



How will my *family* REACT?

DIVORCE 101:

Do I need a GOOD attorney?

How will this *affect*
our CHILDREN?

What are my FINANCIAL *options*?

What are the
ALTERNATIVES?

What To Do When The Vow Breaks

by Melinda Kaitcer

Let's face it: nobody who ever walks down that aisle to exchange "I do's" intends to get divorced. But it happens—about half of the time, statistics say. And for second marriages, divorce happens even more frequently. Those who begin the rocky trail toward "divorced ever after" need to arm themselves with the tools they will need to make the journey: education about the process and the many options they will face; strategies for self care that will maintain their health and sanity; and finally, acceptance that while this process is painful beyond imagination, it is also a rich opportunity for personal growth.

Local clinical and forensic psychologist Sven Helge, Ph.D., said he believes there are six major steps a person goes through during the process of divorce. These include

- 1) *Making the decision to divorce public — telling the spouse, children, extended family, and friends;*
- 2) *Moving toward divorce—hiring an attorney and gathering information;*
- 3) *Going through the actual settlement and divorce;*
- 4) *Acceptance of the divorce—after the final decree of divorce is signed, and the reality of the divorce begins;*
- 5) *Adjustment to changes in lifestyle, expectations, and relationships;*
- 6) *Forgiveness—letting go of negative emotions and resolving to learn from this huge, life altering event.*

While the first half of these steps may seem like the longest, most difficult part, Helge said it is the second half of the process—acceptance, adjustment and forgiveness—that takes the greatest amount of time and effort.

Often, however, the decisions made during the earlier stages determine the degree of difficulty—and the time required to complete the process.

"People often don't realize that the acceptance cannot occur until after the divorce is final," Helge said. "They may think they already accepted it all, but it really happens, along with the adjustment, in stages throughout that first year following the divorce."

Choose the Best Route

The talking is done, the threats are flung and it's time to hire a lawyer. Fort Worth family law experts offer a few simple points of advice in making the decisions that start the divorce wheels turning. Many relatively new options exist today for ending a marriage. And, while going to trial should be an absolute last resort, local attorneys agree, it is extremely important to seek out a qualified attorney for professional guidance toward the best options available.

"Regardless of what people find on the Internet and elsewhere, unless they have no property, no children and have only been married a short while, everyone needs to hire an attorney to advise them," said Heather King, a Fort Worth attorney board certified in Family Law and immediate past president of the Tarrant County Family

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Law Bar Association. “Every divorce has unique situations that need to be addressed, and while people can buy packages of divorce paperwork off the Internet and file them at the courthouse, if you do your own divorce you will be held to the same standards as a licensed attorney,” she added.

King said most divorce lawyers encourage settlement because it is ultimately best for everyone involved. “Contested divorces are emotionally and financially draining and should be avoided if at all possible,” she said. “In some instances, however, a trial is necessary, and that is what our court system and trial lawyers are there for.”

In Fort Worth, where court dockets are extremely crowded and where a rare professional atmosphere of collaboration already exists, the climate of Family Law is changing—moving toward resolutions and dissolutions that create less traumatic, easier transitions to being divorced. Divorcing persons may elect to settle their cases through collaborative law, mediation, arbitration or traditional hearings.

“I have never seen a legal community like the Fort Worth family lawyers have,” said Jennifer Morey Caldwell, family lawyer. “The majority of Fort Worth family lawyers know and trust each other, and this makes a huge difference in how cases are resolved. It’s more ‘let’s figure out how to make this right using our skills and knowledge,’ rather than the gladiator mentality that some clients seem to expect.”

Accompanying this kinder, gentler family law trend are out-of-court settlement options designed to minimize stress and create optimum outcomes for divorcing parties at a fraction of the cost of litigation. These options include:

• **Mediation** — each party and their attorneys present their side to a mutually-agreed-upon mediator who helps them reach a settlement through negotiation and exchange. “The beauty of mediation is that you can bring in other factors a judge simply cannot consider,” said Dale O’Neal, attorney and mediator. “Laws of evidence, rules for property division, and even custody, child support, and alimony restrictions that exist in the courtroom are not binding in mediation.” O’Neal said that a mediator can consider all the circumstances, allow everyone to say what they need to say, examine the documentation each

side thinks is important, and then help the parties arrive at decisions that will work best for them. He said this process usually requires a one-day session and costs a fraction of the price for a traditional, contested divorce.

“Most people are happier with mediation results as opposed to a judge’s ruling,” O’Neal said. “And, they are more apt to honor and abide by their own agreement than a judge’s ruling. While litigation is often just a first step toward more litigation, mediation is a deal that is structured so that they can live with it until the kids are grown. It’s an enlightening process.”

