychecks to one or from one high-wage earner to you being on your own, it is time to get real about how much money it will take to run your household and how much money you have coming in every month.

Many times when negotiating the division of assets with couples, I use the budget of the low-income earner to make sure they will be able to support themselves after the divorce. It's probably no surprise that it's usually the wife who is the low-income earner and, in many cases, the spouse who was out of the workforce for several years. As the low-income earner transitions to their new life, it is imperative they understand the financials required to run their household.

Sometimes when I see that a client cannot make ends meet, we look at negotiating for more income-producing assets to help with the household expenses at least until they can get up to speed financially. This may require a different split of the current assets. Maybe a 60/40 or 70/30 split is more in line with what they will need to maintain the household budget. In some cases, that's a fairer way to split assets.

All income sources need to be looked at. This can come from earnings at a job, child support, spousal support, and dividends or interest from investments. This is why the budget is the cornerstone of negotiations when looking at how to divide assets.

In Texas, which is a community property state, the guideline is that all marital assets are split 50/50. But is that always fair if one party makes considerably more than the other? The law may see it as fair, but is it really?

I am currently working with a couple whose husband wants to divide their assets 50/50. He makes over \$100,000, and she makes less than \$30,000. Additionally, the children will be living with her 24 days a month. Her budget is \$7,000 per month. She will get \$2,000 for child support and brings in \$3,000 a month in income from her job. Her budget gap is \$2,000 per month. In splitting assets 50/50, she will receive approximately \$250,000 from the marital home, which gives her about \$1,000 per month in interest. Even with that, it leaves her with a shortage of \$1,000 per month. So, is a 50/50 split fair in this case? I don't think so.

Ultimately, it is up to the couple to decide what is fair or the judge if they decide to go to court.. In this case, the wife could benefit from getting additional assets to help her get back on her feet.

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Tip On Divorce

Understand Health Insurance Costs

Make sure you understand what medical insurance will cost once you get divorced. If you have children, determine who will be paying for their medical insurance.

Health insurance can be one of the biggest line items in your budget. If your spouse's employer was covering your health insurance, make sure you research your options for getting your own insurance before your divorce is final. Once your divorce is final, your ex-spouse will not be able to keep you on their plan. Also, if you have children, you and your spouse must determine who will be paying for their insurance as well.

Make sure you shop the market to understand what your options are for deductible and out-of-pocket expenses. You may want to consider COBRA, which is offered through your ex-spouse's employer. COBRA is the Consolidated Omnibus Budget Reconciliation Act, which gives workers and their families who lose their medical benefits the right to continue medical benefits for a limited period of time. This is only an option under certain circumstances, including divorce. Remember that COBRA coverage is only temporary and often can cost more than getting insurance on your own. It is just something to consider when researching your options.

If you have opted for a high-deductible plan, you may want to consider opening a Health Savings Account (HSA), which allows you to set aside pre-tax dollars for future medical expenses. An HSA is a separate account that is independent from your medical plan. The funds you put into an HSA can be rolled over from year to year. In any given year, you are limited to the amount you can contribute to an HSA.

Maximum contribution amounts for 2023 were \$3,850 for an individual and \$7,750 for families. If you are older than age 55, there is an annual "catch up" contribution of \$1,000. Once you start taking Medicare or Social Security benefits, you are not eligible for an HSA.

Make sure that there is a life insurance policy that covers the amount to be paid over the years for child support and alimony.

The life insurance policy ensures that if the spouse who is paying support dies prematurely, the recipient spouse would receive a lump sum of money owed through the death benefit on the life insurance policy.

The death benefit on the policy should be enough to cover the amount owed to the ex-spouse should a premature death occur and payments for child support and alimony can no longer be paid. For example, if one spouse owed the other spouse child support of \$2,000 per month for 15 years, the amount of the death benefit should be no less than \$360,000.

When it comes to life insurance, there are four components:

The Insured

The insured is the person whose life the policy is written on. The insured can never be changed after the policy goes into place, and the insured must go through an underwriting process. In divorce, the insured would be the party owing the money for child support or alimony.

The Payor

The payor is the person who pays for the policy. In most cases, this would be the person required to make the child support and alimony payments. This can be changed at any time during the life of the policy.

The Beneficiary

The beneficiary on the policy is the person or entity who receives the death benefit should the insured pass away. The beneficiary should be the person due to receive the child support or alimony. The beneficiary should never be a minor child.

