

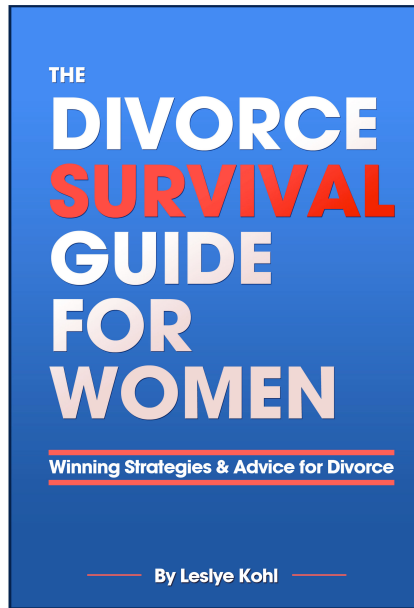
**THE**  
**DIVORCE**  
**SURVIVAL**  
**GUIDE**  
**FOR**  
**WOMEN**

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**Winning Strategies & Advice for Divorce**

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— **By Leslye Kohl** —



**By Leslye Kohl**

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# Introduction

Don't even think of a divorce until you read this book! This is the key to knowledge and the key to empowerment! If only I had this information when I was going through my divorce, the financial outcome would have been very different!

I know that my book will be helpful to you. I can't promise that you will win because you know all this information, but it will help you to fight a "mighty" battle and come out much better off financially than you would have without the information that I am giving you. Knowledge is the key to success. Knowledge is power.

The truth is that it's a man's world, and our court system is basically corrupt. You need to know as much as you can about how the process works because ... DIVORCE IS WAR!

## WHY I WROTE THIS BOOK

Everyone who gets married hopes and dreams that they will live happily ever after. They hope that they will have a happy, wonderful marriage that will last a lifetime.

You build your life with someone, and then there's the devastation and heartbreak of a divorce. Realistically, two-thirds of first marriages end in divorce, so you have to be savvy and think ahead in case a divorce happens to you.

## DISCLAIMER

My name is Leslye Kohl, and this is my story based on my personal opinions and my views of the events that happened and the documentation I have in my possession. I am not an attorney, so nothing in this book should be considered legal advice.

Every effort has been made to make this book as complete and accurate as possible. However, there may be mistakes, both typographical and in content. Therefore, this book should only be used as a general guide and not the ultimate or only source of information. This book contains information that is current only up to the printing date.

The purpose of this book is to entertain, as well as educate. I shall have neither liability nor responsibility to any person with respect to any loss or damages caused, or alleged to have been caused, directly or indirectly, by the information contained in this book.

## THE MOST IMPORTANT THING TO REMEMBER

You must treat your divorce like it is a business deal because that's the way your husband will treat it. So, you **MUST** plan ahead. Use your head and not your heart when planning your tactics and handling your divorce. Use your head and not your heart especially when dealing with your husband.

You will remember the good times. He, on the other hand, will only remember anything bad he can think of that happened during your marriage or anything he didn't like that you did, or anything that he doesn't like about you. If you think that your husband would never do anything underhanded or ruthless to you, or do anything to hurt you, think again. Divorce is War! It's hurtful, but you must remain strong and wise. Don't let emotions rule your decisions.

## PLAN AHEAD CAREFULLY AND PREPARE FOR WAR

Planning ahead is so important. I must admit that I didn't plan ahead as carefully as I should have, but my ex-husband had been planning ahead for at least ten years. For ten years he had been threatening to divorce me, and "I wouldn't get a thing because he had hidden his money and had already spoken to an attorney." He apparently had done both because most of his money was hidden, and he was prepared for a divorce. It was very difficult to prove the "phantom ownership" of his successful, privately-owned business and difficult, if not impossible, to find his hidden assets.



# Your Financial Security

## THE FIRST THING YOU MUST DO IS *GET YOURSELF FINANCIALLY SECURE!*

### 1. Credit Cards

You should have at least two major bank credit cards (American Express being one and a Visa or MasterCard), as well as one or two department store credit cards. This isn't something that you can do overnight. You have to start with one credit card, charge a little every month, and pay it off each month to establish your credit history. Then, the next card will be easier to get once you have a credit rating. An American Express card may be the best one to start with (call 1-877-621-2639 to get an application), or get a Visa or MasterCard. You don't need to hide this from your husband. You have every right to have your own credit cards!

If you don't have your own credit history during your marriage, it will be difficult for you to get credit in your name during or after a divorce because you will have no current track record. Also, if your husband has a habit of late payments, or if he defaults entirely on a card, your credit rating will also be affected.

## 2. Checking Account

Every woman should always maintain her own checking account, savings account, and/or money market account, a stock account and credit cards—separate from her husband's and with no connection to him whatsoever. Some men like my ex-husband want total power and control, but I didn't let that deter me.

Again, make sure that your bank accounts, stock account and credit cards do not link to your husband's and have no connection with him in any way. This will help you establish your own credit and prevent your husband from canceling your bank accounts and credit cards and leaving you with no credit and helpless. Don't think he won't do it, because he will! He will do anything he can to cripple you financially! Remember, Divorce is War!

## 3. Real Estate

If possible, you should have a piece of real estate in your own name. I realize that this isn't always feasible, but if you own a home or an apartment, it should be in your joint names with "right of survivorship" (in case one of you should die).

## 4. Utilities

The telephone in your home or apartment should be in your name, as should the gas and electric. This will prevent your husband from canceling your phone and utilities. Don't think he won't, because he will. He'll do anything he can to cripple you! Remember: Divorce is War!

## 18 IMPORTANT STEPS TO FINANCIAL SECURITY

**1. You must “stash” enough cash** to pay for your basic living expenses for at least six months. Even though your attorney will tell you that you will have temporary maintenance “in six weeks,” it will probably take as long as six months. Don’t expect your husband to be generous. He’ll immediately cut you off financially even when there are children involved.

**2. Document your standard of living**, including things your husband’s business pays for (even more important if he has his own business). The more documents you have the better. I didn’t have enough. You should also keep a weekly diary documenting your expenses and anything else you can think of that may be important. When something is paid for in cash, make a note of it. You don’t want to get a settlement based on his understated tax return. Establishing your actual standard of living is very important.

**3. Document your involvement in your husband’s business.** Keep records (in your diary) of social plans that are for business, dinner parties, charity events, etc. Keep record of any discussions that you have with him regarding his business. I advised my husband regarding business decisions on several occasions, which he denied during trial. He pretended that I had been no help at all to him in his business.

**4. Document your valuables.** This includes the contents of your home and any other property. Use a digital or a film camera and also videotape all of your possessions (I suggest both). Use the first page of the newspaper to document the date you are doing this, so you have proof



when it was done. This may prove invaluable if anything ends up missing, and also so you have your own records.

