

ONTARIO WINTER/SPRING 2015

SINCE 1996

# DIVORCE

MAGAZINE

**Take Control  
of Your Life:  
Do the Next  
Right Thing**

**Divorce with Dignity**

**Creating Positive Cash Flow**

**Choosing a Divorce Process**

**Stepparents and Remarriage**

**Tips for Divorcing Parents**

**Feed Your Body & Soul**

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- Co-Parenting Issues
- Managing Anger and Grief
- Rebuilding a Life You'll Love

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# contents...

## Special Features

- 4 Do the Next Right Thing**  
Retrieving control of your life by taking the right action can pull you out of depression.
- 9 Divorce with Dignity: The Wiser Divorce**  
Divorce can be a turning point – a change of life status that will leave your hopes, dreams, and dignity intact.

## Legal Issues

- 13 Choosing a Divorce Process**  
The process you choose can have a big impact on the final terms of your divorce.
- 18 Mediation for Self Preservation**  
Mediation merges all of the aspects of repairing a broken family: legal, financial, and emotional.

## Financial Issues

- 20 The Financial Impact of Divorce**  
With some planning, you can protect your interests and take charge of your financial well-being.
- 24 Creating Positive Cash Flow during Divorce**  
Finding the money to fuel your dreams during and after divorce.

## Children and Divorce

- 29 New Partners, Stepparents, and Remarriage**  
How to help children of divorce adjust to becoming part of a stepfamily.
- 32 Top 10 Tips for Divorcing Parents**  
Tips from a family lawyer to help you be the best parent possible during this difficult time.

## Health and Well-Being

- 34 Feed Your Body & Soul**  
Choosing the right foods during divorce will help you feel your best and remain clear-headed.
- 37 Join Your Divorce Community**



## Local Divorce Guide

- 22a Common Divorce Questions**  
Answered by local experts.
- 38 Your Best Online Resources**



# Do the Next Right Thing

By Frank O'Dea

After losing a spouse or a relationship, you may believe you have no control over your future. The most effective method of rising out of a depressed state caused by a personal crisis is to retrieve control of your life by taking the right action.

I have learned many secrets in life, but perhaps the most valuable is one that often appears difficult to understand and apply. The secret is this: The whole of your life's experience is but an outer expression of your inner thoughts. Your life at the moment, whether fruitful and fulfilling or empty and tragic, reflects the choices you have made in the past. We choose how we think, and in turn, the way we think influences the choices we make that shape our lives. We have free will, but the way we use our free will is a direct result of the thoughts we choose to have. Neither my life nor yours has been an accident. They have been the result of choices you and I have made. This article is about making choices to enhance the experience of life. The choices are not mine to suggest, to own, or to make on your behalf. They are yours to select, to acquire, and to use.

I have been labeled a number of things in my life, especially during that part of my life before I overcame my addiction to alcohol. None of the labels



# First-Rate Legal Services at Competitive Rates

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## Following through and getting results

"We use the most practical and cost-efficient method of getting the best outcome for our clients," says Ken Nathens, founding partner. "We follow through and get results."

"Service means tailoring each case to fit that client's particular needs, and we do that well," Brahm Siegel says. "As a lawyer, you have to know that the same approach doesn't work for all situations. You have to know when to push and when to hold back."

"We pride ourselves on assisting clients with all types of family law cases, whether they need a skilled litigator, a strong negotiator or a lawyer who takes a collaborative approach," says Barbara Kristanic.

## An excellent reputation for solid work

The firm, conveniently located in both North York and Mississauga, has an excellent reputation for solid work in family law. Both Ken Nathens and Brahm Siegel have over 17 years of experience in assisting clients through the divorce process. Partner Barbara Kristanic has been practicing family law exclusively since 2004. The firm also has excellent associates in Audrey Ngo-Lee and Glen Schwartz, and a team of experienced law clerks. Our lawyers are matched with clients based on the complexity of the case and the client's individual circumstances.

## Qualified experts in family law

Certified as a Specialist in Family Law and appointed as a Dispute Resolution Officer by the Superior Court of Justice for York Region, Ken Nathens is an active member of both the Toronto and York Region Collaborative Family Law Associations. He has experience in negotiating complex separation agreements and litigating on behalf of clients in Ontario courts, and has argued a number of cases before the Ontario Court of Appeal on issues regarding mobility rights, custody,

and child welfare. Ken Nathens has written articles on various family law issues, both for *Divorce Magazine* and other publications. He regularly gives lectures on family law issues to community groups, such as to members of the Ontario Federation of Labour, and is a past panel member of the Legal Aid appeal committee.

Certified as a Specialist in Family Law and recently appointed Dispute Resolution Officer by the Superior Court of Justice for the Toronto Region, Brahm Siegel enjoys collaborative law but also relishes difficult and interesting litigation files. He is a consulting editor of the McCarthy Tetrault Guide to the Family Courts (formerly the Brahm Siegel's Guide to the Family Courts), co-author of *McLeod's Annotated Family Law Rules* and consulting editor of *Consolidated Ontario Family Law Statutes and Regulations*. He is a regular speaker at various continuing education seminars and one of four authors of the Law Society of Upper Canada's Licensing Process materials where he is responsible for the chapters on divorce, alternative dispute resolution, and procedure.

## Highly credentialed

Nathens, Siegel LLP is a proud member of the International Network of Boutique Law Firms, an organization of highly credentialed law firms that focus on a particular area of law. The firm is honoured to have been specially chosen to represent Toronto in family law and divorce.

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were flattering, and I have no doubt that the people who applied them to me believed they were permanent. They included drunk, loser, bum, and the usual epithets handed out to people who appear to have a disastrous past, an appalling present, and a bleak future.

Today, I am a successful businessman, an attentive husband, the proud father of two active daughters, and a guy dedicated to offering assistance to those in need of mentors and cheerleaders. Writing about my journey from homeless alcoholic to my current status added another identity: bestselling author of *When All You Have Is Hope* (Penguin, 2008).

## Identifying the Right Action

Much of the success of Western society is based on the idea of taking immediate action, as in, “Don’t just stand there – do something!” And that is often precisely the wrong thing to do. Leaping into action makes sense when your house is engulfed in flames, or when a mad bull comes charging at you across an open meadow. But let’s face it: almost none of the personal crises you and I will encounter in our lives has any relation to these kinds of events. The truth is that it is best not to act immediately in the midst of a crisis situation that does not involve three-alarm fires or angry bulls. Do we need to take action? Of course we do. But only if we do the next right thing.

The core problem many of us fail to overcome is that we cannot identify the next right thing to do. Why? Because in the midst of a crisis situation, we are the least qualified person to recognize just what it is we should do. The lesson, as simple as it sounds, is one we need to learn and heed when faced with any of the unknown and unexpected personal crises we will face in our lives. We need to:

- place our trust in a safe place,
- find peace, and
- do the next right thing.

**Believing you lack control over your own life is a major cause of depression... The most effective method of rising out of a depressed state caused by a personal crisis is to retrieve control of your life.**

## Retrieve Control of Your Life

One of the terms used to describe how people feel in the midst of a crisis is that they are in free fall. Dropping from one place to another, they are unsure how long they will fall, where they will land, and whether they will survive the landing. The only thing they believe for certain is that they have little or no control over this unwelcome journey.

Believing you lack control over your own life is a major cause of depression. That’s not just my opinion: it’s a fact confirmed by psychologists. After having lost a spouse, a relationship, a job, or some other part of their identity, many people believe they have no control over the future they face. So it stands to reason that the most effective method of rising out of a depressed state caused by a personal crisis is to retrieve control of your life.

That’s a simple suggestion for a complex process. Among the symptoms of depression is having difficulty taking meaningful action to

deal with the situation. Question: How can you take control of your life when your life is controlling you? Answer: By letting go. By finding the place where you are above and beyond the reaches of your crisis. By recognizing, from this new point of view, what must be done and having the confidence, the assurance, and the total certainty of doing it. And sometimes, by having the support of someone who knows what you are going through and – even more importantly – knows how to help you through it.

## A Process to Handle Crises

So is there a predictable means of dealing successfully with a personal crisis? Can a process be developed that gives everyone guidance on moving through a crisis as quickly and painlessly as possible? I’m not speaking of the kind of event associated with serious mental disorders leading to suicidal tendencies; these disorders require treatment by qualified professionals. What I’m referring to is the kind of common but serious events you may bump up against in your life even when you’re mentally healthy. These events are unexpected, and appear to defy your ability to deal with them. They can be merely irritating and temporary, or they can be painful, debilitating, and frightening.

In the midst of a severe crisis, you seek the same things you look for when suffering a severe headache: quick relief from the agony, and resumption of your peaceful and generally pain-free life. Few pain-relievers work so quickly and thoroughly, and few solutions to our crises provide similar one-step effects. The process involved in moving from where you are now to where you want to be in the future may require a series of decisions, made only when you are ready to discover and apply them.

This presents a problem, doesn’t it? When you’re in a crisis, you want

.../Continued on page 7

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**Fight or flight works well when the choice is either eat or be eaten, but not so well when the threat is essentially emotional – and that's at the core of most personal crises we encounter.**

The Right Way / Continued from page 7

out of it now, especially if it's a personal crisis affecting your emotions. But your teenage daughter likely didn't begin using drugs the moment you discovered them. The marriage that crumbled through infidelity or incompatibility wasn't perfect up to the day one of you demanded a divorce. And your creditors didn't get together over coffee this morning to unite in taking legal action against you. Crises take time to shape themselves. Unfortunately, they also often take at least a little time to resolve, although some can be resolved faster and more easily than you imagine.

### Crisis as a Turning Point

It's not your intelligence or your perception that prevents you from taking the best action to emerge from the crisis. It's evolution. We inherited certain characteristics from

Stone Age ancestors who foraged in an environment in which they were both predator and prey. When these people discovered they were playing the latter role, the survivors were those who were highly efficient at taking one of two alternative actions: fight off the predator, or run fast enough to escape the threat. Those who were good at both managed to live long enough to pass their genes down to future generations. Today, we possess the same fight-or-flight response when faced with a threat, and it is deeply rooted in our instincts.

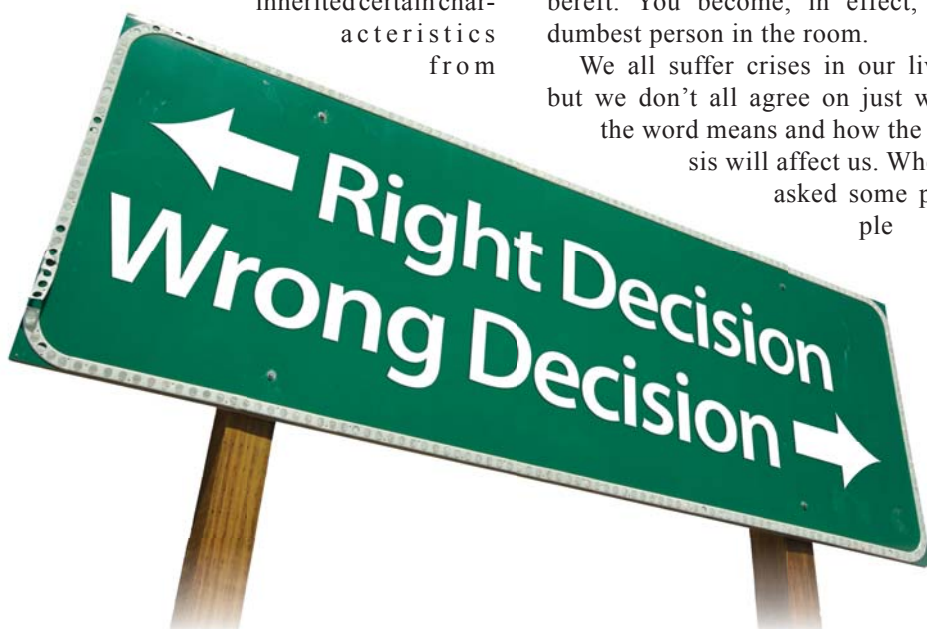
Fight or flight works well when the choice is either eat or be eaten, but not so well when the threat is essentially emotional – and that's at the core of most personal crises we encounter. Too often, your intelligence is overwhelmed by your emotions in the middle of a personal crisis. When neither flight nor fight is appropriate, you are intellectually bereft. You become, in effect, the dumbest person in the room.

We all suffer crises in our lives, but we don't all agree on just what the word means and how the crisis will affect us. When I asked some people for

their definition of a crisis, one of the most common responses was disaster. Others suggested danger, catastrophe, tragedy, and similar words. But that's not really what crisis means; the core of the word's meaning has nothing to do with emotional pain and distress. The *Oxford English Dictionary* defines the word "crisis" as: "A turning point in the progress of anything; also, a state of affairs in which a decisive change for better or worse is imminent."

No mention of disaster. No reference to danger or tragedy. Nothing to suggest heartbreak or misfortune. The *Oxford* tells us that crisis means change. If you can remember that the crisis you are enduring does not necessarily mean devastation to your life and happiness, you will be better equipped to follow the steps I'll explain, and to deal with your situation.

A crisis is not necessarily an ending, a pause, or a total stop. It is a turning point. Something is changing, or about to change. Your control over how things are changing may be limited, but your reaction to the change is entirely in your hands. If your reaction is to remain emotionally paralyzed, unable to respond in any manner, you lose control over the path the crisis will follow. ■



This article has been edited and excerpted from *Do the Next Right Thing* by Frank O'Dea with John Lawrence Reynolds. Copyright © Frank O'Dea, 2013.

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*The victim of abuse as a teenager, at age 24, Frank O'Dea was a homeless alcoholic. But he was able to turn his life around and become a successful businessman while creating a family. In this book, he shares the lessons he's learned, offering guidelines to help people through their own crises.*



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## Family Lawyers Who Know How to *Strategize*

### Serving Ontario Families for More Than 35 Years

A compassionate legal advocate and published author with more than 35 years' experience, Gene C. Colman confidently guides his clients through the complexities of Ontario family law. Whether your case involves a bitter end to a relationship with its attendant fallout or whether your family is being attacked by a Children's Aid Society, Mr. Colman and his team can provide peace of mind and new hope for your future. They will diligently pursue your interests and needs to obtain optimal results in an array of family law matters.

### Dedicated to Helping Resolve Your Issues

The Ontario lawyers at Gene C. Colman Family Law Centre are practised in a range of divorce and family law issues, including child custody and access, child support, parents' rights, spousal support, and property division. Family law cases require close attention by dedicated legal counsel and are more expeditiously resolved when clients actively participate in the dispute resolution process. A family legal dispute can be one of the most tumultuous experiences of your life, so Mr. Colman will work to ensure the most positive outcome possible.