Several years ago, I had a client who mistakenly named the beneficiary of his policy as his six-year-old daughter. When he passed away prematurely, the state held the money until the daughter turned age 18.

The Owner

The owner of the policy does not have to be the insured. In fact, I recommend naming the spouse listed as the beneficiary also as the policy's owner. As the owner, they control the policy. No changes can be made after the policy goes into effect without the owner's approval. Additionally, they would be notified of anything happening inside the policy, such as payments not being made or a request for a beneficiary change. Make sure that the owner of the life insurance policy is the beneficiary.

The payor, owner, and beneficiary can all be changed after the policy goes into place. The only entity that can't be changed is the insured. It is important that the insurance policy goes into effect before the divorce is final. Many times the divorce decree will define the specifics around life insurance.

Understanding how Social Security benefits work with divorce can be complicated.

If you were married for at least 10 consecutive years, you can claim a benefit based on the earnings of your ex-spouse. In order to do this, you must be single and at least 62 years old. Your ex-spouse must be receiving Social Security benefits for you to start getting the benefits.

If you and your ex-spouse are both at least 62 years of age and have been divorced for two years or more, you can start taking Social Security benefits based on your spouse's income, even if your spouse is not currently taking Social Security benefits.

If you are eligible for Social Security based on your own work record, you can receive the greater of either your retirement benefits or half your ex-spouse's benefit. If you never worked, you are entitled to a benefit based on your ex-spouse's work record.

Although you can start taking Social Security benefits at age 62, you may want to wait until you reach your Full Retirement Age (FRA) to start taking the benefit. FRA varies depending on the year you were born. For those born between 1943 and 1954, it is age 66. Every year after 1954 it adds 2 months to the FRA. So if you were born in 1955, the FRA would be age 66 and 2 months. Anyone born after 1960 has an FRA of age 67.

If you start taking benefits at FRA, you can receive up to 50% of your ex-spouse's benefit if it is greater than your own benefit.

For example, if your ex-spouse's benefit is \$3,000 per month, you can receive \$1,500 per month. It would only make sense to do this if you would be receiving more from taking the spousal benefit versus taking your own benefit. If you were only receiving \$1,000 based on your own Social Security record, then taking the spousal benefit makes sense since this would give you \$500 more a month.

Keep in mind that although you can take retirement benefits prior to your FRA, the amount you would receive would be reduced. If you start taking benefits at age 62, for instance, you will receive between 32.5% and 35% of your ex-spouse's benefit, not the 50% you would get should you wait until FRA. Also, be aware that once you start taking the benefit, it cannot be changed later. It is permanent.

I often get asked whether this affects the ex-spouse's benefit. The answer is no. This does not change the amount your ex-spouse will receive.

The other question I get is whether you have to let your ex-spouse know you are doing this. The answer is no to this question as well. All you have to do is to apply for the benefit through the Social Security Administration.

Additionally, if you were married to more than one person for more than 10 years, you can start with one ex-spouse's benefit and switch to the other ex-spouse's at a later time if that would allow you to receive more retirement benefits. But you cannot collect on both.

Settlement

Creating an Agreement

Mediation is a process that allows you and your spouse to discuss what is important to each of you and how you each want to shape your life in the future. The outcome is a signed agreement which is binding.

Most mediators usually work with the couple over a four- to eight-hour period to reach an agreement on issues surrounding children, the division of assets, and spousal support. The mediator's role is to facilitate the process. The mediator does not make decisions for you and your family. Instead, the mediator gives the two of you the opportunity to settle your case in a way you both find acceptable.

Many times the couple will be sitting in separate rooms, and the mediator goes back and forth between both parties, trying to get them to come to an agreement. Even though they usually schedule mediation for four to eight hours, some sessions will take as many hours as needed to try and get the parties to agree. Usually this is done in one day.

While mediation in one day sounds like a good solution, it doesn't always work and is not always in the best interest of the couple. When people are at a high stress level, it is often difficult to make decisions, especially ones that can dramatically affect their financial future.

And with mediators being paid by the hour, you are paying for them to explain things to you and then to your spouse who is sitting in another room. Not only is this an inefficient use of time and your money, it often doesn't allow enough time for each party to mentally process the different options.

Another cost you could incur is if your attorneys attend the mediation as well. Even though the mediator is doing all of the work, you're paying your attorney by the hour to be there and this could be very expensive.

For the division of assets, the biggest decision is who gets the marital home and whether it should be sold. If the spouses agree that the house should be sold, a major consideration is whether there are capital gains and how the taxes will need to be paid. The assets discussion would also include deciding how retirement plans and investment accounts will be split.