***IMPORTANT!***

Keep your diary and your documents in a safe place—  
NOT somewhere your husband can find them!

If there is anything of value that you think your husband will take, remove it from your home. My husband was taking our art collection from our country home, piece by piece, so I put all of the remaining art in storage. If he had taken all of it, there would have been nothing I could have done. I was honest and documented the art that went to storage. I never got back the pieces he took, and the judge did nothing to him regarding this theft. Because I refused to return the art to our country home, the judge denied me the use of our home during the divorce action.

I have heard (and read) about husbands who clean out their homes of everything. They also clean out their bank accounts and have gone as far as to sell their businesses. The wife is then left helpless with nothing. I have two girlfriends whose husbands cleaned out their homes of everything, including the wives' own clothing, and they never got anything back—while their husbands suffered no consequences.

*“Jane’s Law”* which was introduced to Congress in 2007 would make it a crime to cross state lines to dodge spousal obligations. This law is named for Jane Maharam, who was 52 when her husband of 31 years took everything from their Long Island home—all jewelry, art and cash was gone—leaving her a note that he was leaving her. He also emptied

their joint bank accounts and sold the successful family business. He then fled to Israel, leaving her with nothing.

**6. Know your husband's Will.** If possible, you should know what is in your husband's Will. I never even saw my husband's Will, and as far as I know, I wasn't even in it!

**7. Life insurance policies.** You should have a non-cancelable life insurance policy on your husband's life. This should have been taken out when you were first married or when your first child was born. Don't be afraid to insist on it—you have every right to have one.

After the fact will be too late—I learned that lesson the hard way. My husband never had a life insurance policy on his life with me named as a beneficiary, and I never insisted on it. As a result, I don't have a life insurance policy on his life today, and I lived with this man for 23 years of my life! The judge ruled that because there was no existing life insurance policy during the marriage, I wasn't entitled to one.

**8. Keep joint tax returns.** Always keep copies of as many previous years' joint tax returns as possible. I wasn't diligent about this either because I never anticipated a time when I would need them. The good news is that your accountant can request previous years' tax returns from the IRS if you require them. But it's easier if you keep copies yourself.

Also, it is very important that you never sign your joint tax return without reading it! I did that for too many years.

**9. Know your husband's financial information.** Accumulate as much of your husband's financial information as you can. Chances are that he keeps anything of importance in his office or a safe deposit box. Look anyway, however, because you never know what you will find! Be your own detective. The more financial information you have, the better off you will be.

***IMPORTANT!***

Do not keep your cash, your diary, or any information you get in your marital home or in a safe deposit box!

**10. Keep your email private.** DO NOT, under any circumstances, use your email to discuss with friends or family what you are doing. In fact, do not use your email for anything of importance! If your husband is just a little bit savvy, your email is the first thing he will monitor. Remember that even with a firewall, email is no more confidential than a postcard. Assume that whatever you write in an email could be printed on the front page of *The New York Times*.

Your husband can download a spyware program and send you an email with it as a hidden attachment. When you open it, you will unknowingly install a program that allows him to see everything you do. I have a girlfriend whose husband did this, even before she was thinking about divorcing him. I also know someone who knew her husband's password and monitored his emails, even during the divorce! He finally caught on because she said too many things that she couldn't have known had she not been reading his emails.

**11. Be discreet on the phone.** DO NOT, under any circumstances, discuss anything of importance on your landline phone. It is very easy for your husband to have your phone tapped and very expensive and difficult to find out if it is being tapped. It isn't worth the expense, so just be careful. There are things you can do to prevent a tap, but, also, the expense is not worth it.

Be careful, also, when you use your cell phone. Inexpensive scanners pick up wireless phone calls easily. If you really think your husband is monitoring your calls, get another cell phone and a new number and don't tell anyone or give the number to anyone and use it only for your important calls. You can also buy several prepaid cell phones (that's what drug dealers do).

**12. Be careful what you say** to friends and family. You never know if someone is a "spy." I had one in my immediate family. Someone may not be the friend that they want you to assume they are, so be very careful about whom you share confidences with.

**13. Be careful because your husband may have you followed.** Chances are, if you are thinking of divorcing him, he is thinking about divorcing you. Again, don't be naïve—Divorce is War!

**14. Power of attorney.** NEVER, NEVER, under any circumstances, sign a blank "power of attorney." On a regular basis, my ex-husband gave me a blank power of attorney to sign, and I repeatedly refused. When I asked him what it was for, he told me that our accountant needed it for taxes. When I called our accountant and asked him about it, he backed up my ex-husband's story, saying the IRS needed it. (Don't be naïve—anyone on your husband's "payroll" will lie for him.) When I asked



our accountant to fax me the letter from the IRS, needless to say, I never got it. This scenario happened on a regular basis for years! My ex-husband really thought I was stupid! If I had been stupid enough to sign a blank “power of attorney,” every asset in my name would have disappeared, and I would have had no recourse.

The only reason to ever sign a “power of attorney” is for a real estate transaction when you want your attorney to handle it because you are not going to be at the closing. First of all, you should write on the “power of attorney” “for one-time use only for \_\_\_\_\_” and write in the reason, such as “closing on apartment.” I actually would recommend, however, that you **never** do this and go to the closing. It is the only way you can truly protect yourself. You never know what will transpire if you are not there. Chances are that you will not be the owner or co-owner as you thought you were going to be.

When we were buying and “closed” on our country home, my ex-husband told me that I didn’t need to be at the closing and that he wasn’t going to be there. I went anyway—and guess what—he was there! I can just imagine what would have happened if I hadn’t gone. You can bet that my name would not have been on the deed.

**15. Safe deposit boxes.** DO NOT keep anything of importance in a safe deposit box. If you sue your husband for divorce or he sues you, the first thing that will happen is that all safe deposit boxes (that you are aware of) will be sealed, and the contents will be inventoried. They will remain sealed throughout the entire divorce action. As the honest spouse, you will be the one with a safe deposit box in your name. Your husband, on the other hand, will most likely have boxes that are not in his name but in corporate or other names, and may even have them out-of-state under different names. You can, by the way, do the same thing and take a safe

deposit box out-of-state. You may have a friend or relative who lives in another state where you visit often. You can use that friend's or relative's name and address for the box.

**16. Borrowing money.** DO NOT borrow money from family or friends to "fund" your divorce. Take a loan. This is very important!

**17. Your children.** Most important of all, NEVER use your children as a weapon!

**18. Empty accounts.** Just before you sue your husband for divorce (or if you know he's going to sue you), empty all joint checking and savings accounts. If you don't do it, he will. I can't tell you how many women tell me that this has happened to them! Remember Jane Maharam's story.