• **Arbitration**—an out-of-court settlement, somewhat like mediation, except the arbitrator acts as judge and, after hearing both sides and reviewing the evidence, makes the settlement decision that is final and binding. While an arbitrator is allowed a little more freedom than a judge and jury in making settlement awards, he or she is governed by the laws of the state and therefore solutions are more restricted than in mediation. It is an out-of-courtroom trial that ends the case without opportunity for appeal. While fairly rare, arbitration is a fast, cost effective, confidential alternative to trial. “Arbitration offers a fast-track hearing option for people who want to avoid the high cost of litigation and who cannot agree to settlement,” Caldwell said. “It provides resolution in weeks or months instead of months or years in contested cases.”

• **Collaborative Law**—a relatively new process for resolving divorce cases, creates an amicable, respectful, empowering environment “outside the system” where parties and their attorneys work together toward a common goal of laying the groundwork for a respectful, ongoing post-divorce relationship. “Each party hires a lawyer trained in collaborative law, and then all negotiations take place in four-way meetings between both parties and their respective lawyers,” explained Janet Denton, a Fort Worth family lawyer trained in collaborative law. “Collaborative law helps parties reach custom solutions to divorce related disputes in a physically and verbally safe environment,” said Diane Wanger, a specialist in collaborative law who is board certified in family law by the Texas Board of Legal Specialization. “More than any other approach to family law, this forum allows for par-



ticipants to learn skills to manage conflict, come up with creative solutions and communicate effectively.”

Pay Attention to the Dollar Signs

During the high emotional tides of divorce, protecting credit and dealing with finances can seem overwhelming. However, this is precisely the time to get information in order to create protection for credit that will last for years to come. “Sometimes people don’t realize that even if they don’t know where the financial information is or even how to start looking for it, they have the absolute right to investigate and obtain that information—and that we can make their spouse provide it,” King said. “When it comes to finances, each person needs to get in a mental place where they believe they are on even ground with their spouse.”

And while people often assume there is an automatic 50-50 split of assets, this is not always the case, King said. Rather, assets are divided by law according to what is fair and equitable under the facts and circumstances of the case—and this takes into consideration earning potential,

drafted and then approved by the plan’s administrator, approved by the judge, and filed with the court to officially divide a retirement plan. If any of these steps are missing, retirement benefits may not be protected.

- **Understand the Tax Implications.** The first thing to know about the tax implications of certain settlement issues is not to count solely on a divorce attorney for tax advice. While many family lawyers have a good working knowledge of tax law, it is a good idea to get a second opinion on financial matters from a Certified Public Accountant (CPA) or a Board Certified Tax Attorney.

According to O’Neal, the tax implications of dividing property and assets can easily be overlooked—and sometimes turn out to be very important. “Different pre-tax assets can have different tax consequences, and if they don’t factor that in, it can shift the value of the whole estate,” he said. “And while these differences in value can be significant, there is not much light in the law on some of these issues. If you consider the tax consequences of dividing your assets, you may be better off mediating than gambling the tax consequences of your assets in court.”

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separate property and many other issues. A few simple steps to tending to financial business during divorce include:

- **Photocopy everything.** Create a financial file that includes bank and investment statements, payment records, tax returns for the past five years, receipts for major purchases, records of all debts and accounts, assets and income. Include even handwritten notes, letters, address books, and phone numbers. This will save time and money when documentation is needed to determine the division of debt and assets.

- **Protect your credit.** As long as one is still legally married and carrying joint credit accounts, a spouse’s debts are still shared. For that reason, all joint credit should be paid off at the time of divorce, and how any outstanding debt will be paid should be outlined in writing as part of the decree. And even after divorce, credit card companies don’t care what the decree says. “The court can order payment, but it can’t enforce it,” King said. “The property still gets foreclosed on if the payments aren’t made, and both people’s credit will suffer if orders aren’t followed.” Obtain a copy of your credit report at the time of divorce and monitor it carefully until all joint debts are paid, experts advise. A little extra vigilance here goes a long way toward keeping clean credit.

- **Safeguard the Financial Future.** Certified Divorce Planner Jackie Gold of H&R Block said it is important to understand that it is not enough to have a pension split agreed to in a settlement. A separate document, called a Qualified Domestic Relations Order (QDRO), must be

For example, O’Neal said, tax-free transfers of houses, cars, personal property, investments, business ownership interests and other items are allowed as part of a property settlement. But whoever ends up owning appreciated assets will eventually owe taxes whenever that asset is sold. That can add up to a hefty price tag and a lopsided deal that, on paper, had appeared equitable.

Whether to file joint or separate income tax returns during and just after divorce, how to decide who gets the deduction for the children, whether each can file as head of household—these and many more questions should be addressed during a visit to a CPA or tax attorney. Each of these issues can carry a big tax consequence, and it is important to ask the right questions in order to take advantage of any rules that could be favorable in a specific situation.

