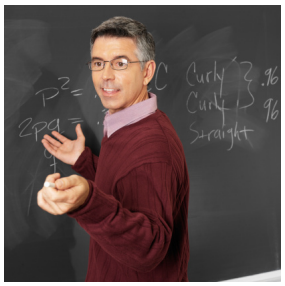
Divorce Planning 101: Weathering the Storm

Written by Kaine Fisher

Q&A with Kaine Fisher, Director of Rose Law Group Family Law Department

"I just can't live like this anymore. After twenty long years of marriage I've finally made the decision to get out. I'm emotionally ready to file for divorce but I'm terrified about the process. What can I do to prepare myself for what lies ahead?"



Divorce can be terrifying and disorienting. A vast majority of my divorce clients have never even seen the inside of a courtroom and have had absolutely no involvement with the legal process. They've never worked with a lawyer and have never had to testify. But even more overwhelming is that most clients must face the reality that they are moving from supporting one household to paying for two. They don't know who to turn to, what to expect or even where to start. Here are a few important tips to get you started:

1. **Find Your Lawyer.** You will almost immediately want to start interviewing prospective lawyers to handle your case – but be patient with the one you choose. It is important to have a sense your lawyer is competent and qualified, and perhaps even more importantly, you need to have a good rapport with your lawyer. You will be communicating with your lawyer frequently so this is gravely important. You should be able to tell early on whether your lawyer is communicative just by the way they set up your initial consultation and how they conduct themself during your initial meeting. Avoid hiring a lawyer without meeting with them simply because a friend, colleague or family member has used that lawyer in the past. You wouldn't hire a heart surgeon on a whim so why would you choose your divorce lawyer that way?

2. **Think About "The Talk."** Try to put your own emotions aside during this tough time and spend some time thinking about how you will break the news to your children. Keeping it a secret or waiting until the last second may backfire. Consider telling the children *with your spouse* (assuming there is no domestic violence and assuming you can both act like adults around the children). Obviously, the divorce is not their fault so let them know that. Keep it simple, admit the experience will be sad and upsetting for everyone and reassure the kids you and your spouse loves them dearly. Remember the divorce doesn't change your status as "mom" and "dad." It's not a bad idea to get the children into counseling right away to assist in delicately informing them of the breakup and to help the children cope with the transition.

3. **Information is Power.** Some spouses are left in the dark about their financial picture throughout the marriage – perhaps intentionally so. Get a sense of your assets and liabilities and do it quickly. It amazes me how quickly important financial documents disappear after divorce papers are filed and served. Before having your spouse served, run copies of important financial documents in the filing cabinet or on your family computer. You should keep these copies at your office or at a friend's house so long as the information is secure. You certainly don't want to leave assets on the table when it comes time to divvy up your property and debt. Contact your CPA and obtain copies of your joint tax returns before he/she receives word of the divorce and feels compelled to pledge an allegiance to only one of you. Try to assemble a comprehensive, accurate understanding about your finances quickly. It warms my heart to see a well-prepared spreadsheet during an initial consultation. This will save you time and money and will make your attorney's life easier. Gather other information, such as from social media sites, that might be useful to support your waste claim, spousal maintenance claim or legal decision-making/parenting time positions. These things will disappear as soon as your spouse knows you're looking. But beware! Before hacking into your spouse's password protected social media networks or work computer, make sure you discuss this with your divorce attorney so you can be fully advised of any invasion of privacy ramifications. Run a credit report and bring it to your attorney during your first meeting. Start compiling financial statements as well and obtain deeds, titles and other relevant ownership documentation. Many issues in divorce matters are married (no pun intended) to the date of service. Your attorney will need to have an accurate snapshot of your assets and liabilities at that moment.

4. **Protect Your Privacy.** I cannot stress enough how important it is to change your passwords. Put a password on your cell phone if you don't have one. Change the password associated with your e-mail accounts and Facebook/Twitter pages. With the advancement of technology these days, it is much too easy for your spouse to put tracking or monitoring software on your cell phone or computer. This is important not only to protect your privacy but also to ensure that your communications with your lawyer remain confidential. In fact, I have a provision in my Fee Agreement that strongly urges clients to change passwords. If you have a family cell phone plan, you will want to get a separate cell phone plan for obvious reasons. I am often asked whether it is appropriate to change the locks with respect to the marital residence. Although this is a pretty extreme measure, each case is different and under some circumstances is something that should be explored. It may also make sense to open up a bank account in your name and begin routing your direct deposits into that account. This will at least preserve your income in the event your access to other sources of community funds is somehow cut off by your spouse. It also protects your privacy with respect to how you spend your money. The closer to the date of service you do this this better as it makes untangling your financial mess easier for the attorneys down the road.

5. **Do I Change My Beneficiaries?** More than likely, your spouse is named as a beneficiary of your will/trust as well as the beneficiary of your life insurance policy and retirement accounts. You may also have given your spouse power of attorney and put them in charge of your medical directives. While you may feel the urge to change these designations quickly, it is imperative you discuss any changes with your divorce attorney before making them. In Arizona, once a spouse is served, an injunction kicks in prohibiting the parties from taking certain action. Changing your beneficiaries arguably falls into this category and you could face serious sanctions for violating these prohibitions. You may even run into problems trying to change your designations just before your divorce is filed. Nevertheless, you will most certainly want to promptly change your beneficiary designations, if possible, after the divorce is final unless otherwise agreed upon or ordered by the Court.

6. **Get Counseling.** One of the first things I tell clients is “don’t sweat the small stuff.” Easier said than done right? Most clients have a difficult time differentiating between what is important and what is not. Learn to pick your battles. It will save you time and emotional turmoil. It is not a sign of weakness to seek help. Going through a divorce is one of the most turbulent times in a person’s life. There is no need for you to go at it alone.

The calm before the storm is a crucial time. Take advantage of the fact that you know what’s coming and your spouse doesn’t. Understand that divorce is a process and take it step by step. Try not to get ahead of yourself. Take a deep breath if you have to and put your faith and trust in your attorney to guide you through it.

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