
MISTAKES TO AVOID WHEN DIVORCING



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The decision to file for divorce is a difficult and emotionally charged one. Unfortunately, divorcing couples can make a variety of mistakes that result in a divorce that is more costly, time consuming, and stressful than is necessary.

Here are the 8 mistakes to avoid if you are planning to file for divorce:

Mistake #1. Not fully understanding your options before you start the process

Most couples don't realize that there are four different ways to get divorced:

1. Do-it-Yourself Divorce
2. Mediation
3. Collaborative Process
4. Traditional Litigation (Court Driven.)

Which option is best for your situation depends upon such things as the level of trust between you and your spouse, your willingness to compromise, and the complexities of your case regarding details such as:

- Consistency or variability of your incomes
- Whether either or both of you own a business or are self employed.
- Whether you own real estate together

- Shared or differing opinions about:
 - What is best for your children
 - Your joint and/or individually owned assets
 - Spousal and/or child support

If you are willing to commit time and energy to learning more about the benefits and consequences of each option and select the one that is best for you, you will have a stronger sense of control and peace of mind during the process of your divorce.

Mistake #2. Giving Up Your Power to Your Attorney

It's appropriate for your attorney to make decisions on divorce procedures. But when it comes to settling your case, you should look to your attorney for quality advice and then make the decision yourself. After all, you are the one that will live with that decision, so take time to get clear about your questions, your goals, your plans for your future and how you want your future relationship to be with your former spouse before you select an attorney.

The judge and attorneys gain more control of your case when you and your spouse are unwilling or unable to negotiate and agree. An ideal attorney/client relationship is one in which you feel comfortable participating in the discussion, you feel heard and respected, you respect your attorney, and your attorney helps you make decisions by giving you straight answers and information.

Mistake #3. Being focused and attached to one particular outcome

If you enter into your divorce convinced that there is only one outcome that is acceptable, you are setting yourself up for a frustrating, difficult and disappointing ride. This mistake often shows up with respect to decisions about the children. A parent might believe that there is only one solution that is in the best interest of the children. In reality, the children will adapt to any solution the parents accept and follow. Compromise is essential when parties have differing preferences regarding outcome.

Mistake #4. Failure to collect accurate financial information yourself

Some of the most important documents (if not the most important) during your divorce process are the mandatory forms you will use to disclose and exchange details about your assets, debts, income and expenses. They are the basis of the financial negotiations and/or judgments in your divorce. You will receive these forms from your attorney. Instead of waiting for your attorney or spouse's attorney to ask for it, gather the information and complete the forms as soon as possible. This process can be time consuming, particularly if you own property and have extensive assets and debts. Your attorney will be reviewing these forms and may be asking for additional information or explanation. Don't forget to include all information about retirement accounts, even those you may consider to be separate property. The more thorough and accurate you are, the more you support moving your own divorce process forward.

Mistake #5. Responding to your emotions instead of facts

Emotions run high during a divorce and dwelling on past events or reacting to your assumptions or beliefs about your spouse's behavior can complicate and be detrimental to the outcome. Don't assume your spouse has good intentions or evil intentions. Continue to focus on the facts and options with your attorney. Don't expect your attorney to be your therapist. While your attorney may express empathy for your situation, his or her goal isn't to help you work through your anger and sadness. Your attorney's goal is to achieve a successful division of your community property, a parenting plan in the best interest of your children and spousal support based upon financial data. If you do find yourself having a difficult time emotionally, consider meeting with a therapist or divorce coach.

Mistake #6. Over-considering or under-considering the needs of your children

Parents often do not agree on what is in the best interest of the kids during and following a divorce. Circumstances should be carefully considered before custody decisions are made as 50/50 custody may not be appropriate in all situations. In addition, it's important to maintain your role as a parent during this time. Venting to your children and trying to get them to take your side can create anxiety, stress and have negative emotional consequences for your kids.

Mistake #7. Draining your bank accounts

California is a community property state, so if you have joint bank accounts with your spouse, it is likely that you are entitled to half of the value of those accounts. If a husband or wife withdraws all of the funds from joint accounts, they are still responsible for reimbursing the other spouse for half of those funds, assuming these funds were acquired during the course of the marriage. It is best to get the advice of an attorney regarding this matter before taking action.

Mistake #8. Failing to Consider the Tax Consequences of Financial Settlements

Real estate, personal property, businesses and securities are sometimes sold as a result of a divorce. These, in addition to spousal support, have tax consequences that should be considered in looking at the overall picture of your divorce settlement.



Schedule Your Free Consultation

If you are considering separation or divorce and want to better understand your options and gain a clearer understanding of what to expect, contact us today at 805.254.4878 for an initial consultation.

Please note: Receiving a copy of this article does not constitute the formation of an attorney/client relationship.

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About Matthew J. Long

After watching court delays, the unpredictable court rulings on divorce settlements, and the toll it took on his clients' lives, Matthew Long said "I quit". He walked away from almost 30 years of litigation in order to devote his law practice entirely on the more peaceful processes of Divorce Mediation and Collaborative Divorce. Matthew is the founder of the Santa Barbara Collaborative Divorce Practice group, a member of the San Luis Obispo Collaborative Divorce Group and a well-respected and highly experienced Divorce Mediator in the Tri-Counties/Central Coast area.



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*Helping couples in Santa Barbara, San Luis Obispo & Ventura
Counties achieve a peaceful divorce*