### Ontario Lawyers Defending Equal Parenting Rights

Gene Colman was one of the first lawyers in Canada to advocate specifically for fathers' unique concerns and he was instrumental to the founding of both the "Canadian Equal Parenting Council" and "Lawyers For Shared Parenting". He advocates for preserving parent-child relationships, which Ontario's legal system sometimes overlooks. The Gene C. Colman Family Law Centre believes that mothers and fathers deserve equal legal status and frequent contact with their children wherever possible. It is with the best interests of children of divorce and separation in mind that Mr. Colman strives to transform the family justice system, advance children's rights to enjoy

relationships with parents and grandparents, and develop solutions to avoid "parental alienation".

### Collaborative Law: Solving Disputes Outside the Courtroom

Trained by two leading experts in mediation, Gene Colman understands the value of settling family law disputes without court intervention. Additionally, two associate lawyers at the firm are trained in Collaborative Law and are available to conduct Collaborative Law cases on a cost-effective basis with the support of Mr. Colman's strategic input. Based on a client's individual situation, the Gene C. Colman Family Law Centre determines when aggressive litigation is necessary and when a more collaborative approach will achieve better long-term results.

### Advocating for Procedural Fairness in Divorce

Gene Colman believes strongly that "procedural fairness" should be at the foundation of resolving any family law case. Unfortunately, some lawyers and judges continue to rely on discriminatory stereotypes of both men and women. If you believe that the legal system has treated you unfairly or unjustly, Mr. Colman will determine if your rights were violated and identify options to correct the injustice. Contact Gene C. Colman Family Law Centre for advice, representation, and support in resolving your Ontario family law case.

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# The Wiser Divorce

Ending a marriage can be viewed as a battleground – somebody is going to win and somebody is going to lose – or as a turning point – a change of life status that will leave your hopes, dreams, and dignity intact. Positive, strategic, and focused on the future: that's the Wiser Divorce.

By Angie Hallier, JD

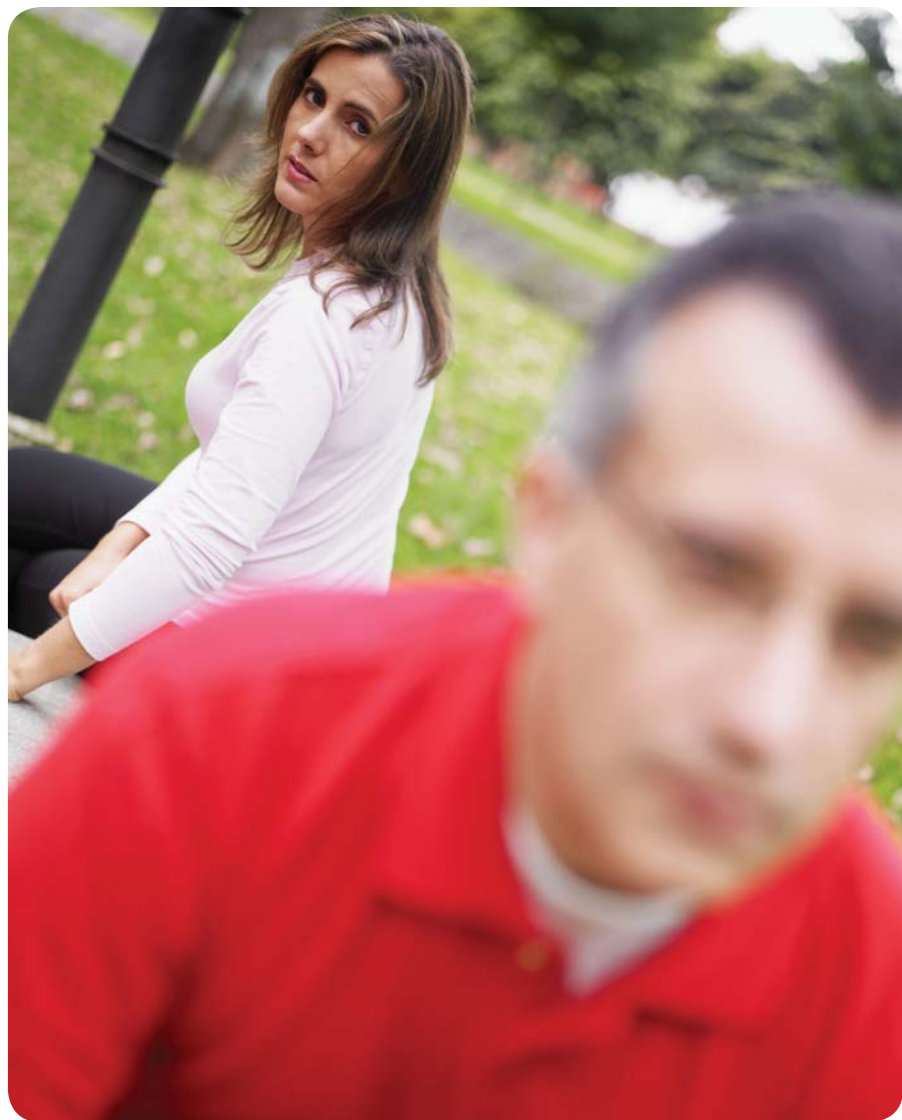
**D**ivorce is the legal process of ending a marriage. But when we apply it to our own lives, divorce becomes anything but simple or clear. Divorce is a life crisis. The dreams you had for your life when you said “I do” are gone. The person you thought you married isn't the person you are married to any longer. And nothing seems “for sure” anymore.

Even if you are the one who first brought up the “D” word, the emotions attached to divorce can be complex, frightening, and painful. Inevitably, these emotions seem to become part of the process.

But do these emotions have to rule your divorce and drive you to madness? Can divorce focus more on process and less on emotions? Is there a way to approach your divorce that turns it into a strategic gateway to a better future?

## Getting Stuck in the Ugliness

Whether it's your friends, neighbors, siblings, or parents, you've most likely



seen someone in the middle of an ugly divorce. Unhappy couples reach their limit, then anger and fear set in. People say and do things that hurt, and soon their divorce becomes as miserable as their marriage.

The ugliness can continue long after the papers have been signed and the divorce is final. Some people get stuck in the ugliness of their divorce and spend the rest of their lives hauling around that baggage of anger and fear, shame and spite – and worst of all, victimhood.

You can choose to minimize the hostility in your divorce. It may not happen quickly, and it may not always be easy, but you can transform the way you speak, act, and think during the divorce

process to get past a lot of the negativity. You need to get strategic about your divorce, and start focusing on the goals you have for your “Next Best Life”. Positive, strategic, and focused on the future: that's the “Wiser Divorce”.

## Divorce as a Battleground

In too many divorces, the drama gets cranked up so high the entire process looks and sounds like a battleground. People (or their lawyers) pull out their deadliest weapons: threats, accusations, intimidation, rage, and shrieking voices. In these cases, divorce is war; in a war, somebody's going to win, and

.../Continued on page 11

# Got Questions?

How much will my divorce cost?

**Who gets what?**

Will I get to see my children often?

**How much will my  
child support be?**

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Do I have to share my pension plan?

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## Following through and getting results

"We use the most practical and cost-efficient method of getting the best outcome for our clients," says Ken Nathens, founding partner. "We follow through and get results."

"Service means tailoring each case to fit that client's particular needs, and we do that well," Brahm Siegel says. "As a lawyer, you have to know that the same approach doesn't work for all situations. You have to know when to push and when to hold back."

"We pride ourselves on assisting clients with all types of family law cases, whether they need a skilled litigator, a strong negotiator or a lawyer who takes a collaborative approach," says Barbara Kristanic.

## An excellent reputation for solid work

The firm, conveniently located in both North York and Mississauga, has an excellent reputation for solid work in family law. Both Ken Nathens and Brahm Siegel have over 17 years of experience in assisting clients through the divorce process. Partner Barbara Kristanic has been practicing family law exclusively since 2004. The firm also has excellent associates in Audrey Ngo-Lee and Glen Schwartz, and a team of experienced law clerks. Our lawyers are matched with clients based on the complexity of the case and the client's individual circumstances.

## Qualified experts in family law

Certified as a Specialist in Family Law and appointed as a Dispute Resolution Officer by the Superior Court of Justice for York Region, Ken Nathens is an active member of both the Toronto and York Region Collaborative Family Law Associations. He has experience in negotiating complex separation agreements and litigating on behalf of clients in Ontario courts, and has argued a number of cases before the Ontario Court of Appeal on issues regarding mobility rights, custody,

and child welfare. Ken Nathens has written articles on various family law issues, both for *Divorce Magazine* and other publications. He regularly gives lectures on family law issues to community groups, such as to members of the Ontario Federation of Labour, and is a past panel member of the Legal Aid appeal committee.

Certified as a Specialist in Family Law and recently appointed Dispute Resolution Officer by the Superior Court of Justice for the Toronto Region, Brahm Siegel enjoys collaborative law but also relishes difficult and interesting litigation files. He is a consulting editor of the McCarthy Tetrault Guide to the Family Courts (formerly the Brahm Siegel's Guide to the Family Courts), co-author of *McLeod's Annotated Family Law Rules* and consulting editor of *Consolidated Ontario Family Law Statutes and Regulations*. He is a regular speaker at various continuing education seminars and one of four authors of the Law Society of Upper Canada's Licensing Process materials where he is responsible for the chapters on divorce, alternative dispute resolution, and procedure.

## Highly credentialed

Nathens, Siegel LLP is a proud member of the International Network of Boutique Law Firms, an organization of highly credentialed law firms that focus on a particular area of law. The firm is honoured to have been specially chosen to represent Toronto in family law and divorce.

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somebody's going to lose. However, in a war, even the winners rarely come out unscathed. There's nothing wise or strategic about a divorce that looks like that.

This battleground mentality colors the way people react to divorce – and not just to their own divorce. You have probably seen what can happen when friends and family line up on the side of the person they think is “in the right” and start condemning the person they think is “in the wrong.”

Even the legal process itself is still designed to make divorce a battleground: the only way to end a marriage is for one party to file a lawsuit against the other. If you want to get out of a marriage that is making you miserable or wrecking your life or placing your children in the crossfire, you have to sue the person who has shared your bed, trusted you with life's deepest secrets, and maybe even made babies with you. Divorce, by law, starts as an adversarial act. With that as the starting point, it's easy to think the only outcome is: you will win, or you will lose.

Divorce at its core:

- Divides assets and debts;
- Determines guidelines for parenting children;
- Defines future obligations between former spouses.

However, for the most part, the legal system, families, communities, and society still tend to treat the act of ending a marriage like something to be won or lost. Divorce as a legal battleground needs to stop because it creates too much trauma. It beats people down – and, frankly, it costs way too much money. Your money, which you could use to put your kids through college or rebuild your own life.

## Deciding to Be Happy

In the Wiser Divorce, ending a marriage is viewed as a turning point, one of life's many transitions – a way to shift out of unhappiness and into

happiness. A change of life status to be realized leaving your hopes, dreams, and dignity still intact.

Suppose for a moment that you cannot find a way to be happy in your present marriage. Now imagine posting a question to your friends on Facebook: “Do you want me to be happy or unhappy?” Most people would vote for you to be happy. Divorce can be a decision to be happy, and to change something in your life that is no longer working.

Divorce is a way to reset your life path, and resetting your path doesn't have to be bad. We all reset our paths many times in life: we move; we change careers; we have children; we lose 40 pounds and run a marathon; we learn to walk again after an accident or a stroke disables us; we find a way to deal with the death of someone we love. Sometimes we reset our paths for positive reasons and other times because life has dealt us a blow.

Divorce is one of those blows. Whether you have chosen it or not, your path is being reset. You have a choice whether to make the process as happy or unhappy as possible. You may choose to get stuck in your unhappiness forever, or to make the process as positive as possible.

In a best possible outcome, divorce:

- Allows you to forget and forgive;
- Gives you the opportunity to create a positive future for yourself;
- Provides both spouses with tools to become better parents and offers a better future for their children.

## My Own Turning Point

If it weren't for my own life-transforming divorce, I might never have become a lawyer. As the oldest of three girls with supportive and encouraging parents, I had a happy and relatively care-free childhood. All I wanted to do at 17 was get out of my little town and get away from my parents. So after graduating early from high school, I left town to go to college.

My first night there I met “him” – five years older than me and about

ready to graduate. We dated. He graduated. He took a job out of state, even further away from my little home-town and my parents. Why not get married and move with him? It would be an adventure (that was about as far as I went in my thinking).

So at the age of 19, I married him. By the time I was 21, we had a daughter. During those years, I became well acquainted with his abusing and boozing. Among these “acquaintances” was having my head repeatedly hit against the windshield of a car, being boot-kicked in the face, and hiding in closets with my daughter so when he came home drunk he wouldn't find us. So there I was, a young mother with no college degree who knew I had to get a divorce for my daughter's and my own survival.

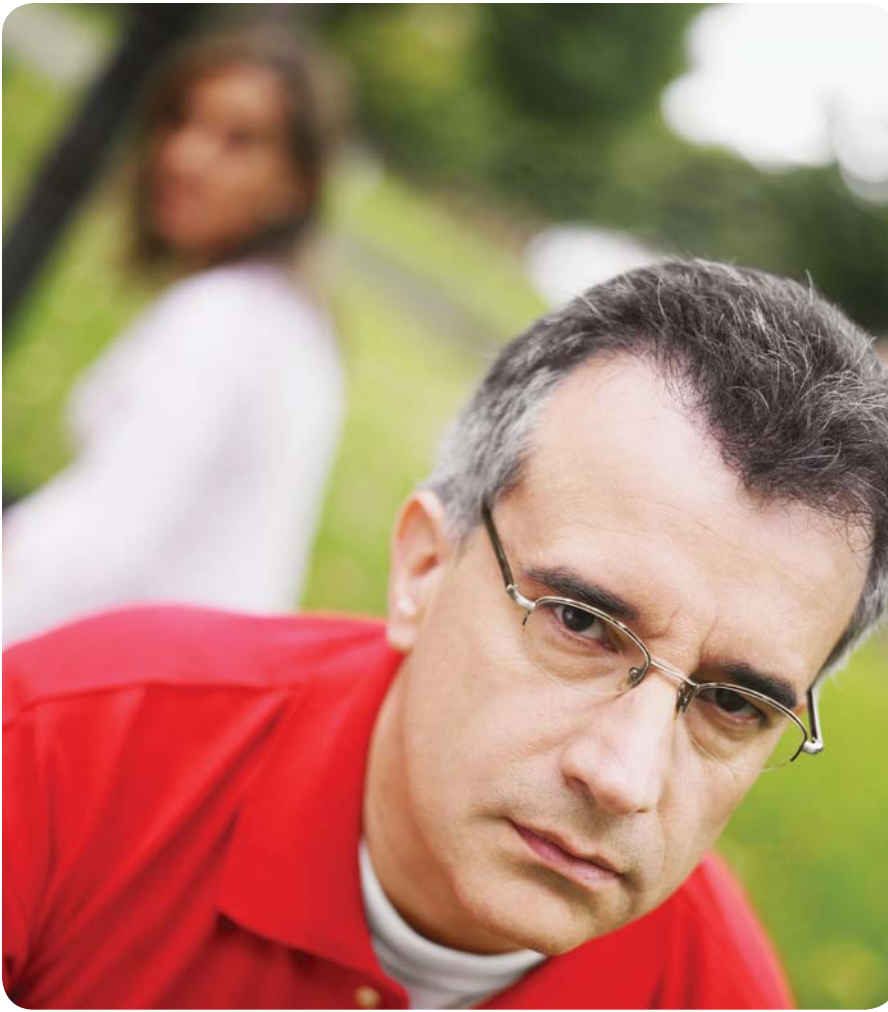
I had to figure out what the heck I was going to do – fast. I needed a job. I needed to pay the rent and take care of my child. I also knew I needed to go back to school.