**Forewarned is forearmed!**

## Mediation, Arbitration, Collaborative, and Uncontested Divorce

While I have cautioned you that divorce is war, it doesn't have to be! There is always the chance that you and your husband will be in agreement about your divorce and want to go through it amicably and economically. This, of course, is what I hope for you.

This can be handled a couple of different ways. Here are your options:

**1. Do-It-Yourself Divorce.** If you and your husband don't have many assets and debts and are in agreement about the division of these assets and debts, you and your husband can do a "do-it-yourself" uncontested divorce with no lawyers involved. You can decide if there will be alimony (maintenance) and how much it will be. If you have children, you will also have to be in agreement as to how they will be raised and if there will be child support.

Go to [www.nolo.com](http://www.nolo.com), which has a wealth of information on "do-it-yourself" uncontested divorces. Nolo's website also has books and articles to guide you through the process.

**2. Mediation and Collaborative Divorce.** These are the other ways of getting an amicable divorce. If you feel that you need attorneys involved to help you make the right decisions, you have the option of

having Mediation or a Collaborative Divorce. There is also Arbitration, but I would not consider it because the Arbitrator listens to the facts and decides the case just as a judge would do. You have no say in the final decision.

Mediation is when you both meet with the same neutral person, called a Mediator, who helps you make decisions and reach an agreement and amicable settlement about assets, debts, alimony, raising your children, child support, and any other matters regarding your divorce. Each of you has your say, which promotes good communication and cooperation. This is especially important when children are involved. But you should know your legal rights before agreeing on any settlement. It may even be a good idea to have an attorney to consult with and advise you. If it works for you, however, mediation will save you time and money.

Collaborative Divorce (or Collaborative Law) is similar to Mediation—the difference is that you and your husband, with the help of specially trained Collaborative attorneys, will make the necessary decisions and reach an agreement and amicable settlement without going to court. You meet separately with your own attorney, after which the four of you meet together on a regular basis to resolve any differences. These attorneys are committed to helping you settle your divorce without litigation.

In this case, both spouses and both attorneys sign a “no court” agreement that requires the attorneys to withdraw from your divorce case if a settlement cannot be reached and the case has to go to court. If this should happen, both of you must hire new attorneys.

If you do decide to use Collaborative Divorce, you will save time and money and will avoid the “War” of a court divorce. Collaborative Divorce is the way most divorce cases will be handled in the future. It is



certainly more amicable and less costly than a court divorce, but both parties have to be in agreement and provide full disclosure of all assets.

A good resource for finding an attorney with experience in Mediation or Collaborative Law is Nolo's website: <http://lawyers.nolo.com>. Also, for more information on Collaborative Divorce, and for help finding a Collaborative attorney in your area, visit the website of the International Academy of Collaborative Professionals at: [www.collaborativepractice.com](http://www.collaborativepractice.com).

You can also contact your local Bar Association for the names of attorneys who specialize in Mediation and Collaborative Law.

Unfortunately, not all husbands are willing to use these methods of settling their divorce in an amicable manner. They relish the court battle, the "War," and the opportunity the court system allows them to try to destroy their wives. Full disclosure of all assets is also very important, and not all husbands are willing to do this. They would rather fight the "War" and take their chances in court to try to cheat their wives out of their fair share of the marital assets than settle amicably. This is a good description of my ex-husband. I had no choice but to go to "War."

# Finding Professionals

## HIRING AN ATTORNEY

If you have determined that you need an attorney, the next thing to do is research and find out the top four or five divorce lawyers in your city. It is important that you hire an experienced divorce lawyer because only an experienced divorce lawyer will know what to expect of the judges in your jurisdiction and will be able to use this knowledge to their advantage when handling your case. Make appointments and see as many of them as you can afford to see. When you make an appointment ask what the fee will be for a consultation and if this fee will be applied toward your retainer if you retain them. This prevents your husband from using these attorneys. It will also help you to decide which attorney will be best for you. I can't get this point across to you enough! I strongly suggest that you interview at least two or three!

You may feel the necessity to hire a "pit bull" attorney, but remember that you need an attorney who will work well with your husband's attorney to get the case settled quickly and equitably without causing you a huge financial and emotional drain. Unfortunately for me, my husband hired the "pit bull" attorney, so I never had a chance for a quick and equitable settlement.

As careful as I am about everything, the idea of going through a divorce again (this was my second) was so upsetting that I didn't interview

enough attorneys. The first attorney I hired had represented a girlfriend of mine, and she swore by him. I had interviewed one other attorney, who was a definite “no.” This was a very big mistake! Even when I wanted to fire my attorney at one point, my friend talked me out of it. Another big mistake! Maybe if I had interviewed a third attorney, I would have found the right one. Unfortunately, I will never know.

My biggest fear was that my husband would “buy” any attorney that I hired. My girlfriend assured me that this attorney couldn’t be bought. She was wrong. He was compromised by my husband’s attorney with discussions of a future partnership that would happen when our divorce was finished—I suspect early in the case. When I found out about it and fired him, I only interviewed one attorney, who also had been recommended to me. That was the biggest mistake! This attorney and her team turned out to be totally incompetent; and when I realized it, it was too late. Most importantly, she and her team were not part of the matrimonial “club” (the group of divorce attorneys and judges that are chummy with one another), and being a part of this “club” is crucial in a divorce case—especially in New York City. I didn’t realize how really important it is to have an attorney who is part of the “club.”

The third attorney I hired was someone who was recommended to me to handle a small matter. After the judge’s decision came down in my divorce action and I realized that I had to begin an Appeal, I asked him if he knew how to do one. Of course, he told me “yes” because he wanted the money. He not only had no expertise doing an Appeal, but he also had no presence in court. The Appeal he prepared was not properly done, which cost me any chance of winning. It was a terrible waste of money. He was a single practitioner, and he had no clout! He was also not part of the matrimonial “club.” I had to sit helplessly more than once in court watching

him freeze and “blow” my case during an oral argument with the judge(s). I know I could have represented myself better.

I also foolishly used him in my fee disputes with my first and second attorneys. At one point, I even hired another attorney to help him because he wasn't capable of handling my case on his own. I felt that it was better to hire another attorney to help him than to start all over with a new attorney because it would be so costly for him or her to learn all of the complexities of my case. I never should have used him to begin with—and I knew better! Using him cost me dearly financially. I should have trusted my intuition. Shame on me!

Because I was always so emotionally distraught and sick of the divorce and attorneys—so beaten down by the war—I hurt myself by not interviewing several attorneys in every instance. I wasn't diligent because I just wanted the whole thing to go away; of course, it wasn't going to. Don't let this happen to you! Your life and your future are at stake!

Bear in mind that it doesn't matter whether or not your husband is wealthy. A lot of men seem to feel the necessity to hide their assets, especially if they are anticipating a divorce. There is the possibility that he has already hidden a considerable amount of his assets. But there is always the chance that he hasn't; and, hopefully, if you hire a private investigator, he will find most of what exists before your husband has time to deep-six it!