These questions are complicated and cannot always be decided in one day.

At Your Divorce Made Simple, we use a mediation process that takes several one- to two-hour sessions with both parties in the same room so the couple has time to think about the decisions they are about to make. It helps them come to agreement as to what is fair to both parties and gives them time to emotionally process the issues they have in front of them. It also gives them time to get legal advice in-between sessions to help them understand some of the legal issues they are facing.

If done properly, mediation can provide the following:

- Allow for an improved method of communication and dispute resolution.
- Allow you to settle your case in terms that are acceptable to you.
- Reduce the emotional stress that you may be experiencing.
- Save you time and money.
- Allow you to move forward with your life with confidence.

Before beginning mediation, it is best to have an understanding of what you wish to accomplish and think about solutions that are mutually satisfactory. If you can come to mediation prepared with a divorce financial plan, you'll save both time and money. You need to know what your "must-have" and "nice-to-have" scenarios are. You also need to consider what your spouse will want. Additionally, having a financial guide can help you sort out some of your financial and tax issues beforehand in order to make the mediation process more efficient.

At Your Divorce Made Simple, our Kitchen Table Divorce is an informal type of mediation that allows for several sessions of negotiation.

The reason I prefer multiple sessions is because, in my experience, the couple needs time to process all of the information that they are exploring, especially during this highly emotional time. This is why I don't believe that a mediation in one sitting is in the best interest of the couple. When people are under the stress of divorce, it is often difficult to make informed decisions quickly. Scheduling multiple sessions for the Kitchen Table Divorce gives people time to think about things and emotionally process what is going on.

We may give couples who can't come to agreement different scenarios to consider. This allows for discussion of what both parties like and don't like. We may not always use any of these options, but it allows for productive conversations that help us get to a mutually agreeable outcome.

It also gives them extra time to reach out to professionals about the legal aspects of divorce, especially if they haven't yet hired an attorney. Remember, you can always reach out to an attorney to get an opinion without having to pay them a \$5,000 to \$10,000 retainer fee. You can pay for a one- or two-hour consultation, which only costs between \$300 to \$600, depending on the attorney's hourly fee.

Years ago a client of mine kept telling me that she wanted a Kitchen Table Divorce, but her definition of that was a divorce without attorneys. My definition is a little broader in that I like to have the couple come to the table and discuss their priorities and see if we can come to agreement. Over the years, I have perfected the process of getting couples to come to the table and discuss their priorities through a series of conversations that takes one to two hours at a time.

Keep in mind that the Kitchen Table Divorce may not work for everyone. Some couples start out with this approach and find they cannot continue down this path. Some couples never start out this way because one party refuses to come to the table. But if the couple can go through this process, it saves them a lot of time and a lot of money.

By coming up with an agreement before engaging attorneys or going into mediation, they can save thousands of dollars and several months of time. Additionally, it is a much more amicable way to approach the divorce process.

Litigation is the last resort and the most expensive. It also takes the most time.

The main reason that divorces end up in court is that one of the parties is being unreasonable and will not negotiate a fair split. When you go to court, both spouses give up control and the judge decides what is fair. You roll the dice by going to court because you don't know which judge you will get and how fair he or she will be toward deciding your case.

A case that goes to court averages 18 months and could go as long as 30 months or more, compared with the average of 12 months for a divorce that doesn't go to court.

The more disagreements you have with your spouse, the longer it will take to get to a resolution. The biggest issues that need to be resolved center on:

- Child support
- Child custody and visitation
- Alimony or spousal support
- Dividing the marital assets and debt

Other things that can take more time if you go to trial are:

- Gathering more evidence
- Preparing for a trial
- Filing and responding to pretrial motions
- Scheduling hearings and the trial
- The trial itself, which can take several days
- Waiting for the final divorce judgment—just because the trial is over doesn't mean the judge will rule right away

Almost all of the cases I have worked on never got to court. The one that did took more than two years before the client's divorce was finalized and cost her more than \$100,000 in legal fees. That is a lot of money for someone whose assets were in the \$1 million range.

Just because you won't have a trial, that doesn't mean you may avoid being in court. Disputes may also require going to court. There could be motions filed for temporary child support, temporary child custody or visitation rights, temporary alimony, or a motion to compel discovery if one spouse refuses to produce financial documents.