With student loans, no family in town, and my ex not paying child support, I chose to be a survivor. I lived a threadbare life working multiple jobs, finishing my undergraduate degree and going on to law school. I just wanted not to be financially broke forever, and I wanted my daughter to be proud of me. I certainly never thought I'd be a family law lawyer.

As it turned out, my own divorce helped set me on the path to become a very good divorce lawyer with great empathy and passion for my clients. Divorce had been a turning point for me, a resetting of my own path that transformed my life in positive ways. Ending my marriage forced me to grow up, not look back, work hard, make a positive plan for my future, and execute it. It helped me choose what I would never tolerate again, and focus on what things I indeed wanted my future to hold. It shaped my goals for charity work, and gave me wisdom to pass onto my daughter. And it makes me happy to say she truly sees me as her role model.

My story tells the big truth that I





try to help my clients see: Divorce is a turning point, and you can turn it in a positive direction or not. It's your choice.

## Not Giving Up or Giving In

In my decades of practice as a divorce lawyer, I've helped hundreds of clients through the divorce process. I represent men, and I represent women. Those with children and without. I settle some cases and go to trial on others. I walk clients through settlements and mediation. I appeal judicial decisions when needed. I create new case law for the future. As a Judge Pro Tem, I've made rulings on cases and mediated settlement conferences. But I've also been cursed at, threatened, and almost assaulted by my clients' spouses. I've had opposing lawyers scream inches from my face, and use draconian and

unreasonable war tactics. But I've also worked with opposing lawyers who exhibit refreshingly positive demeanors and professionalism.

And, boy, have I heard it all. From my experience, I can tell you some things I know for sure. Divorcing doesn't mean "sticking it" to your soon-to-be ex or walking away with the most toys. Divorce doesn't mean somebody has to win, and somebody has to lose. The "win" is in preserving family, preserving friends, and remembering and appreciating the good in your marriage while also accepting your role in the bad. It means going through the process of divorce with dignity, respect, and grace. It means not giving up or giving in to the negativity, but continuing to pursue the goals that are going to make your life better, happier, and more complete. It means separating the emotions of divorce from the business

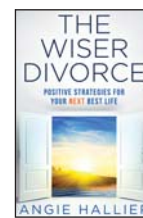
of divorce and envisioning your life as you want it to be when you are free.

Successful athletes don't just wake up one day to greatness. They train, they plan, they are coached, they wear the right equipment, and they envision their success. Think of preparing for and executing your divorce in the same way by asking yourself these questions:

- What will it take to be successful at this?
- How will I mentally prepare?
- Who will I surround myself with?
- What knowledge do I need to arm myself with?
- What is my positive vision for success after my divorce?

Divorce should be a series of strategic decisions designed to help you rebuild your new life going forward. The first step is to make a decision to divorce strategically, not emotionally, even if your ex cannot. This means looking honestly and unflinchingly at yourself, your attitudes, your thoughts, your words, and your behaviors.

The first step in claiming your Next Best Life is to make sure your best self shows up during your divorce. Divorce can be a transformative process that won't destroy you emotionally or financially, but will lead you positively toward the rest of your life. ■



*This article has been edited and excerpted with permission from The Wiser Divorce: Positive Strategies for Your Next Best Life (Megeve Press LLC, 2014) by Angie Hallier. Written by a Certified Family Law Specialist and Judge Pro Tempore, this book discusses how to talk to your children, find the right lawyer, watch the bottom line, and keep courts and judges from controlling your destiny. The Wiser Divorce will help you achieve the optimal outcome at the end of the legal process and move forward with hope as an individual and as a family. [www.angiehallier.com](http://www.angiehallier.com)*

# Choosing a Divorce Process

There is more than one way to get divorced, and the process you choose can have a big impact on the final terms of your divorce. It can also affect how difficult your divorce will be for you and your family emotionally, how much support you'll have as you go through the process, and how prepared you'll be for your life after divorce.

By Melinda Eitzen (JD), Scott Clarke (CFP), and Vicki James (MS)

When you and your spouse were preparing to get married, your relationship was all about romance and planning your future together. The biggest decisions you may have had to make were where the two of you would live once you were married, where you would store all of your wedding gifts, and how soon you would begin a family. Making those decisions was easy because the two of you were able to communicate and cooperate with one another.

Now that you're getting divorced, you and your spouse face many, far more complex decisions – like how you will divvy up the assets and debts from your marriage, and whether one of you will pay spousal support to the other. If you have minor children together, you'll also have to decide how you'll handle their custody, visitation and support, and the role that any extended family members who are currently in your children's lives will play after your divorce. If you're like most divorcing couples, making these decisions won't be easy because feelings such as sadness, anger,

hurt, regret, and disappointment will have replaced the love you once had for one another, making communication and cooperation difficult if not impossible for the two of you.

Given the challenges ahead, it's important for you to know that there is more than one way to get divorced and that the particular process you choose can have a big impact, for better or worse, on the final terms of your divorce. It can also affect how difficult your divorce will be for you and your family emotionally, how much support you'll have as you go through the process, and how prepared you'll be for your life after divorce. Also, if you

and your spouse have young children together, the divorce method you choose is likely to have a great effect on your ability to do a good job of co-parenting them post-divorce.

Your options are:

- Do your own divorce;
- Litigated divorce;
- Collaborative divorce;
- Mediated divorce.

## Do Your Own Divorce

If you and your spouse decide to do your own divorce, you'll work out the terms of

.../Continued on page 15



# Divorce Marketing Group: a One-Stop Marketing Agency for Family Lawyers

## We Know How to Market Your Family Law Practice

For the past 19 years, Divorce Marketing Group has been helping family lawyers attract and secure quality clients by making certain they:

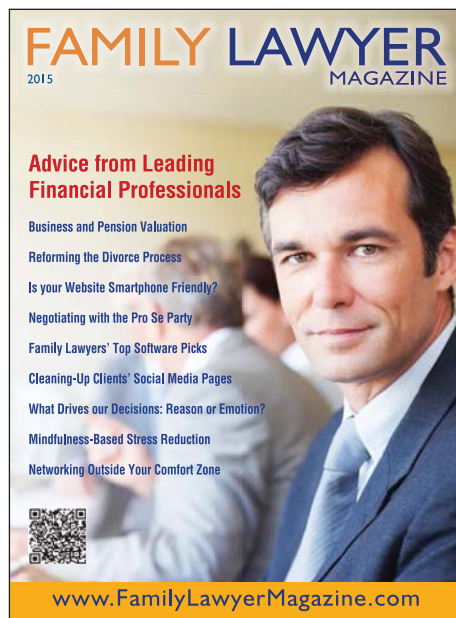
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## We are the Publishers of *Divorce Magazine* and *Family Lawyer Magazine*

We can help you reach divorcing people and distinguish you as an expert in family law in the following ways:

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your settlement agreement and file all of the legally required paperwork on your own without the help of lawyers. (In a variation of this arrangement, some couples do their own negotiating and then one of them hires a lawyer who formalizes everything by drafting the appropriate legal documents.) Doing your own divorce has its advantages and disadvantages. Its primary advantages are:

- You'll minimize your involvement with the legal system.
- Your divorce will not cost a lot because you won't have any lawyer fees or expenses other than a filing fee of between \$350 and \$400.
- You and your spouse will have complete control over your divorce, including deciding when, where, and how you'll work out the terms of your settlement agreement.

The key disadvantages of a do-it-yourself divorce include:

- You won't have a lawyer by your side to explain the intricacies of the law, to negotiate for you, to look out for your best interests, and to help you avoid costly mistakes.
- If you aren't fully informed about your family's finances, don't understand your legal rights, or if your spouse is a much better negotiator than you are, you may not get what you are entitled to in your divorce and you may agree to terms that are legally unenforceable.

If your experience mirrors that of many other people who try to do their own divorce, you and your spouse will abandon your do-it-yourself efforts eventually and hire lawyers.

Even attempting to do your own divorce is a foolhardy idea if:

- You and your spouse can't have a calm, non-emotional conversation about the issues in your divorce. If that's the case, your efforts to work out the terms of your divorce will be little more than an exercise in frustration and futility.
- You and your spouse have trouble communicating with one another. For example, you can't get your points across and/or your spouse

constantly interrupts you.

- You and your spouse are unwilling to consider one another's points of view and to compromise with each other. In order to have a successful negotiation, you must be open to taking each other's points of view into account.
- You're easily manipulated by your spouse or your spouse is abusive to you. Under such circumstances doing your own divorce is a recipe for disaster.
- You know little or nothing about your family's finances. If you are unfamiliar with what you and your spouse own and owe as a couple, you're likely to end up getting the "short end of the stick" financially.
- Your marital estate includes complicated assets, like stocks and mutual funds, investment real estate, pensions, other retirement assets, or business interests.
- You and your spouse are unable to agree on how to share parenting time.

## Litigated Divorce

A litigated divorce is a complicated, adversarial legal process that involves lawyers, legal procedures, court hearings, settlement efforts, and maybe even a trial – which will pit one spouse against the other in a win-lose battle.

If you and your spouse become so estranged from one another and so entrenched in your positions that your lawyers' negotiations get you nowhere, your divorce will go to trial, in which case you'll lose all control over the terms of your divorce, the cost of your divorce will skyrocket, and your divorce will become even more emotionally difficult and damaging.

A litigated divorce begins when the lawyer for one spouse files a Petition for Divorce (this document may have a different name in your area) with the court. When your lawyer files the petition, you are actually initiating a divorce lawsuit against your spouse, which means that you become the petitioner in the lawsuit and your spouse becomes the respondent. As the respondent, your spouse is entitled to file a formal, written answer

(or response) to the information in your petition.

A waiting period begins after the petition has been filed; the duration of the period varies by jurisdiction. During the waiting period, your lawyers will begin gathering the information they need to work out the terms of your divorce. Most of the information will relate to your family's finances – what you and your spouse own and owe (your marital assets and debts), your individual incomes, your projected monthly post-divorce budgets, etc. – but the lawyers will talk to potential witnesses and may also gather information about your individual parenting skills, health status, lifestyles, and so on.

The lawyers will also obtain information by asking you and your spouse to list all of your marital debts and assets; if you and your spouse disagree about the value of a particular asset, you may each hire your own outside expert to help you make that determination. If the experts' information does not end your dispute, the issue will be considered at a court hearing and a judge will decide what the asset is worth.

If there are interim issues in your divorce that you or your spouse want resolved immediately while the final terms of your divorce are being worked out, both lawyers will file temporary motions with the court. For example, you may want the right to continue living in your family's home while your divorce case is pending, to have primary custody of your children, and to receive temporary spousal and/or child support. Whenever the lawyers are able to negotiate a temporary agreement on an issue, an agreed order is filed with the court and everything in the order becomes legally enforceable once the judge signs it. If the lawyers are not able to negotiate a temporary agreement on a particular issue, a court hearing is scheduled and a judge rules on the issue after the hearing.

Once the lawyers have all of the information they need, they will try to negotiate the final terms of your divorce based on the letter of the law. Your lawyer will keep you informed of any offers or counter offers your spouse may make





## Family Lawyers Who Know How to *Strategize*

### Serving Ontario Families for More Than 35 Years

A compassionate legal advocate and published author with more than 35 years' experience, Gene C. Colman confidently guides his clients through the complexities of Ontario family law. Whether your case involves a bitter end to a relationship with its attendant fallout or whether your family is being attacked by a Children's Aid Society, Mr. Colman and his team can provide peace of mind and new hope for your future. They will diligently pursue your interests and needs to obtain optimal results in an array of family law matters.

### Dedicated to Helping Resolve Your Issues

The Ontario lawyers at Gene C. Colman Family Law Centre are practised in a range of divorce and family law issues, including child custody and access, child support, parents' rights, spousal support, and property division. Family law cases require close attention by dedicated legal counsel and are more expeditiously resolved when clients actively participate in the dispute resolution process. A family legal dispute can be one of the most tumultuous experiences of your life, so Mr. Colman will work to ensure the most positive outcome possible.

### Ontario Lawyers Defending Equal Parenting Rights

Gene Colman was one of the first lawyers in Canada to advocate specifically for fathers' unique concerns and he was instrumental to the founding of both the "Canadian Equal Parenting Council" and "Lawyers For Shared Parenting". He advocates for preserving parent-child relationships, which Ontario's legal system sometimes overlooks. The Gene C. Colman Family Law Centre believes that mothers and fathers deserve equal legal status and frequent contact with their children wherever possible. It is with the best interests of children of divorce and separation in mind that Mr. Colman strives to transform the family justice system, advance children's rights to enjoy

relationships with parents and grandparents, and develop solutions to avoid "parental alienation".

### Collaborative Law: Solving Disputes Outside the Courtroom

Trained by two leading experts in mediation, Gene Colman understands the value of settling family law disputes without court intervention. Additionally, two associate lawyers at the firm are trained in Collaborative Law and are available to conduct Collaborative Law cases on a cost-effective basis with the support of Mr. Colman's strategic input. Based on a client's individual situation, the Gene C. Colman Family Law Centre determines when aggressive litigation is necessary and when a more collaborative approach will achieve better long-term results.

### Advocating for Procedural Fairness in Divorce

Gene Colman believes strongly that "procedural fairness" should be at the foundation of resolving any family law case. Unfortunately, some lawyers and judges continue to rely on discriminatory stereotypes of both men and women. If you believe that the legal system has treated you unfairly or unjustly, Mr. Colman will determine if your rights were violated and identify options to correct the injustice. Contact Gene C. Colman Family Law Centre for advice, representation, and support in resolving your Ontario family law case.

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**Once you have a final agreement, you and your spouse will sign it and then the petitioner and his/her lawyer will go to court and enter the decree. Once signed by the judge, your divorce becomes official.**

to you through his/her lawyer, will discuss any offers or counter offers you may want to make to your spouse, and will let you know about any problems that may develop during the negotiation process.