***IMPORTANT!***

It is very easy for a man to get advice on how and where to hide his assets, and there are plenty of people out there who can help him do it. Hidden assets are very difficult to find. I was able to find very little.



## INTERVIEWING ATTORNEYS

Interview an attorney like you are interviewing someone who is going to work for you. After all, that's exactly what an attorney is going to do! The most important player in a divorce is the attorney. Divorce proceedings can drag on for months or years, so it's crucial that you find the best attorney for you and your situation. "Comparative shopping" is very important. When you are interviewing an attorney, take someone you trust with you to be your eyes and ears. You need someone with you who will be objective. This is a very stressful, emotional time in your life; and you are very vulnerable. You won't be able to think clearly. My adult son was very helpful to me at the beginning of my divorce. I couldn't have gotten through this stressful time without him.

Find out how many of the attorney's cases have settled and how many have gone to trial. Does he/she represent mostly men or women? Meet the associate or associates who will be working on your case. Most of the *big* attorneys have their associate(s) handle most of the case. I have often found that the associates are sometimes smarter than the attorney I have hired to represent me.

Don't forget to ask about the firm's fee structure. Ask for a "good faith" written estimate of what your total legal costs will be. Any lawyer can provide a minimum and maximum estimate based on a best and worst case scenario. Lawyers have to figure out how much your case is worth to them before deciding to take it, so they should be able to give you a ballpark figure. Do this before signing a retainer agreement. I didn't even think of doing this—but you must! Also an attorney with a lower hourly rate is not necessarily cheaper than a higher-priced one. If one person

can accomplish something in an hour, why pay someone else who may take three hours to accomplish the same task?

Ask how much of a retainer the attorney will want. The more money they know you have, the higher the retainer they will ask for. My first attorney asked me for a retainer that was double the usual retainer, but I didn't know it at the time.

You will find that when you are interviewing an attorney, they are also interviewing you. They will probably be more interested in your financial status than your case. They will want to know how much you and your husband are worth and how much money you have in your control to pay their fees. Never let them know how much you are really worth. If you hire them, they will eventually find out anyway.

Unfortunately, that is the “nature of the beast,” as the expression goes. Divorce attorneys have one thing in mind—how much money they can make from your case. That really applies to any attorney, but divorce attorneys seem to be the worst offenders. Just remember that the longer your case drags out, the more money they make (and they get paid by the hour). Divorce has become a very lucrative business for attorneys.

There are attorneys who are known for purposely making the divorce contentious, which generates more money for them and the opposing counsel. You could easily be on the receiving end of this conduct, and your attorney has to protect you if that's the case. My ex-husband's attorney is well-known for his contentious divorces. He used delaying tactics and obfuscation to run up legal fees, and I was hit with motion papers every time I turned around (known as motion churning). My attorney had to answer these papers, so my legal fees were enormous—and for no good reason. I gained nothing from my enormous legal fees, but I had no choice but to protect myself.

The second attorneys I hired were incompetent and totally raped me financially. I was already too deeply involved financially when I realized what a terrible mistake I had made by hiring them. This cost me not only the settlement I should have received but also an outrageous amount of legal fees. I lost big time! They, on the other hand, “made out like bandits”!

Remember, there is no way to tell from an interview if the attorney will be good or bad. They will tell you whatever it takes to get you to retain them! So, only time will tell.

## ATTORNEY/CLIENT AGREEMENTS

When you decide on the attorney you want to hire, you will be asked to sign a **Retainer Agreement**. This is a contract, and you can negotiate the terms. DO NOT sign it on the spot. Take it home, and read it carefully. If you have a friend who is an attorney, ask that person to review it. It goes without saying that Retainer Agreements are written to protect the attorney more than the client.

Review the section about what will happen if you decide to fire the attorney. Be aware of how you can protect yourself if this happens. Some lawyers use nonrefundable retainer agreements. Divorce lawyers have been known to refuse to return money paid to retain them, even though little or no work has been done.

Request that the retainer agreement specify that the attorney seek advance client (your) approval of all papers and letters before they're submitted to opposing counsel or to the court. This is very important! Also, specify that the attorney provide the client (you) with copies of all court documents, as well as all letters and emails sent or received. (You should keep your own files with copies of any and all documents related to your case, including court documents, letters, emails your attorney has written

and received, originals of documents you have given to your attorney, etc.)

**Also make sure there are no “hidden clauses” in the retainer agreement:**

1. Make sure the agreement doesn't say that if you don't have the money to pay your attorney's bills, you will end up having to relinquish a piece of your home, apartment, or a piece of personal property to the attorney. Do not sign a Promissory Note agreeing to pay anything or give anything to the attorney.

2. Make sure that the agreement doesn't say that the attorney will get a percentage of the settlement you receive from your husband. There are divorce lawyers who add that to their retainer agreement. This could be worded as follows: “the ultimate fee will be based upon time spent plus additional amounts based upon results achieved (or obtained).” Another phrase to watch out for is: “may be an additional charge based on the complexity of the case.” It could also be worded as simply as “the fee will be based on results obtained.” These are tricky clauses meant to get additional legal fees and a piece of your settlement. They're greedy—they get their legal fees and then they want a piece of your settlement too!

3. Make sure that if you fire the attorney or decide not to use him, that the retainer agreement does not entitle him to get a percentage of your settlement (even if they are no longer your attorney at the time). Some lawyers try to get you to give them a piece of your settlement even if you just use them for a short time or just consult with them (I know of several cases where this happened). One of my girlfriends used an attorney for a short time and then fired him. When her divorce was finished, he tried to get a piece of her settlement. She basically told him to get lost. Another girlfriend's husband had died, and a prenuptial agreement was in place. My girlfriend did not sign a retainer agreement;



she just consulted with an attorney and decided not to use him. He sent her a sizeable bill for the “consultation” when her settlement was done. She even asked him for his timesheets and never got them. She was afraid to fight him and just paid him—this was extortion! Don’t let an attorney get away with this! She realized later that he had no right to be paid for anything but the time she consulted with him, but it was too late.

4. There may be a clause in the retainer agreement saying that if the attorney settles your case very quickly and you receive a substantial settlement, the attorney gets a bonus. I actually don’t think this is such a bad thing because this may encourage the attorney not to drag out the case. Substantial settlement is the key word here. Unfortunately, this is such a lucrative business for attorneys, that he probably won’t want this to happen. Again, a quick settlement would only be to your advantage if you’re to get a substantial, equitable settlement, which I’m sure doesn’t happen very often. Men often view a divorce as just another business deal and a battle to be fought—sometimes to the bitter end. My ex-husband is one of these men. He’d rather have spent a small fortune in legal fees than give me an equitable settlement and fair share of our assets, which we acquired during our 23 years of marriage.