Resolving disputes requires time to gather all the necessary information and then negotiating a settlement. In most cases, you'll have to exchange detailed financial information regarding tax returns, bank accounts, the mortgage statement, home appraisal, brokerage accounts, retirement accounts, car loans, credit cards, and possibly much more.

All of this is why most parties try to avoid litigation if possible.

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Tip On Divorce

Drafting the Divorce Decree

Once a settlement has been reached, the next step is drafting the divorce decree. I always suggest the divorce decree be written by an attorney since it is a legal document.

I give the client the spreadsheet showing the division of assets and liabilities as well as a document explaining what was verbally agreed to so that the attorney can create the divorce decree from our informal agreement.

If one party has a lawyer and the other does not, I suggest that the party without legal representation have another attorney review the agreement before finalizing the divorce decree.

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Tip On Divorce

Other Child Expenses

Discuss who will be responsible for the child expenses for extracurricular activities.

If you have young children, this topic should be discussed when determining the child visitation schedule and child support. It is hard to look into the future to see what kind of activities your kids will want to participate in and what those costs will be. But talking about it beforehand and deciding which party will be paying for these activities is important and should be written into the divorce decree.

Depending on the income of each parent, they may decide to split the cost accordingly.

Also, the decision as to what activities the child will participate in may also be discussed.

I've seen all different types of agreements around this. It could be a 50/50 split of the costs or a 75/25 split or even a dollar amount. Some couples opt not to include this in the divorce decree at all.

Again, this is totally up to you and your spouse. I just think it wise to have the conversation at this point in time.

Determine if you will need a Qualified Domestic Relations Order (QDRO) and initiate it prior to divorce.

A QDRO is a separate decree that allows a non-employee spouse to receive a predetermined amount or percentage of an employee's retirement plan. The QDRO directs the plan administrator for the employee's retirement plan to divide the assets according to the settlement agreement or divorce decree.

A QDRO is needed for any Employee Retirement Income Security Act (ERISA) plan. This could be a 401(k), 403(b), pension plan, or defined benefit plan. Typically, the filing of the QDRO is not done by the attorney because it requires a separate company that specializes in orchestrating the QDRO process. There is also an additional fee for doing this, which can cost in the hundreds of dollars. This fee is usually split between the two spouses.

A QDRO is separate from the divorce decree and should be initiated prior to the divorce being finalized. This is extremely important because the plan administrator has to approve what the couple agreed to, and there have been instances where the couple agreed to a certain split and the plan administrator would not allow it.

For example, I had a client who negotiated with her spouse a split of his pension that was more than the employer would allow. But the QDRO process was initiated after the divorce decree was final, and this created all kinds of problems and additional legal fees. They had to make amendments to the decree for my client to receive additional assets elsewhere since the employer would not allow for the agreement the couple had negotiated.

An Individual Retirement Account (IRA), however, does not require a QDRO. So if there are old 401(k)s that are still at an employer, they can be moved into an IRA without cost or taxes and there is no requirement for using a QDRO. This eliminates the cost of the QDRO and reduces the time it takes to split up the retirement plan. IRAs can be split up immediately after the divorce is final. QDROs typically take more time given that they need to go through the employer.

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Tip On Divorce

Geographic Restrictions

Discuss whether or not you and your spouse will be able to move outside of your current county should the need arise.

Sometimes geographic restrictions are written into the divorce decree. This is something that must be discussed with your ex-spouse and will vary depending on the unique circumstances of the family. You may choose to have geographic restrictions written into the divorce decree or you may choose not to include them.

This is especially important when children are involved. Both parents need to be on the same page regarding where the children will go to school and which parent will be the custodial parent.

The custodial parent chooses the child's primary residence and makes decisions regarding the children's education. In most cases, it is the mother, but there are some circumstances where the father is the custodial parent.

Some couples choose to live close to their ex-spouse so that the children can easily be picked up and dropped off from the two parents' homes and school. But other couples don't want to live near their ex-spouse.

From time to time, I get involved with the decision about where each party is going to live since it is sometimes part of the mediation process. It is also important for the budgeting process, especially if one spouse may want to move to a location that has a better cost of living.

There is no rule of thumb here. It is just best to discuss your thoughts on this matter before there is a misunderstanding and one parent does not follow the orders in the divorce decree.

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Tip On Divorce

Who Gets the Child Tax Credit?

Another decision to be made is who will take the tax writeoff for the children.

The child tax credit was designed to help families manage the cost of raising children. In 2022 the tax credit was \$2,000 per child under the age of 17 for individuals with incomes below \$200,000. It is possible that this could change in the future.