The two lawyers may be able to work out the final terms of your divorce within the waiting period, but their negotiations will likely take much longer – three to six months in most divorces. Exactly how long will depend on the number and complexity of the issues the two lawyers are trying to resolve, the amount of discovery in your divorce, how willing you and your spouse are to compromise with one another, the number of motions and hearings in your divorce, and how aggressive the lawyers are.

If you and your spouse cannot agree on how to handle the custody of your children, a social study may be conducted, which involves a social worker meeting with you, your spouse, and your children, coming to your home, talking with your children's teachers, friends, babysitters, and other third parties, and possibly reviewing relevant records – your children's medical and school records, for example. The study results provide insight into your children's parenting needs and the ability of you and your spouse to meet them. In addition, psychological evaluations of you and/or your spouse and possibly your children may also be conducted if someone requests them and if the court believes that the evaluations would be advisable. The psychological evaluations objectively determine whether you and/or your spouse have any mental-health disorders that could affect your ability to parent your children.

If you and your spouse are able to resolve all of the issues in your divorce,

the lawyers will prepare a draft settlement agreement that reflects everything you have both agreed to. You and your spouse will review the draft and may ask for changes. It may take several rounds of reviews and revisions before you have a final agreement, or agreed decree of divorce.

Once you have a final agreement, you and your spouse will sign it and then the petitioner and his/her lawyer will go to court and enter the decree. Once signed by the judge, your divorce becomes official.

## **Collaborative Divorce**

Collaborative divorce is a non-adversarial, non-court process that helps couples find mutually-acceptable solutions to the issues in their divorce, protect their families (if they have minor children), and end their marriage with integrity.

If you and your spouse decide to pursue a collaborative divorce, you will each hire your own collaborative divorce lawyers, who will have received extensive training in the collaborative process. The two of you together will also hire a neutral mental-health professional, and a neutral financial professional, who will work for both of you. The mental-health professional will be a licensed counselor or social worker who specializes in working with families, or a marriage and family therapist. The financial professional will most likely be a Certified Financial Planner (CFP), Certified Divorce Financial Analyst® (CDFA™), or a Certified Public Accountant (CPA). The two neutrals and your lawyers will act as your divorce team, providing you and your spouse with guidance, advice, support, and ideas.

One of the most important aspects of a collaborative divorce is that everyone agrees up-front that going to court is not an option, and that no one will even threaten the other with a court action. Therefore, if you and your spouse opt for a collaborative divorce and later decide that you want to take your divorce to court, under the terms of your agreement, your lawyers will have to withdraw from your case and you'll need to hire new lawyers. For this reason, everyone involved in a collaborative divorce is highly motivated to reach a negotiated settlement.

The primary advantages to collaborative divorce are that the process helps you to:

- Protect your children from the harmful effects of divorce, and makes it easier for you and your spouse to raise them together once your marriage is officially over. In fact, this is one of the main reasons that parents with young children opt for a collaborative divorce.
- Communicate productively with your spouse, even if the two of you can't stand one another anymore.
- Feel good about the way you've ended your marriage. Although going through a divorce is never easy or pleasant, the collaborative process helps you maintain your dignity. As a result, at the end of your collaborative divorce you're more apt to feel good about the way you conducted yourself and more likely to be friends with your spouse, if that's something that you both want.
- Come up with creative solutions to the issues in your divorce that respond to your particular needs and the realities of your life, rather than having to settle for the cookie-cutter solutions that tend to be the products of a litigated divorce.
- Honor the good aspects of your marriage. The collaborative process allows you to recognize and pay tribute to what is good about your marriage, rather than just focusing on all of its problems and shortcomings.
- Move on with your life. The process helps you focus on and plan for your future rather than staying stuck in the



problems of your marriage. Many spouses also find the collaborative divorce process to be healing, which makes it easier for them to put their failed marriage behind them and move forward.

The collaborative divorce process gives you control over the process, and so both of you are more likely to be satisfied with the terms of your agreement – making it unlikely that you and your spouse will battle with one another over the agreement once you are officially divorced.

## Mediated Divorce

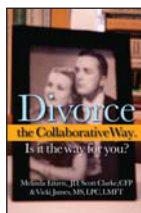
Mediation is a non-court dispute resolution process. If you and your spouse go to mediation, a trained, neutral mediator (who may be a lawyer, a mental-health professional, or even a financial expert) will facilitate the process by helping the two of you stay focused on the issues you're trying to resolve, communicate productively, brainstorm solutions, and compromise with one another. The mediator will not do the negotiating for you, side with you or your spouse, tell you what you should or shouldn't decide, or offer you legal advice. In other words, the mediator will not be a decision maker, but merely a settlement facilitator.

During "shuttle" mediation, you and your lawyer will be in one room and your spouse and his lawyer will be in a different room; the mediator will shuttle back and forth between the two rooms, conveying any offers and counter offers you and your spouse may make to one another, and letting each of you know where there may be room for compromise. You'll be able to consult with your lawyer throughout the process.

A mediator can also meet with you and your spouse – in the same room, at the same time – with no lawyers present. A mediator doesn't replace a lawyer; you still need a lawyer to tell you what your rights and duties are, and to review the agreement before you sign it. Your lawyer is there to look after your interests in the divorce; a mediator doesn't represent either party.

Mediation offers many of the advantages of collaborative divorce, but it

does not offer access to the emotional, legal, and financial coaching and expertise that many divorcing couples have found to be an extremely helpful aspect of the collaborative process. ■



*This article has been edited and excerpted from Divorce the Collaborative Way: Is it the Way for You? (iUniverse, 2009) by Melinda Eitzen (JD) with Scott Clarke (CFP)*

and Vicki James (MS). This book explains how the different divorce processes work, helping you to decide which one is right for you. For those seriously considering collaborative divorce, the book offers a detailed description of the process, describing how it will work for all parties involved. [www.mydallasfamilyattorney.com](http://www.mydallasfamilyattorney.com).



## Salutes...

IDFA has been successful thanks to its strong member base of professionals who contribute their time and expertise on a daily basis. IDFA wants to personally thank all of our members for their support and their continued efforts towards ensuring the future success of IDFA.



**DEBBIE HARTZMAN**  
CFP CLU CDFA TEP

Since 1995, Debbie's had a dedicated financial planning practice. Several years ago, as part of a collaborative project she helped write and teach the Certified Divorce Financial Analyst course to advisors across Canada.

Over the years she has coached many advisors in the quest to develop a planning practice centered on financial planning for divorce.

Debbie has recently partnered with the not for profit group Wife.org and Ginita Wall to develop and write the Canadian Second Saturday support program.

In the New Year Debbie will be looking to help CDFA's open up territories to deliver this content and resource material.

Although Debbie lives in Kingston, ON, her practice spans the 401 corridor from Brockville on the East to London on the west and all points in between.

Debbie has been quoted in several national publications like *Châtelaine*, *Canadian Living* and *Advisors Edge* to name a few. In August 2014, *The Insurance and Investment Journal* named her as one of the "50 Women of Influence in Canada's Life Insurance Industry". She has also written a book called, *Divorce Is Not Easy, But It Can Be Fair*.

Debbie can be contacted by email at [dhartzman@pro-invest.ca](mailto:dhartzman@pro-invest.ca) or via her website at [www.debbiehartzman.com](http://www.debbiehartzman.com)



**BARBARA SHAPIRO**  
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Barbara Shapiro is President of HMS Financial Group, a full-service wealth management and financial planning firm.

As a Certified Divorce Financial Analyst, Barbara helps people through the maze of issues to consider when formulating the divorce settlement including tax issues, investments, property, retirement and children's future educational needs. Whether couples choose traditional divorce, mediation or collaboration, individuals are in need of financial advice and her clients and their attorneys have found her guidance to be invaluable.

Barbara has been interviewed by many media outlets including *The Wall Street Journal*, *USA Today*, Fox TV and *Investment News*.

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# Mediation for Self-Preservation

When your family breaks up, it feels like your very survival is threatened. Mediation merges all of the aspects of repairing a broken family – including the legal, financial, and emotional facets.

By Judge Michele Lowrance (retired)

**B**efore I became a mediator, I spent 19 years as a judge in divorce court, preceded by 20 years as a divorce attorney. During those four decades, I have been a witness to the consequences of divorce on three generations of divorcing families.

I have spent years trying to make sense of the painful process of divorce as played out in the theatre of the courts. As a child of divorce myself, changing the experience for those impacted by the breakdown of a marriage has come to be something of a mission for me. At first, my goal was to understand and create a formula for settling cases to keep people out of trial and court. But I came to realize that the goal had to be much bigger: I had to find a way to help the parties on so many levels that went beyond just

the stamped Divorce Decree.

I became fascinated with mediation because it merges all of the aspects of repairing a broken family, including the legal, financial, and emotional facets.

## Breakup and the Brain

One of the primary reasons I became a mediator is that mediation addresses the emotional and brain ecology that is unique to divorcing and separating couples. Love and attachment is a very special kind of emotional bond, which is wired into our brains by tens of thousands of years of evolution. It is part of survival. When your family breaks up, it feels like your very survival is threatened because so many aspects of security are removed.

The human brain codes the breaking

of attachment bonds as danger – and this is true even when one or both spouses don't like the person they are divorcing. This danger signal creates a stress response, which can include a depletion of feel-good brain chemicals like serotonin and dopamine. Stress and anger releases cortisol, which impacts your physical health and can compromise decision-making and problem-solving abilities. This kind of chemical interplay occurs at a time when you have to make some of the most important decisions of your life.

So much of the divorcing process feels dangerous and unfamiliar. When you are in the adversarial mode, your fear centers become overly sensitized; as a result, you may be overreacting to danger signals that are imagined rather than real. The more these fear centers are activated in the adversarial



process, the more you can increase your sensitivity to negative events. This might lead to more “false alarms”, which can then make the process more adversarial.

## Grieving Disrupted

Healthy grieving is essential in adapting to the loss of what was once an intact family. There is a necessary grief process even if you are the one who desperately wanted the divorce. When the divorce process is an adversarial one, however, it becomes more difficult to go through the stages of healthy grieving.

For people who have lost a loved one to death, there are defined stages of grieving, including: denial, bargaining, anger, depression, and finally acceptance. For death, grieving usually ends with acceptance – but in divorce, the stage where acceptance is supposed to occur is often replaced by an adversarial process. This can eradicate the necessary stage of acceptance. Ultimately too many people get stuck in one part of the cycle – and too often, it is anger and blame. We have all seen people frozen in the anger stage long after the divorce is over.

## Building a Divorce “Immune System”

I think of the mediation process as building a strong immune system for a divorcing family. A good immune system can’t prevent all health problems, but without one, even the smallest germs can lead to serious consequences. Because mediation can help people work through sadness, anger, and other negative emotions, it often helps people’s brain chemistry get back in balance. It can be utilized at any point in the proceedings, no matter how much conflict has transpired.

## Ten Protective Aspects of Mediation

Here are ten ways that mediation can reduce stress and improve outcomes for

divorcing couples and their families:

- 1. Protects children.** The parties can really focus on a parenting plan that meets first and foremost the needs of the children, but also the needs of the parents. Current research tells us that the longer the conflict continues the more it wears negatively on the children. Mediators can explain to the parents how this can occur in ways the parents may not have realized.
- 2. Reduces future disputes.** Mediation greatly reduces post-decree litigation.
- 3. Creates better co-parenting relationships.** Research has shown that parents who choose mediation remain more involved in their children’s lives post-divorce or separation than those who go through litigation. Mediation addresses many issues of co-parenting, including how to resolve current and future disputes, and communicate regarding the changing needs of the children.
- 4. Expedites information gathering.** If the mediator is trusted by both sides, the mediator may be able to induce the parties to reveal financial information, as well as information about their underlying needs, priorities and aspirations that they would be reluctant to disclose to an adversary.
- 5. Explores alternatives.** Mediators realistically assess alternatives to settlement. A mediator can discuss the unpleasantness of continuing the dispute: including loss of morale, declining work productivity, and parenting performance.
- 6. Saves financial and time costs.** Mediation saves time, money, and emotional depletion of the parties. People feel that they must fight for what is fair but very few have the money to sustain that fight in court.
- 7. Creates better communication.** Mediators make it possible for the parties to retreat or make concessions without losing face or respect, by increasing constructive communication between the parties. This

helps couples keep their focus on the actual issues.

- 8. Reduces polarization.** If the disputes are polarized and repetitive, every time you negotiate it is like putting fresh water over an old tea bag. Mediators reframe the issues in more tolerable and creative ways.
- 9. Stops attorneys from fueling disputes.** Sometimes, opposing counsel seems to get in the way of settlement – or your relationship with your attorney may be shaky, but you don’t want to spend the time or money to start over with new counsel.
- 10. Empowers parties to create custom-made outcomes.** A judge, who only has a snapshot of you and your situation, may not see your position the way you do. When you go to trial, you give up power over the outcome.

It is not possible to fix the entire separation or divorce process, but we can try to improve those areas that are within our reach. The divorcing process can be like riding a bull in an earthquake: the bull creates one set of problems, but the earth moving presents an even bigger challenge. Mediation offers a different terrain – a stable place to stand where you and your family can be protected. Yes it can be hard work, but in the words of the Scottish philosopher Thomas Carlyle, “No pressure, no diamonds.” ■



*Michele Lowrance now focuses her practice on divorce mediation. She was a domestic relations judge in the Circuit Court of Cook County from 1995 to 2014; prior to that, she spent 20 years as a domestic relations lawyer. She is the author of The Good Karma Divorce (Harper Collins, 2010) and co-author of the Parental Alienation 911 Workbook (Parental Alienation 911, 2012). [www.jamsadr.com/lowrance](http://www.jamsadr.com/lowrance)*



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## Following through and getting results

"We use the most practical and cost-efficient method of getting the best outcome for our clients," says Ken Nathens, founding partner. "We follow through and get results."

"Service means tailoring each case to fit that client's particular needs, and we do that well," Brahm Siegel says. "As a lawyer, you have to know that the same approach doesn't work for all situations. You have to know when to push and when to hold back."

"We pride ourselves on assisting clients with all types of family law cases, whether they need a skilled litigator, a strong negotiator or a lawyer who takes a collaborative approach," says Barbara Kristanic.

## An excellent reputation for solid work

The firm, conveniently located in both North York and Mississauga, has an excellent reputation for solid work in family law. Both Ken Nathens and Brahm Siegel have over 17 years of experience in assisting clients through the divorce process. Partner Barbara Kristanic has been practicing family law exclusively since 2004. The firm also has excellent associates in Audrey Ngo-Lee and Glen Schwartz, and a team of experienced law clerks. Our lawyers are matched with clients based on the complexity of the case and the client's individual circumstances.