5. The attorney should **only** get a bonus if you agree to it. I have a girlfriend who had a prenuptial agreement and hired an attorney (recommended by someone) to finalize her divorce. Besides getting paid legal fees by her husband, the attorney took a sizeable “bonus” without her permission when the divorce was final. He just deducted it from her settlement. A bonus for what!!—for doing the job he was paid for! She didn’t know what to do—she was helpless! He also kept a sizeable amount of her money for over a year without giving it to her—for no apparent reason. When she finally realized that he still had her money,

and she asked him for it, he gave it to her without interest. In my opinion, he should be disbarred.

6. Make sure to check if there is a nonrefundable retainer clause in your agreement in the event you should reconcile with your spouse. Lawyers have also been known to insist that you agree to pay a “penalty fee” if the divorce is called off. You should never agree to this! Even if you don’t think that it will possibly happen at the time you retain an attorney, you never know. If it does happen, the attorney should only be paid for the time already expended on your case. This clause was in my retainer agreement with my first attorney; and because I didn’t know better, I didn’t have it removed.

7. You would like to think that most lawyers are competent and ethical, but what if yours isn’t? Many lawyers insert compulsory arbitration provisions in their retainer agreements. If you sign a retainer with this provision in it, you will be giving up your right to sue him/her. Your dispute will go to arbitration where the rules of law and evidence don’t always apply. Such a clause should be a red flag. Maybe this isn’t an attorney you want to hire!

8. Make sure that the agreement doesn’t say, “Thank you for hiring the firm of \_\_\_\_\_.” This may mean that the attorney you interviewed will not be the attorney handling your case.

**IMPORTANT!**

This is excerpted from *USING A LAWYER*, a manual published by HALT, which I recommend reading (<http://www.halt.org>):

“This is about a business relationship between two people, an attorney and a client:

- Take care in hiring.
- Be diligent in managing your case.
- Participate in decisions, but don't hamper your lawyer's ability to give you the expert advice you're paying for.
- Keep organized records.
- Don't fire without thinking first about the consequences.
- Be willing to pursue options for redress if the relationship fails.”

**HIRING A PRIVATE INVESTIGATOR**

Only hire a private investigator if you feel it is necessary. A lot of things are public record, and you can find them on your own. You have to be your own detective first. Also, you may have access to documents that a detective will never be able to get access to (but may be helpful to him if you do decide to hire one).

If your husband uses a computer (mine didn't), you can get computer-monitoring software called Spector Pro for \$100 that records everything from emails and instant messages to Internet activity and

downloads. You can also google “spy camera” for digital cameras, video recorders, and GPS, if you feel the necessity to do so. The Electronic Privacy Information Center lists sites that are legally dubious investigative services “for informational purposes only.” Remember that if you can do this to him—he can also do this to you!

If you do decide you need a private investigator, hire him after you retain an attorney and **before** you sue your husband for divorce. Hire the best one you can afford, but don't hire an investigator that will go online and get the same information that you can get yourself.

Your husband's financial information is more important than who he is sleeping with—but who he is sleeping with may still be important. If he is having an affair with a married woman, that may give you some leverage. He may be spending a considerable amount of money on her or he may be hiding assets in her name.

My first attorney kept delaying me from hiring an investigator and then gave me a mediocre one to use months after the divorce had begun—which makes me believe now that a “deal” with opposing counsel must have been cut right from the beginning. My ex-husband had plenty of time to deep-six any assets that hadn't already been deep-sixed.

Privacy and other federal laws have increasingly prohibited PI's from getting information legally that was readily available to them years ago. Even if they can get it, evidence that is obtained illegally is not always admissible in court. Don't let this deter you, however, because the information they get may still be of help to you.

You have to be specific about what information you want, so you don't end up paying for information you don't want or need. I would suggest having this in writing. Make sure that he informs you (in writing) how much this will cost, so that there are no financial surprises. Your PI should account for his time, detailing what he did, etc. This goes for any



subcontracted work as well. I hired one PI who took my retainer, and I told him the information I wanted. When I got his report, the information I got was not what I had asked for. His answer was that he couldn't find out the information that I wanted, so he got me this information instead—information I wasn't interested in. He simply found a way to use my retainer.

If your husband sues you for divorce, do the things I suggested at the beginning of this book, if possible. He may not expect you to react in such a bold manner. If you think you should hire a private investigator, hire one as quickly as possible. It may be too late, but it may not.

### ***IMPORTANT!***

You need to hire a private investigator through your attorney. If you hire him directly, there will be no client-attorney privilege. Your husband's attorney can then demand discovery and get a court order to access the investigator's files. You should ask your attorney for a referral, meet the PI and request references. (You can be the one to decide who to hire, hire him, and have the billing done through your attorney.) Also, verify that he is licensed and insured, if your state requires it.

## **RETAIN A FORENSIC ACCOUNTANT—YOUR EXPERT**

The next thing you should **immediately** do is have your attorney retain a forensic accountant. The call to him should be made

simultaneously with the signing of your retainer agreement. I wasn't savvy enough to realize this and suffered a major financial loss because my first attorney did not retain my financial expert until after he had already agreed on a trial date almost two years after I had retained him! He actually contacted him, but had not formally retained him—he was retained two years after the initial contact after I changed attorneys, which was too late. This cost me dearly in my settlement and the judge's decision. Within six months, your forensic accountant should have access to your husband's financial records, whether your husband has his own business or works for someone else.

Forensic accountants are skilled at valuing businesses and other assets, as well as conducting lifestyle analyses to provide you with a true picture of the earning power and income of your husband. If your husband has his own business or is a partner in a business, the accountant can scrutinize company records and apply proven accounting principles to ascertain if your husband's equity in that business is worth the amount he claims.

The leading authority on matrimonial law in New York State, Professor Timothy M. Tippens' book *New York Matrimonial Law and Practice*, describes the importance of retaining an expert early in the case. He says: "As is true of all aspects of trial advocacy, there are only three secrets of success: (1) preparation; (2) preparation; and (3) more preparation."

The Bottom Line: Hire the best financial expert you can afford, and hire him as quickly as possible so that your husband's attorney doesn't hire him first!

## FIND A GOOD THERAPIST OR SUPPORT PERSON

I have never been a “therapist person,” but during something as emotionally stressful as a divorce, you need someone to talk to. A divorce is supposed to be as devastating as losing a parent, so you need someone to help you get through it emotionally. You need someone to talk to, to vent to and to strategize with.