Another tax-related issue to consider is that of child support and alimony. Child support is tax-free income, whereas alimony is taxable as income. Whoever pays the alimony, however, can deduct it—but only if it is structured carefully to meet very specific guidelines as outlined in IRS Publication 504, which can be downloaded from the official Internal Revenue Service Web site.

Watch Out for Emotional Curves

Underneath all the legal issues, the financial issues, the changing domestic issues and the social issues that swirl around a divorce, there is a roiling emotional undertow that cannot—and will not—be ignored. Taking care of oneself during this time, getting the necessary help and

paying attention to what these emotions may be indicating is crucial to recovery.

“People going through a divorce are at their absolute worst,” King said. “It is so important that they deal with their personal issues of being alone—and allow themselves to understand that it is an emotional shock, even if the divorce is an amicable and positive change.” King said there is free counseling available for children of divorcing parents at the Tarrant County Courthouse, inexpensive co-parenting courses available to learn how to be an effective parent with someone when no longer married to them, and a video available for viewing through the Tarrant County Family Court Services. “It is a very hard time for people,” she said, “comparable to suffering a death of a family member or close friend. People need to realize that and allow themselves to go through all the stages of grief at their own pace. If they find they are getting stuck in any of those phases, counseling really works.”

“Helping people to stay calm and logical in the face of intense emotions is a significant part of a mediator’s job,” O’Neal said. To help with this, he has a specially built facility that offers separate rooms for the husband, the wife and three neutral rooms big enough to accommodate everyone and their lawyers, witnesses and experts. “Helping people control stress, control anger and control emotion is a large part of my job,” he said. “When things get intense I encourage them to ask for a break, take 10 deep breaths—and sometimes they just need to vent—to tell somebody how they have been wronged and what their motivation is. My job is to go with them to their room and just listen.” O’Neal said it is only after each side gets its perspective heard that the two opposing sides can begin looking for the common ground of settlement and resolution.

The need to communicate during the painful process of divorce can be made easier if people understand the four Fs of communication, Helge advised. These are:

- *Focus on one topic at a time.*
- *Separate Facts from the emotions that surround them.*
- *Communicate Feelings appropriately—and not just the strong ones.*
- *Pay attention to Feedback from family and friends, children, and even the soon-to-be ex-spouse. This will provide important clues about how well coping skills and problem solving are working.*

The most important emotional goal of the divorcing person, Helge said, is forgiveness—of oneself, the ex-spouse, and any others involved. The origin of the word, “forgive”, comes from early Greece, when bankers had to physically carry heavy stone tablets inscribed with each person’s debt. When the load got too heavy for the banker, he would say, “I forgive this debt” so he wouldn’t have to carry it any more. Likewise, Helge said, when people are navigating the long, difficult path toward divorce, the best thing they can do is “forgive the debt”—in essence to say, “I don’t need to carry that divorce, our conflicts, all the wrong that was done, any more. I just need to learn from them.” ■

“Marriage Reconciliation: A Positive Alternative to Separation or Divorce”

by Robin L. Butler

Do you feel as though you’ve tried everything to save your marriage and nothing has worked? So did Judge John Cayce and his wife Diane.

Twenty years ago, the Cayce’s felt as though they had exhausted every option, including professional counseling, in an effort to save their marriage. Diane eventually threw in the towel and, after a two-year separation, the couple divorced in 1986. After a long journey back to one another, the couple reconciled and remarried in 1988.

John and Diane felt they needed to share what they had learned from their personal experience in order to help couples that were headed for separation or divorce. In 1991, the Cayces started “Marriage Reconciliation,” a course designed to “...encourage and assist other individuals and couples who are separated or divorced to reconcile their marriages with God’s help.”

Participants discover how to heal and restore broken marriage relationships—even when one spouse is wanting out—and how to successfully rebuild a marriage after reconciliation occurs. John said the course is successful because it has at its core a belief that “while it may be impossible to overcome their marriage problems alone, with God all things are possible —Matt. 19:26.”

And successful it is. In the 12 years that the Cayce’s have been teaching this course they have witnessed nearly 200 marriages restored after separation or divorce. “They are modern-day miracles,” John said. “The most rewarding thing for us is to see families come back together after their lives have been shattered by separation or divorce. To know that children are being saved from growing up in a broken home, as Diane and I both did, brings us a great deal of joy.”

The Cayce’s own marriage grows by their involvement in this program as they teach others to reconcile. No matter how painful and dark a situation may be, maybe you should give the course a try. After all, what do you have to lose? A lot.

MARRIAGE RECONCILIATION

Nine-month program: Meets at 7 p.m. every Wednesday at the Richland Hills Church of Christ, 6300 NE Loop 820 in North Richland Hills. There is no charge.

One-day alternative: Held once every four months at the same church. Cost is \$10, covering materials, lunch and snacks.

For information: Contact Rita Hester at 817.281.0773, ext. 211, or via the Web site, www.rhchurch.org