## Qualified experts in family law

Certified as a Specialist in Family Law and appointed as a Dispute Resolution Officer by the Superior Court of Justice for York Region, Ken Nathens is an active member of both the Toronto and York Region Collaborative Family Law Associations. He has experience in negotiating complex separation agreements and litigating on behalf of clients in Ontario courts, and has argued a number of cases before the Ontario Court of Appeal on issues regarding mobility rights, custody,

and child welfare. Ken Nathens has written articles on various family law issues, both for *Divorce Magazine* and other publications. He regularly gives lectures on family law issues to community groups, such as to members of the Ontario Federation of Labour, and is a past panel member of the Legal Aid appeal committee.

Certified as a Specialist in Family Law and recently appointed Dispute Resolution Officer by the Superior Court of Justice for the Toronto Region, Brahm Siegel enjoys collaborative law but also relishes difficult and interesting litigation files. He is a consulting editor of the McCarthy Tetrault Guide to the Family Courts (formerly the Brahm Siegel's Guide to the Family Courts), co-author of *McLeod's Annotated Family Law Rules* and consulting editor of *Consolidated Ontario Family Law Statutes and Regulations*. He is a regular speaker at various continuing education seminars and one of four authors of the Law Society of Upper Canada's Licensing Process materials where he is responsible for the chapters on divorce, alternative dispute resolution, and procedure.

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# Understanding the Financial Impact of Divorce

A divorce may spell change for your lifestyle, your hopes and dreams, your children's lives, and much more. But with some preparation and planning, you can protect your interests and take charge of your financial well-being.

By Anthony Fittizzi and Lynda Byrd

## Where Do You Start?

Do some financial homework first. Put together a list of your combined assets in as much detail as you can. This will include bank accounts, investments, retirement plans, real estate, personal property, collectibles, and so forth. Try to determine what each item is worth now and what it cost when you bought it. Be sure to include any loans or other debts that you have, too. Also, note the names on all accounts, and how the title is held. With this information, your next step is to determine which assets and debts are available to be divided in the

divorce; your prenuptial agreement, if you have one, is the place to start for this.

Many couples enter into a prenuptial agreement before marriage; this legal document usually outlines your rights and obligations in the event of a divorce. Prenuptial agreements are unique to each couple, so if you have one, dust it off and review it with your lawyer and financial advisor. The agreement should identify assets that you brought into the marriage and those you are entitled to take in the event of a divorce. It may also outline whether spousal support (also known in some

places as “alimony”) will be paid to either spouse, or what level of property settlement one spouse might expect from the other. Additionally, it may also list provisions relating to supporting children of the marriage.

Without a prenuptial agreement – or for issues not covered by the agreement – you will work with your legal and financial advisors to create proposals for division of property, spousal support, and child support. When you and your spouse reach agreement on these issues, they will be incorporated into the final divorce decree from the court.

## What Will You Receive from the Divorce?

You need to look at the financial aspects of a divorce from two directions:

1. What assets are available to be divided, and what are the advantages or disadvantages to receiving those assets?
2. What will your income and expenses look like after the divorce, and will these assets satisfy your needs?

This means you need to consider what assets you will receive in the form of a property settlement, and whether or not you will receive spousal and/or child support.

“Property settlement” is the term for the actual division of marital or community property assets (those that are not your own separate property). While laws and terminology vary depending on where you live, marital property is usually comprised of assets that you acquired while you were married; they may include your home, investment accounts, retirement plans, etc. Separate property – which is excluded from division on divorce – include assets that you brought into the marriage, acquired by gift or inheritance, those held in irrevocable trusts for your benefit, or assets that were identified as non-marital or separate property in your prenuptial agreement. Work closely with your lawyer to determine which assets fall into each category. You may be asked to provide documentation as to how an asset was acquired, sources of funds for its purchase, or how the income from the asset was handled.

When considering which assets to negotiate for as part of the property settlement, think about what it will cost to maintain the property and whether you will be able to cover those expenses yourself after the divorce. For instance, the vacation home may have a lot of emotional attraction, but do you really want to continue to pay for all of the upkeep, taxes, utilities, insurance and travel costs if it will strain or break your budget? Perhaps renting a place for future vacations will make more sense financially. Additionally, take careful note of which assets have loans

against them. For instance, if there is a mortgage on your home, will you be able to handle the monthly payments or will you need to sell the home and find something more affordable?

Assets that you receive as part of a property settlement usually have no immediate income-tax consequences. However, you still need to consider whether there will be tax due from the use or sale of the assets, since this will reduce the net value you receive. For example, if you receive \$500,000 in value from the investment portfolio, and you expect to sell the holdings, what will be left after capital-gains tax is paid from the sales proceeds? Income taxes have the potential to make a big dent in what you receive if you don’t build this consideration into your planning.

Additionally, some assets become more complex in a divorce situation than if you were to remain married. For instance, retirement plans (such as IRAs, 401(k)s and pension plans) can be divided only according to the terms of the plans and very specific steps and paperwork will be required to divide them. One spouse also may have employer compensation in the form of stock options, restricted stock and other forms of deferred compensation. These types of assets need to be considered in the total value of your combined assets but it is unlikely that the nonemployee spouse will be eligible to receive these assets; other marital assets may need to be shifted to the nonemployee spouse to balance these benefits. Should the value of these types of assets make up a large portion of marital property, a Qualified Domestic Relations Order (QDRO) may be used to formally divide the accounts so that both spouses retain the tax deferral benefits.

Spousal support is a stream of payments from one divorced spouse to the other. The entitlement to and duration of spousal support depends on where you live: state/provincial laws differ, and judges in one city may make different awards than those a one-hour drive away. If one spouse is entitled to receive and the other is able to pay

spousal support, it may be structured to last for a specific period of time or for a lifetime. It is sometimes used to maintain the current standard of living for the less wealthy spouse; other times, it is used to bridge a financial gap until a former spouse can complete training or education to allow him or her to re-enter the workforce. Spousal support is usually taxable to the recipient and deductible by the payor.

If you have children together, a final piece of your divorce agreement may be child support – which refers to a parent’s legal obligation to support his or her minor children. The amount and duration will depend on your unique circumstances, but generally, child support will last until the youngest child reaches the age of majority; many agreements also require that funds be available for college costs. Child support is neither taxable to the recipient nor deductible by the payor.

## Prepare a Post-Divorce Budget

Once you have an idea of your resources, it will be helpful to prepare a new budget. This will help you plan for your expenses, as well as help you define what you will need from your investment portfolio.

Sources of income may now include:

- Spousal support
- Child support
- Income from investment assets (both your own assets and those received in the property settlement)
- Trust distributions
- Salary or other earned compensation
- Distributions from family investments

Expenses may now include:

- Spousal or child support
- Child care
- Education costs
- Insurance – health, disability, property, and liability
- Moving and additional housing costs
- Legal and other professional fees for the divorce


.../Continued on page 23



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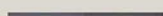
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**Answers to some of the more frequently asked questions about the divorce process in Ontario**

## Legal Issues

### **“How is property divided with common-law couples?”**

***Ken H. Nathens, a family lawyer in Toronto, answers:***

In Ontario, couples who are not married and are living as common-law partners can apply for their properties to be divided when they separate from each other. The law and the process for them is different from a married couple, and it can get quite complex because the couples may have to provide extensive accounting regarding which of them did what and who paid for what during their common-law relationship. This accounting exercise can go back 10 to 20 years. Often, it is difficult

to determine the intent of the couple regarding the purchase and sharing of property many years after the relationship has begun.

The court will look at whether there is a “joint family venture” in its consideration of whether property is to be divided. In determining whether or not a joint family venture exists, the following factors should be considered (although this is not an exhaustive list):

- **Mutual Effort:** Have the parties worked together towards a common goal? This may include consideration of the pooling of efforts and teamwork, the decision to raise children together, and the length of the relationship.
- **Economic Integration:** The more extensive the integration of the

couple’s finances, economic interests, and economic well-being, the more likely it is that they should be considered as having been engaged in a joint family venture.

- **Actual Intent:** Did the parties intend to form a joint family venture? These intentions may be stated or inferred by the parties’ actions. Did the parties hold themselves out as being “equivalent to married”? Was the relationship long and stable?
- **Priority of the Family:** Did the parties plan for their financial future together? Did one party give up his or her employment for the common financial future of both of them or

.../Continued on page 22c



## Family Lawyers Who Know How to *Strategize*

### Serving Ontario Families for More Than 35 Years

A compassionate legal advocate and published author with more than 35 years' experience, Gene C. Colman confidently guides his clients through the complexities of Ontario family law. Whether your case involves a bitter end to a relationship with its attendant fallout or whether your family is being attacked by a Children's Aid Society, Mr. Colman and his team can provide peace of mind and new hope for your future. They will diligently pursue your interests and needs to obtain optimal results in an array of family law matters.

### Dedicated to Helping Resolve Your Issues

The Ontario lawyers at Gene C. Colman Family Law Centre are practised in a range of divorce and family law issues, including child custody and access, child support, parents' rights, spousal support, and property division. Family law cases require close attention by dedicated legal counsel and are more expeditiously resolved when clients actively participate in the dispute resolution process. A family legal dispute can be one of the most tumultuous experiences of your life, so Mr. Colman will work to ensure the most positive outcome possible.

### Ontario Lawyers Defending Equal Parenting Rights

Gene Colman was one of the first lawyers in Canada to advocate specifically for fathers' unique concerns and he was instrumental to the founding of both the "Canadian Equal Parenting Council" and "Lawyers For Shared Parenting". He advocates for preserving parent-child relationships, which Ontario's legal system sometimes overlooks. The Gene C. Colman Family Law Centre believes that mothers and fathers deserve equal legal status and frequent contact with their children wherever possible. It is with the best interests of children of divorce and separation in mind that Mr. Colman strives to transform the family justice system, advance children's rights to enjoy

relationships with parents and grandparents, and develop solutions to avoid "parental alienation".

### Collaborative Law: Solving Disputes Outside the Courtroom

Trained by two leading experts in mediation, Gene Colman understands the value of settling family law disputes without court intervention. Additionally, two associate lawyers at the firm are trained in Collaborative Law and are available to conduct Collaborative Law cases on a cost-effective basis with the support of Mr. Colman's strategic input. Based on a client's individual situation, the Gene C. Colman Family Law Centre determines when aggressive litigation is necessary and when a more collaborative approach will achieve better long-term results.

### Advocating for Procedural Fairness in Divorce

Gene Colman believes strongly that "procedural fairness" should be at the foundation of resolving any family law case. Unfortunately, some lawyers and judges continue to rely on discriminatory stereotypes of both men and women. If you believe that the legal system has treated you unfairly or unjustly, Mr. Colman will determine if your rights were violated and identify options to correct the injustice. Contact Gene C. Colman Family Law Centre for advice, representation, and support in resolving your Ontario family law case.

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to raise children? Is one party left in a worse position than he or she otherwise would have been if he or she had not acted in a way to assist the family to his or her financial detriment?

- **Mutual Benefit Conferral:** In determining whether or not there has been “unjust enrichment” given the mutual exchange of benefits, the respective contributions of the parties are taken into account in determining the claimant’s proportionate share. This weighing of benefits is not an exact science; it calls for the reasoned exercise of judgment in light of all the circumstances.

Once the joint family venture is established, courts must then define the remedy – which may be monetary compensation or a percentage of interest in the joint family venture. Courts still have significant discretion in terms of the appropriate remedy. For instance, if a percentage interest in the joint family venture is awarded to a common-law spouse, the percentage may be anywhere from 1% to 100% depending on the evidence and the particular circumstances of the case.

Here’s an example: Tom and Mary, a common-law couple, have lived together for 10 years. The house is in Tom’s name. Mary gave up employment to raise their children and she helped with renovations. Although the home is in Tom’s name, Mary may claim an interest in it as a result of her contributions to the family and the property; in other words, this is a joint family venture.

**“If one spouse loses their job after the divorce has been granted, can they go back to modify the order to include spousal support when it has been omitted from the initial agreement?”**

*Gene C. Colman, a family lawyer in Toronto, answers:*

If spousal support has been omitted and the order or agreement is silent as to spousal support, then it is possible to go back and modify the order. If spousal

support was signed off on with a full and final release, there are some cases where a person is able to make modifications. Those are cases with pre-existing separation agreements where they signed off on spousal support, but there wasn’t independent legal advice or there wasn’t complete financial disclosure.

If the agreement itself was not made in accordance with the general principles of the *Divorce Act*, then the courts may reopen the issue. However, that might then raise the question of “What’s the good of a separation agreement”? I have taken the position that it’s fine to have a separation agreement, but you want to have a court order as well. Once the agreement is made – assuming it is made with full disclosure, independent legal advice, and was conducted in a fair and open fashion – you want it to be final. It is possible to go back and modify the order, but it is an uphill battle at times.

If a spouse loses their job after the divorce is granted, that is presumably unforeseen. If the payor spouse loses their job, they can definitely ask that the spousal support be reduced until such a time that they can bring their income back up to what it was previously.

**“Does a spouse have any rights regarding property located outside of Ontario in a divorce?”**

*Glen Schwartz, a family lawyer in Toronto, answers:*

It is important to outline what constitutes property upon the breakdown of a marriage in the context of family law disputes in Ontario. The *Family Law Act*, which is the pertinent legislation in Ontario dealing with proprietary rights in the context of family law, defines property as “any interest, present or future, vested or contingent in real or personal property.” Such property can be located within or outside of the province of Ontario. While the Act does require the parties to include all interest in property – no matter where it’s located – for the purposes of equalization, the *Family Law Act* does not deal with the actual, physical division of any of such property.

When would it be required for a court to make orders with regards to property? Our courts in Ontario are often asked to determine ownership interest in property and asked to order the sale of property. As a result of these questions being asked of Ontario courts, they are required to make orders with regards to property. The legal notion that Ontario courts do not have the authority to make an order against foreign property is common in case law. There have been numerous decisions rendered throughout our Canadian legal system that have stated that Ontario courts do not have authority to grant any order over property when it is located outside of the provincial jurisdiction.

With parties accumulating more and more marital assets outside of the province, and with the jurisprudence in place stating that Ontario courts do not have the authority to award an order over property located outside of the jurisdiction, there has been an increasing trend amongst Canadians towards attempting to seek relief from our courts through common-law property claims. Parties are requesting that the courts make an award in personam, whereby the courts will compel a personal obligation upon an individual. For example, the court cannot award the sale of a property located outside of its jurisdiction as it does not have the authority to make an order against the property itself, but the in personam award allows the court to obligate an individual to carry out an action – which provides for the same result as if an order had been made against the property itself.

There seems to be conflicting mindsets as to the court’s authority to make orders with regards to foreign property. On one hand, there is the general rule, determined by case law, that Ontario courts cannot deal with property located outside of their jurisdiction. However, with the increasing amount of common-law claims being put forward regarding interests in foreign property, the courts have demonstrated a willingness to grant such in personam relief in exceptional cases. There are no clear-cut answers with regards to the Ontario courts’ authority when handling issues

relating to foreign property. It is necessary to seek proper independent legal advice when any related issue associated with foreign-owned property arises.