Find a therapist who specializes in helping someone get through a divorce. A word of caution—don’t make a therapist a permanent addition to your life. Some therapists try to get you so totally dependent on them emotionally that you are sucked into a permanent arrangement. Don’t let that happen. A therapist should be used just to get you through the emotionally upsetting times. You will be a stronger person if you deal with most of your problems on your own.

Your friends and family will want to listen to you and help you at the beginning, but they will get tired of hearing your problems. Everyone has their own problems, so you need someone who is neutral to talk to.

I tried a support group and found that I really didn’t want to listen to other people’s problems. I had enough of my own. I also didn’t want to discuss my problems with strangers, but everyone is different. You need to have someone to talk to who is neutral and who is savvy.

Check to see if you can get coverage from your health insurance to pay for the therapist. This may also be an expense your husband will have to pay.

Do not use your attorney as your therapist—it is too expensive and unproductive! During my divorce, my ex-husband and his attorneys were doing the most awful things to me, plus I had a judge who was blatantly prejudiced against me. I would call my attorney (who really wasn't interested) hysterically. Again, it was expensive and unproductive. Learn from my mistake and don't do it!



# How to Be a Savvy Client

## PROTECT YOURSELF AT ALL COSTS!

**1. DOCUMENT, DOCUMENT, DOCUMENT and Backup, Backup, Backup!!** Every time you meet with your attorneys or talk on the phone with them, take notes and type those notes on your computer along with the date (print and keep the copies in your own files). Make notes of what you want to discuss with your attorneys before you meet with them to save time, and make sure all of your questions are answered. Also, send the attorney a letter by both fax and mail memorializing what was said during these conversations. “I would just like to memorialize what we discussed on \_\_\_\_\_...” I never did this, and it was a huge mistake. Keep a log noting when you talked to the attorney and for how long. Keep notes of anything that happens or any thoughts that you have that may be important and useful to you later. I always did this, and in the fee dispute with my second attorneys, the referee referred to my notes/documents as my “secret files.” How absurd, and how stupid of him!

In her book, *Beauty Fades, Dumb is Forever*, Judge Judy Scheindlin refers to her “Hoover Files” (as in J. Edgar). These are her “notes of meetings, conversations and business discussions.” So, you can also think of your notes as your “Hoover Files.”

Always type letters to your attorneys (making copies for yourself), and send the letters by fax instead of calling and leaving messages or

telling them important things on the phone. Always print out emails you send or receive from your attorney. However, I want to reiterate that faxing is safer than an email for anything important. Every document should actually be sent two ways—by fax (with a fax confirmation) and by mail (certified if very important). If you tell your attorney something on the phone, you have no backup or proof that the two of you discussed it, and it will be your word against the attorney's. And because you're dealing with an attorney, his/her word will be considered the truth over yours—even though it's a known fact that attorneys are often the biggest liars!

Back up your documents on a CD on a regular basis, not only to protect you in case your computer crashes; but most importantly, to prove that these documents were written and when they were written. This is very important! I learned this lesson the hard way.

These documents will also be helpful to you if you change attorneys or have a fee dispute. These, along with the files you have kept of all documents that have been generated in your case, will help you remember what transpired. If you need to change attorneys, this documentation will help your new attorney to understand your case and “get up-to-speed” quickly.

I had a fee dispute with my second attorneys, and I was accused by them of fabricating documents for the fee dispute. This was totally untrue, and they knew it! In his decision, the referee in the case mimicked their untrue accusations and accused me of fabricating documents. Even though I had deleted them from my computer, I could have had a computer expert access my hard drive to locate the documents and prove that I had written them and when—if only I had known that the referee was going to make that accusation in his “decision.” You must back up everything! In retrospect, I never should have deleted anything from my computer. Learn from my mistake! Backup, Backup. Backup!

**2. Don't hand deliver letters to your attorney.** Again, whenever you have something to say to your attorneys, the best thing to do is send them a letter by fax with a fax confirmation and also send it by mail. Everything should always be sent two ways. One of my biggest mistakes was to listen to my girlfriend and hand deliver a letter to my second attorney during the first week of trial, which told her that I didn't want the lead trial attorney (who she had brought into the case) to continue to represent me. She refused to fire him after reading it and handed it back to me. During the fee dispute, she denied that I had given this letter to her. It was her word against mine! What a stupid mistake on my part. This very important letter should have been faxed to her and also sent by certified mail.

This occurred after the first week of trial when I realized that the attorney who was my lead trial attorney was incompetent. I went to a meeting with my attorneys; and before he came to the meeting, I handed the letter to my second attorney saying that I wanted him removed from my case. She read the letter, let the associate read the letter, and handed it back to me, saying that he would not be taken off the case.

When I showed this letter during the fee dispute, they denied ever having seen it; and the referee believed them, basically calling me a liar. If I had sent this letter by fax with a confirmation and by certified mail with a return receipt, they could not have denied receiving it. I should have also memorialized her refusal of this letter and her refusal to remove him from my case by fax and certified mail.

**I can't emphasize enough the importance of creating a "paper trail" to protect yourself in case you end up in a fee arbitration or in court later on. A letter of this importance should have been sent by**

**fax with a fax confirmation and also by certified mail with a return receipt.**

In retrospect, I should have had someone with me that day as a witness and also recorded the conversation.

The same day, after she refused to remove him from my case, and I told her that I didn't need three attorneys, she told me she would adjust the final bill to combine her fees with his attorney's fees. When I received the final bill without this promised adjustment, she denied ever having promised it. During the fee dispute, both she and the associate involved in my case, who witnessed everything, blatantly lied about our conversations and the promises she made to me.

Learn from my mistake—I should have had someone with me that day as a witness and also recorded the conversation. I should have sent her a fax and certified letter memorializing everything that occurred. If your attorney tells you this kind of diligence on your part isn't necessary, pay no attention—I can tell you that it is!

**3. Never pay your attorney's bill in full every month, even if you can afford to.** If there is ever a fee dispute, the fact that you paid your bills in full every month will work against you. Also, if you have any complaints about the bills or complaints about your attorneys, write the attorneys a letter, immediately, and send it by fax and certified mail, so you have documentation. In my case, with my first attorney, I continually asked why discovery wasn't moving along and why things weren't getting done when I was paying so much money. I called him or left voice mail messages instead of sending letters, which was a big mistake. Then, I found out that he was compromised by opposing counsel.

The fact that I paid my bills didn't help me in the fee dispute with my second attorneys. **The fact that I didn't complain often enough and**



**specifically enough also hurt me.** I wrote my second attorney a letter at the beginning of the case to complain about my bill, but it wasn't enough. After that, I only complained verbally. That was also a big mistake. The lesson learned here is that you must always create a "paper trail."

Have your accountant/auditor review your bills either every month or every couple of months. I never did this, and it was yet another big mistake. Attorneys always pad their bills. I recently heard from a friend who is an attorney, whose daughter used one of the top divorce lawyers in New York, that when he had someone review her bills at the end of the divorce, there was so much padding that her attorneys had to reduce their bill by half. Learn from my mistake!