Couples usually will decide who gets to take the tax credit. If both parents are eligible, they may decide that one party takes the credit in even years and the other in odd years. If there are two children, they may agree that each of them can claim the credit for one child every year.

If one party makes less than \$200,000 and the other makes more and is not eligible, they may agree that the person earning less is entitled to the tax credit.

Again, it is up to the couple to discuss and document the child tax credit in the divorce decree.

What should you do to get your life back on track after divorce?

Starting the next chapter of your life alone is both scary and exciting. Scary because life before was as a couple. Life moving forward is you alone. It's also exciting because you have the ability to create a new future for yourself.

As a financial advisor, I have the resources to help my clients get a good start on moving forward. Unlike their lawyers who are now finished, I am just getting started on helping them to create a new future.

As part of this transition period, I will work with you to review many things that must be changed. First of all, I recommend getting a copy of your divorce decree and ensure you understand everything in it.

I once had a client who came to me for financial planning several years after her divorce. She had put her divorce decree in a drawer and forgotten about it. When I reviewed it, I realized her ex-husband owed her about \$30,000.

There were two parts to her divorce decree. The first was the decree itself, and the second was a supplemental document that stated the terms of a 15-year loan that was part of the divorce settlement. The problem was that the amount of money to be paid from the loan each month was to vary over time, but the amortization schedule for the loan did not reflect this.

It wasn't like a mortgage, where he would pay the same amount every month. The loan payments were to be increased when child support payments were reduced. After each child turned age 18 the child support payments decreased and the loan payments were increased. Since there were 5 children the decrease in child support happened every time one of the children aged out of the system.

This way she would get the same amount every month, it was just that they would be coming out of different buckets.

She knew that she would always get \$10,000 per month. In the early years \$7,000 would come from child support and \$3,000 from the loan payments. In the later years it could be the reverse.

The problem was that the amortization schedule the attorney put together did not reflect the correct principal and interest she would be getting each month.

When she came to see me I pointed out the terms of the agreement. She hadn't realized that when the child support payments were reduced, her ex-husband was supposed to increase the loan payments.

When we discovered these discrepancies, two years had gone by and her ex owed her \$30,000 in back payments.

And even worse, the starting dollar amount stated in the loan agreement was not the same amount stated in the divorce decree. It looked like someone transposed two of the numbers by mistake. I'm not sure why the lawyers nor the couple didn't see this error. But here we were several years later having to go back to the lawyers to get this reconciled.

So I can't emphasize the importance of understanding what is in your divorce decree.

Next Steps

I hope this has helped you understand the journey of divorce better and you have learned more about the potential mistakes you could make.

Whether you are just beginning the process or are immersed in it, my goal is to educate you as much as possible to get to a win-win situation in less time using less of your valuable resources.

If you want more information, please visit my website at www.yourdivorcemadesimple.com or contact me at amy@ydmsteam.com for a consultation.

Amy's Story

I am a Wealth Advisor with Forefront Wealth Partners and Divorce Consultant with Your Divorce Made Simple. I came to the financial services industry after a successful career of more than 40 years in sales, management and business development. During that time, I spent more than 20 years at IBM as an executive in sales and management.

During my time at IBM, my life was a series of transitions. I experienced 2 careers, 3 marriages, 3 divorces, and 4 geographic moves. After leaving IBM, I spent 5 more years in the technology industry and then moved on to the pharmaceutical industry where I spent 7 more years.

In 2008, after losing my position in the corporate world, I decided to embark on my 4th career, which led me on the path to becoming an entrepreneur. During my own journey I realized that I had a passion for helping women build and sustain a strong financial foundation coming from a place of strength and not fear or uncertainty.

I have devoted my financial planning practice to educating and supporting women, especially those that have gone through major life transitions.

As a financial advisor, I want to create an environment that encourages every woman to get her financial house in order. I want women to be able to make decisions from a place of strength and not fear. I want women to feel they can move forward with confidence in a more optimistic and positive way so that they could choose their destiny and not be a victim of circumstance.

Your Divorce Made Simple helps individuals and couples navigate the financial and tax considerations necessary during the divorce process. Forefront Wealth Partners helps them get on a sound financial path after the divorce is final as they rebuild their new life.

*If you enjoyed this ebook and want more, please look out for my book coming out later this year called **The Kitchen Table Divorce.***





Your Divorce Made Simple



We've helped many people just like you, move through the divorce process smoothly, amicably, and with balanced outcomes.

Ready to Get Started?

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