## Children's Issues

### **"How do the Ontario courts determine child custody issues and what factors apply?"**

*Gene C. Colman, a family lawyer in Toronto, answers:*

First and foremost, the court is going to consider what is in the best interest of each individual child. There is no particular cookie cutter approach, but the statutes and the case law direct us to certain factors. I will go through just some of them:

- The love, affection, and emotional ties that a child has with each parent and the ties the child has with extended family. The courts will consider all the persons that were involved in the child's care

and upbringing, and that's where grandparents comes into play very strongly, especially if they live with the parents.

- If the child is old enough, the court wants to know what the child's views and preferences are. That doesn't mean the child gets to decide at age 12, as some people think, but rather that the child's voice is heard and taken into consideration.
- It's important to look at the length that the child has lived in a stable home environment. If the case comes before the court and the parents are already separated, and one parent has been moving around a lot and one parent is stable, that's going to be very important for the court.

### **"What are the differences between sole custody, joint custody, and shared custody?"**

*Audrey Ngo-Lee, a family lawyer in Toronto, answers:*

Let's start with a basic definition of custody. Many people think that if you

have custody, then it means the child lives full-time with you. Actually, custody is about legal decision-making and about the care and upbringing of the child. A parent who has custody has the power to make decisions affecting the welfare of the child – including decisions about the child's health, education, or religious upbringing. When spouses separate, there needs to be a determination of who will have custody and how decisions affecting the child will be made. In a court of law, that determination is made in consideration of what is in the best interests of the child.

"Sole custody" means that one parent has the final say in any major decision that needs to be made affecting the welfare of the child. Although both parents generally can – and should – be involved in making such a decision, the parent who has sole custody has the legal authority to make the final decision in the event of a disagreement.

"Joint custody" means that both parents are involved in making any major decision: both parents have the legal authority to make decisions for the child and they do so together. Joint custody does not mean that the child lives equally with each parent. A child can reside primarily with one parent while the parents have joint custody, because the residence of the child and the power to make decisions for the child are separate issues.

"Shared custody" is a term used to describe a situation in which the child does live equally with each parent. Shared custody has specific meaning in the context of determining how much child support to pay. Although in most shared custody situations the parents also have joint custody of the child, it is possible that a child lives equally with each parent but only one of the parents has custody of the child. People often think that joint custody is the same thing as shared custody, but that's not the case; shared custody is really about residence, while joint custody is about decision-making.

Figuring out how to make decisions

.../Continued on page 22f

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and child welfare. Ken Nathens has written articles on various family law issues, both for *Divorce Magazine* and other publications. He regularly gives lectures on family law issues to community groups, such as to members of the Ontario Federation of Labour, and is a past panel member of the Legal Aid appeal committee.

Certified as a Specialist in Family Law and recently appointed Dispute Resolution Officer by the Superior Court of Justice for the Toronto Region, Brahm Siegel enjoys collaborative law but also relishes difficult and interesting litigation files. He is a consulting editor of the McCarthy Tetrault Guide to the Family Courts (formerly the Brahm Siegel's Guide to the Family Courts), co-author of *McLeod's Annotated Family Law Rules* and consulting editor of *Consolidated Ontario Family Law Statutes and Regulations*. He is a regular speaker at various continuing education seminars and one of four authors of the Law Society of Upper Canada's Licensing Process materials where he is responsible for the chapters on divorce, alternative dispute resolution, and procedure.

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Brahm Siegel is a partner with Nathens, Siegel and is certified by the Law Society as a Specialist in Family Law. He maintains an active mediation/arbitration practice and speaks at family law conferences. The coauthor of McLeod Family Law Rules, he's also the consulting editor of Consolidated Ontario Family Law Statutes and Regulation and has been published in *Canadian Family Law Quarterly*.

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Continued from page 22d

for your children is one of the most important steps that you need to take when you're separating from your spouse. We have a wealth of experience in all kinds of custody cases and can provide advice and representation that is tailored to your particular situation to help you come up with a custody arrangement that is right for you and your family.

**"Does mediation offer any benefits for children of divorce?"**

*Risa Ennis, a family mediator in North York, answers:*

Family mediation is typically used to help parents who are about to separate, are separated/divorced, or have been struggling in litigation to craft appropriate parenting plans and learn how to create a co-parenting dynamic. I am a mediator who feels it is essential to bring the children into the process in an age-appropriate way. The benefits of having children participate in mediation include:

- Learning effective conflict resolution skills at a young age;
- Learning to grieve the end of the family as they knew it;
- Learning how to heal previous wounds with parents or siblings that were never addressed;
- Gaining the confidence through assertiveness to state feelings and have those feelings accepted by parents;
- Practicing the lost arts of self-respect, mutual respect, self-discipline, and positive reframing of powerful wording.

These skills encompass the important emotional-intelligence skills in such short supply in our present world. With these skills, many of the children and teens that pass through my mediation not only leave with renewed optimism, maturity, and excellent communication skills beyond their years, but some teens have also expressed their desire to pursue mediation as a career themselves because the experience made them feel heard and understood.

## Mediation Issues

**"My ex is exhibiting poor behavior in divorce mediation. How can we overcome this barrier to experience successful mediation?"**

*Risa Ennis, a family mediator in North York, answers:*

Poor behavior is the signal that someone feels badly, as divorce mediation is fraught with complex grief issues. One reason for poor behavior is that – although clients realize intellectually that mediation requires empathy and a conciliatory approach – our society still operates aggressively. Many clients come to mediation after long sessions of litigation, and it is difficult to switch gears into a more cooperative way of thinking.

It's important to address grief issues in an educational way. Divorce is like a death, and mediators need to support clients by managing their grief – including all poor behavior, which is only the top layer. A good mediator will help clients deal with the difficult realities of divorce.

The mediator needs to teach assertive, not aggressive, ways to interact. He or she shouldn't try to educate clients until some serious grief work has been undertaken. Listening to someone else in a respectful way is difficult; it takes skill and respect for the other person. Until grief work is done, successful learning of new, assertive ways to communicate will not happen.

**"What is divorce mediation?"**

*Gene C. Colman, a family lawyer in Toronto, answers:*

Mediation is a process whereby the two sides pick a neutral person to act as a mediator to help the parents reach their own agreement. In dealing with the care of the children – the custody, access, and parenting plan – we will often use a mental-health professional, a social worker, or a psychologist who is trained in mediation.

Parents want to tell their story to show how they were the best parent.

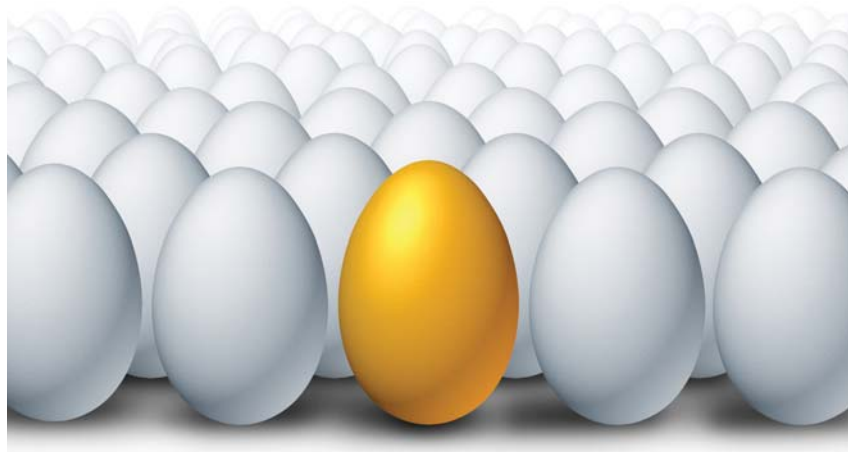
The process of venting and expressing one's hopes, aspirations, hurts, and fears to a mediator can be very cathartic. A mediator knows how to receive this narrative from each parent and then point out some possibilities that might work for their child based on the mediator's knowledge of the family and knowledge of other cases. It's a very healthy process. The mediator helps the two sides generate options and tries to bring them together to come up with an agreement that works for both of them. If there are minor children involved, the mediator will help the parents create a parenting plan that will meet the needs of the child or children. A mediator does not make any decisions: the divorcing spouses make the decisions for themselves and their children. This can make the mediation process very empowering.

The Ontario Association of Family Mediation lists accredited mediators on its website. The main thing is to consult with your family law lawyer, find a good mediator, and go through that process if the two sides are able to be civil. ■

For more FAQs and answers by divorce professionals, please visit [www.divorcemag.com/faqs](http://www.divorcemag.com/faqs). Topics include spousal and child support; custody; property division; debt, credit, and bankruptcy; insurance and tax issues; pensions and retirement plans; divorce law and lawyers; mediation and collaborative divorce; emotional issues; domestic violence; and co-parenting and stepfamily issues.

The answers provided above are for general education only and may not apply to your unique situation. They should *not* be considered to be legal, accounting, tax, or other professional advice nor construed as a form of lawyer-client relationship. This information does not take the place of a lawyer, accountant, financial planner, therapist, etc.; for professional advice, you *must* seek counsel from the appropriate professional.

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Once you've prepared your budget, you'll know if you'll have additional funds to invest (i.e., a cash-flow surplus), or if you'll have a shortfall and will need to reduce your spending, dip into your investment or retirement funds, or find a new source of income. In either case, this will be an opportunity to work with your investment advisor to update your financial planning and asset allocation to help meet your new needs.

## Other Key Steps

Check with your employer's benefits department to determine if you need to update your insurance or other benefits elections. Divorce is considered a "life event" that allows you to make changes during the year instead of only during the annual enrollment period. Here are some areas that may require your attention:

- **Insurance** – Make sure that you won't have a gap in health insurance coverage. If you were covered by your former spouse's company plan, make sure that you have continuation under that plan if available. (In the USA, this is called COBRA coverage, and you need to have replacement coverage before the COBRA period ends.) Determine whether you should purchase or maintain life insurance policies for the financial security of your children. Also, consider whether it makes sense to carry disability insurance to protect your income stream in the event of long-term incapacity.
- **Estate plan** – Update your will and other estate-planning documents to reflect your current marital and family situation. The structure of your plan as a single person may be very different from what it was when you were married. You will also want to update your property and health-care powers of attorney – especially if they give your former spouse
- **Beneficiary designations** – If you have life insurance or retirement plans, you may need to update the beneficiary designations if they currently name your former spouse. You may need to work with your lawyer to coordinate these with your estate plan.
- **Income tax planning** – Tax return filings can be complicated for the year of divorce. If you are still married on December 31, you will need to determine if you will file a joint return with your spouse or if you will file as "married filing separately". You should discuss income tax and liability protection issues with your tax and legal advisors. If your divorce will be final by December 31, work with your tax advisor to prepare a projection of your current year's tax liability now that you are single. This should reflect your new filing status (single or head of household), dependency exemptions for children, new sources of income and deductions. You will use this projection to determine your withholding and estimated income tax payment needs.
- **Mortgages and other loans** – Make sure that you understand the terms of any debt that you're assuming before the divorce settlement is complete to ensure that loans are properly titled, assets securing the loans are properly reflected, etc. Notify lenders in advance.
- **Banking and credit cards** – Notify your bank and credit card issuers of the divorce. Take steps to ensure that neither of you can "clean out" joint bank accounts while the divorce is pending, and pay off and cancel joint credit cards if possible. If you have not had credit cards in your own name in the past, you should consider obtaining one immediately to begin establishing a credit history for yourself. Request copies of your credit report and credit score to make sure that they are accurate.
- **Passwords and privacy** – For

authority to make decisions on your behalf.

security reasons, change all of the passwords and personal identification numbers (PINs) for bank, investment, retirement, medical, and other accounts that are in your name.

These are just some of the financial factors that you should consider when dealing with a divorce; make sure you get good financial advice as well as legal advice to safeguard your financial future. ■



*Anthony Fittizzi is a Wealth Strategies Director for U.S. Trust, where he provides financial planning advice to high-net-worth clients and families.*



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The Ontario lawyers at Gene C. Colman Family Law Centre are practised in a range of divorce and family law issues, including child custody and access, child support, parents' rights, spousal support, and property division. Family law cases require close attention by dedicated legal counsel and are more expeditiously resolved when clients actively participate in the dispute resolution process. A family legal dispute can be one of the most tumultuous experiences of your life, so Mr. Colman will work to ensure the most positive outcome possible.

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Gene Colman was one of the first lawyers in Canada to advocate specifically for fathers' unique concerns and he was instrumental to the founding of both the "Canadian Equal Parenting Council" and "Lawyers For Shared Parenting". He advocates for preserving parent-child relationships, which Ontario's legal system sometimes overlooks. The Gene C. Colman Family Law Centre believes that mothers and fathers deserve equal legal status and frequent contact with their children wherever possible. It is with the best interests of children of divorce and separation in mind that Mr. Colman strives to transform the family justice system, advance children's rights to enjoy

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### Advocating for Procedural Fairness in Divorce

Gene Colman believes strongly that "procedural fairness" should be at the foundation of resolving any family law case. Unfortunately, some lawyers and judges continue to rely on discriminatory stereotypes of both men and women. If you believe that the legal system has treated you unfairly or unjustly, Mr. Colman will determine if your rights were violated and identify options to correct the injustice. Contact Gene C. Colman Family Law Centre for advice, representation, and support in resolving your Ontario family law case.

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# Creating Positive Cash Flow During Divorce

The only ways to increase your cash flow are to increase your income, cut your expenses, or some combination of the two. Here's how to find the money to fuel your dreams.

By Amy Jensen Wolff

**C**ash flow refers to how your money moves in your household, from the time it is received to when it is spent. "Positive" cash flow refers to having more money coming in than going out – in other words, spending less than you're taking in every month. Positive cash flow is essential to financial solvency; if you take steps to increase your positive cash flow each month, you can then save and invest more each month for those goals that are most important to you.

Take a minute to really consider your short, medium, and long-term goals. What are they? For instance, do you want to:

- Purchase a new home, cabin, or vacation home?
- Make special home improvements?
- Start a business or change careers?
- Help your adult children and other loved ones who are experiencing financial troubles?
- Enjoy an early retirement?
- Go on a dream vacation or just travel regularly?
- Start a foundation and/or increase your charitable giving?



## Finding Money to Fuel Your Dreams

The only ways to increase your cash flow are to increase your income, cut your expenses, or some combination of the two.