**4. Attorneys aren't necessarily smarter than you!** They may be smarter than you in the divorce procedures (you hope) and how to milk you for all you're worth, but chances are that you are actually smarter in most respects. Both attorneys I used during my divorce treated me like I was there just to pay the bills and not to interfere or voice my opinions. They resented my writing letters or memos asking about the status or making suggestions. I felt intimidated and let them get away with it. Big mistake! You need to be an active participant in your case and in the decisions that are made. Remember that you have hired the attorney to work for you on your behalf! The degree of active involvement you take in your case will affect the time and money you spend, how well you are informed about what is going on, and whether your attorney is handling your case the way you want. **The most important thing to remember is that you are the boss, and you are paying the bills! Your attorney works for you!**

My first attorney once told me that I was too smart for my own good, but I wasn't as smart or savvy as I wish I had been.



During my trial, there were documents that I felt were important to produce as evidence, and my second attorneys ignored me. I wrote the attorneys notes suggesting questions to be asked, and, again, they ignored me. The result of the trial was disastrous to me financially, but the attorneys “made out like bandits,” as the expression goes. They forgot to produce two documents as evidence which were probably the most important documents (the tax return from my ex-husband’s company the year I sued him for divorce was one). I didn’t realize that these documents weren’t put in as evidence until I read the Judge’s decision. By then, it was too late.

***IMPORTANT!***

Be involved in your case! This is your life and your future! You know your case better than anyone else! After all, you are the one who was in your marriage. Remember that you are no more than a dollar sign to your attorneys, and they will milk you for every penny they can get. You have to look out for yourself!

**5. Your attorney is not your “friend” or confidante.** Do not confide in him or her! There are many reasons for this, but most importantly, you don’t really know what his relationship is with opposing counsel. Remember my story! What you’ve confided in him may come back to haunt you.

AND, if he is a man, do not sleep with him! You are at a very vulnerable time of your life. **You are nothing more than a dollar sign to him, and you must always keep that in mind! Never forget that this is only a business relationship!**

**6. If you ever have any suspicions that your attorney has sold you out then you are probably right.** Sometimes, you may feel that your attorney is helping the other side, and a woman's intuition is usually correct. Cutting deals with opposing counsel is not uncommon among divorce attorneys. You will have to decide how to handle this. Check the section in this book titled "Firing Your Attorney" for some guidance.

**7. Judges have a lot of cases and don't remember what is in your papers.** If there are important facts in your case, your attorneys must continue to remind the judge about them—over and over and over. Repetition is very important! Repetition is key! In my case, my husband owned part of a building in London, and he had drawn up legal documents giving it to me but took the income for himself. This building generated a significant amount of after-tax dollars every year. We pointed this out to the judge early in the case, but when it was mentioned at trial, she said she had never been informed of it. This was important information to consider in the case because my husband's attorney continued to produce motion papers claiming that he didn't have the money to pay my maintenance every month (while retaining one of the most expensive divorce attorneys). Again, repetition is key!

**8. Do not under any circumstances move out of your home.** If your husband refuses to move out of your home, he will probably do everything he can to make life miserable for you to force you to move out. DON'T ALLOW THIS TO HAPPEN! If you do, you may legally terminate your right to live there.

**9. Make sure that your attorney memorializes in writing all conversations with opposing counsel and the judge.** Every time your lawyer has a conversation with opposing counsel and/or a conference call with the judge and opposing counsel, he must memorialize it in a follow-up letter documenting what was discussed and what was agreed upon. My last attorney didn't do that, and it hurt me on more than one occasion. Everyone quickly "forgets" what was said and agreed upon at a later date. This is very important!

Before my divorce was final, my attorney, opposing counsel and the judge had a conference call to decide on how many days I would have to empty my personal things from our country home. The judge decided on three days and that my husband would pay for me to stay in a motel and rent a car. My attorney did not memorialize this conversation, and after the divorce was final, everyone quickly forgot what was said. As a result, I was actually allowed just two days—when I arrived on the second day (I thought I had three days), my ex-husband and his attorney called the police and told them I had a restraining order against me (which was not true) and I was forced to leave. The third day I went to the house, it had been emptied except for the few things that my ex-husband had decided he felt were mine. I lost so many of my own personal things because of the negligence of my attorney—not to mention the cost of renting a car and staying in a motel.

**10. Keep the original and only give your attorney copies of any documents.** Documents can be misplaced in your attorney's office. Any documents you give to your attorney should have a cover letter documenting the date and what you are giving him/her, so that you have a record. The only time your attorney may need the original is for trial. I made the mistake of giving my first attorney original documents without

making a copy for myself. When the divorce was finished and I went through the files, I found documents that I had forgotten about which should have been used at trial. They simply got “lost in the shuffle.”

## THE IMPORTANCE OF RECORDERS

During the divorce, the chances are great that you will be sharing your home with your husband (unless he is a gentleman and moves out). It will be very stressful, to say the least. He will do everything and anything he can to make your life miserable and try to force you to do something rash so that he can get a court order to make you move out. He will purposely do things to upset you. Don't, under any circumstances react; and, as I said before, don't under any circumstances move out of your home! It may hurt your chances of keeping your home after the divorce.

My ex-husband did not move out of our apartment, and we shared our weekend home. He did everything he could to upset me, hoping to get me to do something drastic. Here are some of the things he did: He was “gas-lighting” me by going through and stealing my personal things. He would follow me around the apartment and stand right next to me, hoping that I would physically make him move away. He would turn on the television very loud. He would make noise in the middle of the night so that I couldn't sleep, and on and on.

If your husband refuses to move out, buy a small Sony Cassette-Corder model #TCM-400DV or the new digital one that Sony recently came out with, that fits in your hand. Any time you are around your husband have it on. I recorded my ex-husband threatening to have me killed. “No one would know because he was going to have someone else do it.” Because I had that recording, I probably saved my life!



After I recorded him saying that he was going to have me killed, he realized that I had recorded him, and he tried to get the recorder away from me. In his efforts, he nearly did choke me to death. I called my son, who called the police, and my ex spent the night in jail. His attorney advised him to move out.

My ex-husband was then convicted of Harassment in the Second Degree and was sentenced to ten days of community service. (The Assistant District Attorney who handled my case told me that was the most any man had ever been sentenced.) The judge in my divorce case wasn't even interested. I was lucky that I called my son because if I had called my attorney, he would have advised me not to call the police, as he had done once before.

Anytime you are with your husband, you should have your recorder on. I had lunch with my ex-husband during the divorce, and I accused him of having offshore money. He told me that if I found any offshore money I could have it. When the divorce was finished, I found a significant amount of offshore money, but there was nothing I could do. He, of course, denied having ever said that to me.