Let's start with increasing your income. Divorce can definitely impact a person's financial situation, especially if it results in a need to change your working status in order to earn enough money to pay for both your short- and long-term needs. If your income is no longer sufficient to meet your goals, you need to revisit your situation. Perhaps you'll need to find a job – or find a different job that provides you with a better salary. You might elect to pick up a temporary, part-time job in addition to your full-time job to create a cash cushion for yourself or to meet

some immediate, pressing needs. You may decide to go back to school to learn new skills to make you either employable or more employable at a higher wage. Investing in yourself could be the best decision you make. By furthering your education and building additional skills, you become more marketable. Your increased income is yours for the rest of your working career.

Second, let's look at cutting your spending as another way to improve your cash flow. To successfully identify ways in which you can cut your spending, you need to know exactly what you're spending now and for what. That means your first step should be to develop a budget: a written plan that details both how you are currently spending and how you plan to spend your money in the future.

“Budget” is often considered a dirty word, but that may be part of the reason that households with credit card debt carry an average of \$10,000 to \$14,000, depending on the source you consult. Avoid being part of this statistic! If you’re one of those households who tend to carry a credit card balance, please read further to learn how to develop a budget and to live within it. If you’re the type of person who uses a credit card and pays it off every month, but still can’t save towards your really important goals, you also need to read further. You need to be able to develop and stick to a budget so that you can enjoy the life you have always wanted to – because you’re worth it!

Bottom line: Positive cash flow is the foundation of your financial plan. After a divorce, positive cash flow becomes even more important as dollars often need to stretch further to support two households instead of just one.

There are five key steps involved in making and sticking to a budget:

1. Understand your income;
2. Determine your historical spending;
3. Project your future expenses;
4. Organize your budget into a cash flow system that works for you;
5. Monitor and update your cash flow system.

## Step 1: Understand Your Income

Income covers a lot of ground, but generally, it can include:

- Spousal maintenance/alimony
- Child support
- Part-time and full-time wages, bonuses and commissions paid to you by an employer
- Self-employed income
- Rental income
- Royalties
- Investment income such as interest and dividends
- Pensions and/or draws from retirement accounts.

Start by listing all your sources of income, as well as how often you receive each of them. For example, do

you receive the income semi-monthly, bi-weekly, monthly, quarterly, semi-annually, or annually? Is the income fixed/guaranteed (such as a paycheck or spousal support) or variable (such as self-employed income)?

Because different sources of income are taxed differently, it’s also important to understand what your true after-tax income is. Seek out a financial professional skilled in tax matters who can assist you with this.

If you’ll be paying or receiving spousal or child support, you need to understand how the taxes will affect your income or your liabilities. For example, spousal support is usually taxable to the person receiving it and a tax-deduction for the person paying it. Child support, on the other hand, is neither taxable to the parent receiving it nor is it a tax-deduction for the one paying it.

## Step 2: Determine Your Historical Expenses

Your historical spending can be helpful data to have when developing a budget. Ideally, you should look back at 6–12 months of expenditures in order to accurately capture those expenses that do not come up monthly, such as car and home maintenance, vacations, kids’ sports and activities, insurance premiums, etc.

If you’ve been tracking your expenditures in a software program such as Quicken® or Excel®, or if you’re able to access summary spending information electronically from your bank or credit card company, you’re in luck: both of those sources give you a headstart in discovering how much you actually spend and for what.

If you don’t have access to that type of historical spending data, don’t worry. You can access a six-month sample budget that you can use to record your historical spending at <http://ajwfinancial.com/new/amyjensonwolff1>. Click on “Becoming a Client” → “Forms”, then choose to download either an Excel or .pdf version of the “Historical Spending Worksheet”. Just collect your bank

statements, check-book register, credit card statement(s), a pen, a calculator, and a cup of coffee, and off you go!

## Tips for Compiling Historical Expenses

For the sake of your sanity during this process, don’t try to document all of your spending to the penny! Instead, try to work on coming up with a monthly average for each of your categories. For example, if you spent roughly \$150 in cash on holiday gifts in November, \$350 cash in December, and then spent another \$500 to pay off your gift-related credit card charges in January, your holiday gift total is \$1,000 a year. That means you spent an average of \$83 a month on holiday gifts.

Consult a friend or your financial advisor if you need some help in working through this process. And recognize and acknowledge that putting together your historical expenses is hard work, so be sure to reward yourself with a little something special when you finish this project!

Most people never make time to look at their spending habits; completing this exercise can be an eye-opening and educational experience.

## Step 3: Project Your Future Expenses

Next, project what your future monthly expenses will be. Since you now have an idea of how you spent money in the past, you have a framework for projecting your expenses moving forward. In fact, this exercise may actually trigger spending to go up in some areas while giving you motivation to reduce your expenses in other areas.

For instance, are you only spending \$25 per month on entertainment? You only live once – maybe you should be having more fun! On the other hand, if you discover that you’re spending \$500 per month dining out, carefully consider whether that amount is worth

.../Continued on page 27





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Cash Flow / Continued from page 25

it to you, or whether you'd like to cut back on that expense to save towards another goal.

The key here is to be realistic based on your new financial situation. If your income has been cut significantly because of the divorce, but you're still spending as you did before it, it's time to recognize and change those old habits.

### *Tips for Projecting Realistic Expenses*

- **Car purchase and maintenance.** If you tend to keep your cars for eight years and think you'll spend about \$25,000 on a different vehicle, saving \$260 per month (\$25,000/96 months) means you'll be able to buy a new car for cash when the time comes. If you tend to purchase cars more often, you may be able to factor in a trade-in or sale of your existing car when determining how much to save. The older the car you have, the more money you should be putting aside to take care of any unexpected repairs. Car maintenance includes oil changes, replacing tires, fixing brakes, and so on.
- **Home maintenance.** If you are not sure how to budget for this item, here's a good rule of thumb: set aside 1–2% of the value of your home on an annual basis for maintenance costs. That means that a home valued at \$300,000 would probably have annual maintenance costs of between \$3,000 and \$6,000. Newer homes would probably fall at the lower end of this amount, as will homes where you plan to do a lot of the routine maintenance yourself. Costs will be on the higher end for an older home or for someone

who needs to hire out help in this area. Home maintenance costs can include:

- Replacing your roof, siding, or windows;
- Caring for your lawn and garden (mowing, fertilizing, sprinkler system, annual flowers, landscaping);
- Fixing and replacing appliances;
- Repairing a plumbing or electrical problem;
- Cleaning and replacing carpets;
- Day-to-day things such as light bulbs, furnace filters, and so on.

You may not need the full amount you budget for maintenance every year, but you might need much more than this in other years.

- **Holiday expenses.** December gift-giving and expenses are often missed when budgeting. Think through the gifts you give, the decorating you do, and the entertaining you host.
- **Vacation.** This is another area that is often overlooked when budgeting. Consider land and air travel, car rental, hotels, and spending money. If you routinely take two trips a year to visit your parents or friends in another area of the country, put those expenses into your monthly budget.
- **"Big Box" expenditures.** Big Box stores are places such as Target, Wal-Mart, Costco, and Sam's Club. If you visit your local big box an average of twice a month and never walk out of there without spending \$200, put this into your budget as a separate line item.

### *How Much Should You Be Spending?*

Although every person's situation will differ, financial coach and speaker Dave Ramsey ([www.daveramsey.com](http://www.daveramsey.com)) provides these common rules of

thumb regarding what percentage of net income you should be spending:

- Housing: 25-35%
- Utilities: 5-10%
- Transportation: 10-15%
- Healthcare: 5-10%
- Food: 5-15%
- Investments/Savings: 5-10%
- Debt Payments: 5-10%
- Charitable Giving: 5-15%
- Entertainment/Recreation: 5-9%
- Misc. Personal: 2-7%

### **Step 4: Organize Your Budget**

There are many systems you can use to help yourself stay within your budget. Here is one system that has proven to work for those who want to keep it simple. Start by taking your projected expenses and breaking them out into three categories: fixed expenses, escrow or "saving" expenses, and living (discretionary) expenses.

**Fixed expenses** are those that do not change much from month to month. These include things like your mortgage payment, car payment, insurance premium and so on. Consider setting up a separate household checking account from which to pay these expenses.

**Escrow expenses** are those that are less frequent and which may be paid quarterly, annually or periodically throughout the year. These include things like car and home maintenance, real estate taxes, income taxes, holiday spending, some insurance premiums, etc. Consider setting up a separate checking account or savings account in which you put money each month to cover these costs as they come up.

**Living expenses** are everyday expenses, including groceries, dining out, gifts, haircuts, children's allowance, entertainment, etc. Consider giving yourself a weekly or monthly allowance and pay cash for these items. Here's why you should consider using cash for these expenses:

- If you have a budget of \$800 per month for living expenses and you give yourself an allowance of \$200 each week, looking in your wallet

will make it crystal clear to you as to whether or not you can afford to eat out for lunch or whether you should be packing a lunch.

- When you're strolling through a retail store, simply knowing that you are going to have to pay with cash when you check out will make you more mindful of what you put in your cart. And you really won't miss those impulse purchases.
- You will never have a credit card bill you can't afford to pay.

Switching to a new cash flow system is hard work – and it doesn't happen overnight. Think of it as going on a diet or starting an exercise program: it will take a good 30 to 90 days to get into the swing of things and to make this a regular part of your lifestyle. And keep in mind that if you don't consciously develop good money habits, you will subconsciously develop bad habits.

If you truly aren't comfortable paying for your purchases with cash, consider setting up another bank account and transferring your allowance into that. Then use your debit card to access the dollars as needed. Just make sure you keep an eye on your balance so you know you're staying on track.

If you're one of those people who are really disciplined about staying within a budget, you can keep using your credit cards as long as you continue to pay off the balance every month. However, if you are ever unable to pay off the card, stop using it and reconsider the cash system.

Now that you know what your income is and what your budget is, think about how you can structure your income to “fund” each of the three areas mentioned above. For example, can you have your company payroll department send direct deposits in the appropriate amounts to each of your bank accounts? Does it work for you if you just deposit your child support check into the escrow account and your salary into the household account?

Your goal is to meet your budget

– or better yet, to create even more positive cash flow. If your expenses exceed your income (which is very common the first time you try to stick to a new budget), go back and look for areas in which you can cut expenses. Alternatively, you could also explore options for increasing your income!

## Step 5: Monitor and Update

Monitoring and updating your cash flow system as things change is the key to a successful long-term budget. If you're working with a financial advisor, use that person to help you walk through this process. They can also help you stay accountable for your choices. If you aren't working

with a financial advisor, consider asking a friend to help you stay accountable to your plan! ■



*This article has been edited and excerpted from Keep your Cleaning Lady: A Divorce Aftercare Financial Guide (AJW Financial, 2012) by Amy Jensen Wolff (CFP®, CDFATM). This book will guide you through all the steps you'll need to regain your financial self-confidence and take firm control of your financial future during and after divorce.*

[www.ajwfinancial.com](http://www.ajwfinancial.com)

## Tricks for Budgeting Success

Here are a few more helpful tips to achieve long-term budgeting success:

- **Revisit your budget on a regular basis.** This will make you more accountable.
- **Remember to pay yourself first.** Most people save only if they have money left over at the end of the month. By making it a point to save money first, you can then budget your remaining dollars. An easy way to do this is to set up a pre-determined amount of savings that automatically is transferred out of your checking account at the same time every month, perhaps on payday. If the cash is out of sight, it will likely stay out of mind, too.
- **Use cash as opposed to credit cards.** Oddly enough, if you have a set amount of cash for a week, it's harder to spend it.
- **Use shopping lists.** This helps you avoid spending money on things you don't need. Make sure that the things that go on your list are also part of your budget!
- **Set an impulse purchase limit** (something like \$25). That way if you find something you think you really want but it's over your impulse purchase limit and isn't on your shopping list, you'll need to leave the store without buying it. By the next day, you probably won't miss it.
- **Pay down high-interest credit cards** (at more than the monthly minimum). This helps you avoid the finance fees that can quickly devour all the savings you're achieving elsewhere. And once your high-interest debt is paid down, you'll have more money to save or allocate to another area.
- **Distinguish between wants and needs.** Always address your needs first. And by the way, paying down debt is a need. By doing this, anything left over can be spent on your wants.
- **Consider enlisting a financial professional** to help you create and track a personal budget. They can also help keep you accountable for sticking to that budget once you've created it.
- **Don't be too hard on yourself.** Like anything you become good at, staying within a budget takes practice. Once you're successful at it, it can even be kind of fun!



# New Partners, Stepparents, and Remarriage



When families separate, many parents quickly start dating again; in most cases, one or both parents will marry or cohabitate with a romantic partner at some point post-divorce. Here's how to help children of divorce adjust to becoming part of a stepfamily.

By Dr. Donald A. Gordon and Dr. Jack Arbuthnot

**W**hen families separate, it's common for parents to quickly start dating again. In some cases, they may bring a series of dates home at night; in most cases, one or both parents will marry or cohabitate with a romantic partner. New relationships can confuse and upset your children. Most children see their parents as special: parents are the people who they can count on; they are the ones who take care of and protect the child; and they teach their children how to live. When a

breakup occurs, mom or dad stops loving the other parent and starts loving a new person. A child may feel the parent has turned against him. If the person is a stranger to the child, the child may feel deeply betrayed.

Many children feel they must fight for their parent's attention. They may feel deserted, and they need their parent's help the most during this period of stress and turmoil. They are worried and confused. A child often feels rejected when the parent gets involved

with a new person; they feel unloved, especially if they see the parent show affection for this new person. Younger children are often very jealous and resentful, while an adolescent may react with anger and outrage, as well as feeling anxious and embarrassed.

## Stepparents and Remarriage

Some children may feel a sense of relief if the other parent remarries or has a live-in partner. But this can bring new

problems: it's clear that the parents will never get back together, which can cause intense resentment and renewed loyalty to the "real" parent. A new marriage or relationship may strain relations with the other parent, and his/her discomfort could cause a decline in contact with the child.

Stepfathers try to take on the role of man of the house – but lack of involvement or attention by the stepparent also leads to problems. These problems are most intense and long-lasting for adolescents. A young child is better at accepting a stepparent, although it may take several years. It's also common for stepfathers and stepdaughters to have the most problems.

Some stepmothers have a lot of power over the father; men who are left by their first wives are often eager to please the next woman they become attached to. If she has children, fathers will often treat her children better than his own – which will hurt his own children. Some stepmothers become very involved with the father's children; they try to replace the mother and compete with her. Many friendly and cooperative divorces change when one parent remarries. The new stepmom might not like the father to have contact with the mother, or she tries to insert herself into the co-parental relationship – suddenly, the mom and dad are no longer getting along.

It can take five years or more to adjust to a new family. Older children, parents, and stepparents all struggle. Break-up rates are much higher than they are for first marriages: one-quarter of all stepfamilies will break up in the first two years. Also, physical and sexual abuse is much higher in stepfamilies than in nuclear families.

## What to Do

A single parent is entitled to a social life; they deserve to have a new partner or special person. But when there are children in the home, adults must take care. It is important to understand the children's needs – pay attention to what makes them anxious, notice what makes

**Stepparents should expect rejection at first. It can be hard to build a relationship with the children from their partner's previous marriage, and stepparents must allow for resistance and suspicion. Things will get better in time, but it may take several years.**

them jealous, and proceed slowly. When you choose a new partner, give your child time to adjust. Try to wait a year before introducing a new partner, and let the child get to know this person in casual places. It takes time for trust and friendship to form. Don't include the new lover in all the child's activities, and continue to have regular time alone with your children. You may think the new person is wonderful, but you shouldn't expect the children to feel the same.

Prepare your children before a new partner spends the night, and reassure them that you love them. Discuss the situation with your new partner; he or she must be sensitive to the children's emotions. Overnight "dates" with casual partners should only happen when the children are with their other parent.

If you decide to remarry or re-couple, discuss everything with the child first, no matter what their age. They need to express their concerns (and hopes). This helps parents and stepparents move forward and to be sensitive to the children's needs. Encourage the children to help plan the wedding; they can play a role in it if they are okay with the idea.

Stepparents should expect rejection at first. It can be hard to build a relationship with the children from their partner's previous marriage, and stepparents

must allow for resistance and suspicion. Things will get better in time, but it may take several years. Older children have a harder time accepting a stepparent, and it may never happen: the adolescent may continue to be loyal to the other parent and to the original family. These feelings will block their acceptance of the stepparent. If this is the case, consider waiting to marry again until your teens are out of the home.

Stepparents are also often critical toward the child, especially after the glow of courtship wears off. Relationships can become tense, and you may need some help through these tough times. The birth parents will still be doing most of the nurturing and discipline, and they may not get the help and support they hoped for from the new stepparent.

Stepparents should take the role of social coach and neither discipline the children nor try to replace the natural parent. A stepparent should not ask the child to call him/her "Mom" or "Dad", or force the child to hug or kiss him/her. If the stepmother wants to get involved with the children's mother, the father may need to step in to protect his co-parental relationship; he should be the one to email and talk to his ex-wife instead of letting his new wife or partner do it.

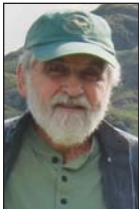
Spouses need to work as a team. If they cannot, counseling and marriage or

couple classes for stepfamilies will help. A stepparent and the former spouse (the children's birth parent) need to create and maintain a polite, business-like relationship. This will help all members of the stepfamily to adjust to the new situation. ■



*This article was adapted with permission from What About the Children? A Simple Guide for Divorced/Separated and Divorcing Parents (CDE, eighth edition, 2011) by Donald A. Gordon (Ph.D.) and Jack Arbuthnot (Ph.D.). Based in Athens, OH, the Center for Divorce Education (CDE) is a non-profit corporation founded in 1987 by a consortium of*

*attorneys and psychologists. The CDE is dedicated to advocating for children and helping parents to minimize the harmful effects that divorce and separation has on children. More information and skills to improve relationships with the co-parent and children is available at: [online. divorce-education.com](http://online.divorce-education.com)*



## 10 Tips to Help Children Adjust to New Romantic Partners

1. Go slowly with new relationships; wait a year before introducing a new partner to the children.
2. Don't try to involve a new partner in all activities.
3. Keep some time just for you and the kids.
4. Prepare the children in advance when guests are spending the night.
5. Save casual dates for nights when the kids are with the other parent.
6. Talk to the kids a lot before remarriage.
7. Prepare them, let them react, and do not criticize their reaction.
8. Warn your new partner that the kids may reject him/her at first.
9. Assure new partners that the role of the other parent will continue.
10. Watch for abusive punishment and/or other abuse by the new partner.

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# Top 10 Tips for Divorcing Parents



Divorce can be an emotionally complicated and trying time, especially when there are children involved. Here's a list of helpful tips from a family lawyer to help you be the best parent possible during this difficult time.

By M. Marcy Jones

**D**ivorce is such a complicated process, and there is so much emotion that needs to be sorted through. Putting your children's needs ahead of your own isn't easy, and parents constantly have to check in with themselves to make sure they are doing

so. Many parents also think "children are resilient" and they are not really affected by their parents' divorce.

As a family lawyer, my advice to all my clients who have children is to get them into counseling with an experienced counselor who can let

the parents know how the children are doing and also help the parents see how their behavior is affecting the children. Counseling for the parents isn't a bad idea either.

Here's a list of my top ten tips to help you be the best parent possible

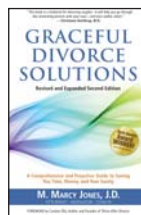
during this time. Since many parents are unaware of how their actions impact their children, these tips will raise your awareness to help you keep your focus on their needs.

1. Remember that parents do not “visit” with their children. Children of divorce and their parents still live together, no matter how short or long a time they spend together. The language each one of you uses about the schedule can sometimes be problematic. Be sensitive to this.
2. Save negotiations and discussions with the other parent for a time when the children are not around and cannot overhear.
3. Learn how to communicate directly and respectfully with the other parent. Do not ask the children to carry messages to the other parent. They should not be in the middle of any of your disputes or be responsible for your communication.
4. Enjoy the time you have with your children. You can only do this well and enjoy parenting if you aren’t obsessing about the time you don’t have with them.
5. Allow and encourage your children to have fun and enjoy being with the other parent. Remember that it’s important for your children’s normal emotional and psychological development to have a good relationship with both parents, regardless of where they live.
6. Say nice things about the other parent in front of the child. Making derogatory or disparaging remarks about the other parent is hurtful to the child and will often backfire on you. It is best to allow children of divorce to decide for themselves what kind of relationship they will have with each of their parents.
7. Assure your children that you and their other parent are taking care of them and will work out the details of their schedule. Never ask them where they want to live or whom they like better.
8. Always speak to the other parent in a civil, respectful way. If the conversation gets to the point where you are

**Always speak to the other parent in a civil, respectful way. If the conversation gets to the point where you are unable to do this, then end the conversation and take it up another time when things have calmed down.**

unable to do this, then end the conversation and take it up another time when things have calmed down.

9. Be flexible with schedule changes. Remember, your children benefit from seeing the two of you being cooperative, especially when it comes to taking care of their needs.
10. Always keep your promises to your children. This sends a powerful message to them that they can trust you and can have confidence that you are there for them. ■



*This article has been edited and excerpted from Graceful Divorce Solutions, A Comprehensive and Proactive Guide to Saving You Time, Money, and Your Sanity (Balboa Press, 2014). M. Marcy Jones is an author, speaker, lawyer, and advocate for change. She has practiced family law since 1995, and is a settlement expert and conflict resolution advocate, specializing in collaborative practice. [www.GracefulDivorceSolutions.com](http://www.GracefulDivorceSolutions.com).*

## Do Your Best

Here are two critical factors to help you do what’s best for your children:

1. **Get along with the other parent as much as possible.** This means making a true effort to support the other parent in his or her relationship with the children and to be cooperative as needed for the sake of the children.
2. **When conflicts do arise, keep the children out of them.** They don’t need to know the details of your situation. They don’t need to know about other relationships, or money, or who did what to whom. What they need to know for sure is that both of you are there for them 100 percent, despite what’s going on around them. Of course they will be sad about the divorce, but keeping them out of the fray will protect them psychologically and emotionally.

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A close-up photograph of a hand holding a large kitchen knife, slicing a bright red tomato. The tomato is being cut into a thick slice, revealing its internal structure. Below the tomato, there is a bed of green lettuce and other sliced vegetables. The background is slightly blurred, showing more of the salad and kitchen items.

# Feed Your Body & Soul

Stressed? Depressed? Choosing the right foods during divorce will help you not only feel your best, but also remain clear-headed so that you can make better decisions. Here are four fast tips to feed your body and soul during this stressful time.

By Trish Krause, Certified Nutrition Practitioner

If you're going through separation or divorce, you're probably familiar with one or more of these symptoms: clenching in the gut, lightheadedness, forgetfulness, and lack of focus; indigestion, bloating, and digestive upsets; frequent colds/flu; cravings for caffeine, sugar, or alcohol.

It's no secret that the negative stress arising from a family break-up can have a psychological effect on you. Ongoing chronic stress, however, can also hurt you physically. It's all about the brain-gut connection, so choosing the best foods possible as you move through your divorce proceedings will help

you not only feel your best, but also keep you clear-headed so that you can choose the best path forward.

## What is the brain-gut connection?

You might think that your brain is at the epicenter of your neural system, and that it governs all bodily functions. Not quite. The notion that you can get a "gut feeling" is right on the money, because you have a second brain, and it's located in your gut. The effectiveness of your neural system is influenced by the stress hormone cortisol, and its

happier, calmer friend: the neurotransmitter serotonin. 90% of the serotonin your body produces is created in the gut, not the brain. So if what you're eating is raising cortisol and disrupting the production of serotonin, then you've got the recipe for stress and possibly even depression; many studies now point to decreased serotonin as a key link in depression.

## What foods increase stress?

No surprise that the typical North American diet is full of foods that can send your cortisol skyrocketing.



## If what you're eating is raising cortisol and disrupting the production of serotonin, then you've got the recipe for stress and possibly depression.

Carbohydrates that are high in sugars or starches and low in fibre are one of the main culprits. When you eat or drink something with these types of carbs, your body breaks down the sugars and starches into glucose, the main source of energy for cells in your body. The glucose raises your blood sugar. When your blood sugar rises too fast or is in a constant state of elevation – which happens when you have a diet that is full of grains, processed foods, or sugars, and have a high glycemic index (GI) – the body reacts to the stress of trying to handle this overload, triggering not only an excess release of insulin (which can cause weight gain), but also a release of cortisol (which contributes to inflammation in the gut). This will influence the ability to produce that calming serotonin.

### Tip #1: Switch to a low GI diet

A whole-foods diet high in lean proteins and high-fiber vegetables, and fruits low in refined grains is your best bet in keeping cortisol levels and inflammatory stressors low. Protein can include lean poultry, grass-fed beef, wild-caught fish, nuts, seeds, beans, or lentils. Organic is always best if you can afford it. Leafy greens and nearly every vegetable (except for white potatoes, beets, and parsnips) are low on the GI scale. Choose fruits such as apples, pears, cherries, grapefruit, and berries. Reduce your dependence on grains; even the ones that appear to be healthy (such as granola bars or bran muffins) can be full of high GI ingredients.

### Tip #2: Don't drink your calories

Whether it's coffee, wine, orange juice, or soda pop, you're going to be putting

extra stress on your brain and your gut if you're drinking these excessively.

Caffeine is a known cortisol stimulant and particularly harmful to people already under stress. Try to limit your daily caffeine intake to less than 400mg – which sounds like a lot until you realize that a grande brewed coffee from that ubiquitous chain has 300mg, a single can of cola between 35 and 45mg and typical energy drinks can be 80–100mg.

In addition, coffee increases acidity in the gut and decreases your ability to produce hydrochloric acid (HCl), which is essential for protein digestion. Wondering why you are getting acid reflux, indigestion, or belching? It's likely you need more HCl – not less – so both the coffee and the over-the-counter antacids need to go in favour of naturally increasing your stomach acid. Put a tablespoon of apple cider vinegar or lemon juice in water and drink it prior to a meal. Your gut will thank you and be able to continue to produce that all-important serotonin.

You might think you're doing yourself a favour by juicing – and you are, if the juices are made up of 80-90% vegetables and only 10-20% fruit. But if you're using the equivalent of six or more servings of fruit to get one glass of juice, consider the sugar content – and with that, the impact on both inflammation and unhealthy levels of insulin.

Wine, beer, and particularly the mixers in alcoholic drinks have exactly the same effect on blood sugar – with the added concern that alcohol is dehydrating and a depressant, which directly affects the brain's neurotransmitters. It will slow down your ability to produce “happy” chemicals such as serotonin or GABA, and it will also speed up your release of dopamine, which stimulates

the brain's reward centres. This creates a vicious cycle: the more you drink, the more you crave – and the more you need to keep up the happy feelings. Whether it's more alcohol, more sugar, or more high GI carbs, your brain will be telling you to keep going as it searches for rewards.

### Tip #3: Nourish your adrenal glands

Cortisol is produced in your adrenal glands – two little walnut-sized glands that sit atop your kidneys. Even though your goal is to reduce the ongoing production of this stress hormone, you also need to protect these important glands to avoid burnout. Adrenal fatigue is often characterized by chronic tiredness even after getting a lot of sleep; trouble thinking clearly, finishing tasks or making decisions; a compromised immune system (meaning you catch every germ that's going around); and uncontrollable cravings for salty or sugary foods.

Magnesium is a critical mineral in helping to nourish the adrenals. The highest levels of magnesium are found in raw pumpkin and sunflower seeds, dark-green leafy vegetables like spinach or swiss chard, and black beans. There is also a good level of magnesium present in raw cacao; this is not chocolate, which has added sugar or dairy, but the unprocessed product from the cacao bean that has been ground into powder or rendered into nibs for use. You can use it to make your own chocolate treats by adding your own sweeteners such as a bit of raw honey, maple syrup, or xylitol, which is a sweetener that will not cause as significant a spike in blood-sugar levels.

Maca is another natural option to nurture the adrenals. It comes from a plant that grows high in the Peruvian Andes, and it is known as an “adaptogen”, which means that it increases the body's ability to defend against both physical and mental stress, which helps ward-off illness. One to two teaspoons of maca powder can easily be added to smoothies, oatmeal, yogurt, or salad dressing each day.

#### Tip #4: Round out your divorce team with a nutrition professional

As you work your way through your uncoupling, you need a supportive team to ensure that you're getting the best advice to navigate the entire process. Just as you need a lawyer for the best legal options, a financial advisor to help you make smart decisions about your money, and a therapist to let you work through the emotional aspects, a nutrition professional can help you protect your physical and mental health by advising which nutrients will support you to be your strongest, smartest, and best self for this stage of your life – and the new stage that lies beyond. ■



*Trish Krause (CNP) is a certified holistic nutritionist who specializes in helping stressed-out men and women regain their nutritional balance and learn how to use food as a wellness tool. She works with clients face-to-face, or via phone or Skype. To learn more about her services, visit [www.bite-out-of-life.com](http://www.bite-out-of-life.com).*

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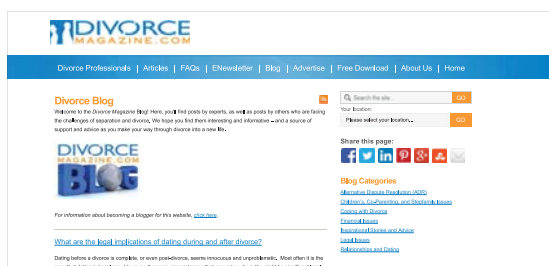
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