During the trial, I had dinner with him, during which he made me an offer of settlement. I told my attorney, who confronted his attorney with the offer in court the next day. Both his attorney and my husband denied that the offer had been made. The two lawyers nearly came to blows! If I had recorded the conversation, I could have made liars out of both of them! This was just one of the games that your husband and his attorney can play to try to "break" you.

Also, record all conversations with your attorney. I wish I had done this. You should always feel it necessary to protect yourself. You can use either of the Sony ones I suggested, or you can go to a "spy" store and buy a recorder which is very small but much more powerful and



sophisticated, that can also attach to your telephone. I wish I had known about this during my divorce.

Bear in mind that some states require by law that you advise the other party that the conversation is being recorded. In states like New York it is legal to record conversations as long as just one party is aware the conversation is being recorded—and the one party can be you. You don't have to tell your attorney that you are recording the conversation.

The lesson learned from these stories is that you must always be “wired” to protect yourself.

## **A MARRIAGE SHOULD BE A FINANCIAL PARTNERSHIP**

Unfortunately, most men only consider marriage a partnership if they should get sick and need you to take care of them or if they have financial difficulties and they need you for moral support. When a man wants to divorce you, he suddenly forgets that you have been his “partner” in building your family's financial assets. Even though you have every right to be an educated, participating partner, many men will make sure you know as little as possible about their (your) finances. My ex-husband kept me completely in the dark about his successful, privately-owned construction companies and investments. He was a tyrant, and I hated fighting about it. I was foolish to let him get away with this, and it cost me dearly financially.

## DISCOVERY

After six months, discovery should be well on its way in your divorce case. Discovery is the process before your divorce trial where the attorneys for both parties gather evidence and documentation from one another. This would be a good time to ask your attorneys for a “progress report.” At the end of a year, if discovery has not been completed, then something is very wrong.

I didn't realize this, and even though I kept asking my first attorney why my husband and his company were able to stonewall with discovery, I apparently didn't scream loud enough about it. I didn't insist that my attorney get contempt motions against my husband and his company to force discovery. This is something he should have immediately done without my having to insist on it. He never did—I never knew to insist on it!

If discovery has not been completed or is not nearly completed by the end of a year, you should consider whether you have been “sold out” by your attorney—if a deal has been cut with opposing counsel—and seriously contemplate changing attorneys. If you have any doubts, your intuition is probably correct.

After two years and after having paid my first attorney a small fortune in legal fees, he agreed on a trial date without having hired my forensic accountant (my expert) and having gotten very little discovery. I left him a voicemail accusing him of having been bought, “if I didn't know better, I would think that you were bought.” He invited me to lunch and over lunch he told me that opposing counsel had offered him a partnership when my divorce was finished. He also followed up with a letter to me confirming what he had told me at lunch. “Though I do not know where my

dialogue with [him] will ultimately lead, I told you that I considered it my ethical duty to advise you of such circumstance and that the dialogue may continue after your trial is concluded.” Of course, he only considered it “his ethical duty to advise me” after I accused him of being bought. Apparently, a deal had been cut early on, and I was the one who would be screwed in the end. I was.

## 21 WAYS YOUR HUSBAND CAN HIDE HIS ASSETS

Your husband may view your divorce as a WAR for which he will hire the most aggressive attorney to wage an all out war against you. This attorney will be able to advise him of a myriad of tactics he needs to know to use against you, so be prepared. My ex-husband fought me to the bitter end, running up a fortune in legal fees for both of us. He is a very spiteful, vindictive man. He would rather have destroyed me then reach an amicable settlement. He hurt me financially, but he wasn't able to destroy me, he destroyed himself. If your husband hides his assets, here are the things to watch out for:

**1. The first thing your husband will do is to drop his income and plead poverty.** If your judge is stupid enough to believe this nonsense, then you are in trouble! The judge in my case believed it (or something was going on that wasn't kosher). I had proof of the lifestyle I had led up until the day I sued my ex-husband for divorce, but the judge ignored whatever evidence she was shown.

“How many successful businesses have you heard about that mysteriously stop making profits as soon as divorce enters the equation?”

—Judge Judy Sheindlin

**2. He will use his credit cards to “live on.”** In this way, he borrows money from them, creating huge debts and essentially receives income that isn't taxable! Even though my ex-husband testified during trial that he used his credit cards to fund his affairs, in her Judgment of Divorce, the judge made me pay half of his credit card debts. Seems a little unfair, doesn't it?

**3. He will drain his IRA's and pensions.** Your husband can pretend that he needs the money to live on, while squirreling it away. Half of his IRA and pension money is yours! He may also liquidate insurance policies doing the same thing. My ex-husband did both of these.

**4. He may have retirement accounts that he has not disclosed.**

**5. He may set up a custodial account(s) in the name a child (children) and use their social security number(s).**

**6. He will “borrow money” from friends and business associates to live on because he is so “destitute.”** These are bogus loans, and it's just a ploy in order to pretend poverty. He may also claim that he has prior “loans” that he must repay, which he took to maintain your lifestyle. Again, my ex-husband used both of these dishonest tactics.

**7. If your husband has his own business, it's very easy for him to hide his real income.** Taking "loans" from his business is the easiest way. He can either take the loan for himself or someone else (who will then "loan" him the money). A year or two later, the loans will be "forgiven." This is also a way that he can avoid showing this money as income and paying income tax on it.

My ex-husband took "loans" from his business. He borrowed money from his business that he had a "phantom ownership" of. Then, he had people who worked for him borrow money from the business and "loan" it to him. Later, these bogus loans were "forgiven." These were simply ways to hide income from me and cheat the government out of taxes that he should have been paying. Even though we pointed this out to the judge, she wasn't smart enough to get it or didn't want to know about it. In her final Judgment of Divorce, she made me pay for a portion of some of these bogus loans.

My ex-husband can be compared to criminal kingpin Dennis Kozlowski of Tyco, who used bogus loans to take money from his company to hide his real income and avoid paying taxes on it. Then the debt was erased.

**8. If your husband has his own business, he can skim money from the business (cash).** This can negatively affect the company's revenue and lower its value. My ex-husband did this as well.

**9. If your husband owns his own business, he can put his company(s) into bankruptcy and start a new business.** If your husband does this, like my ex-husband, he can then hide the money from the business in offshore accounts, hedge funds and various other places.



**10. If your husband owns his own business, he can also be what is called a “phantom owner.”** He actually owns the business, but he is not on any documents that prove his ownership. As I mentioned before, my husband was a “phantom owner” of one of his businesses. A good forensic accountant can prove ownership with access to company books and records. Because my first attorney failed to hire my forensic accountant at the beginning of my divorce action (he was hired too late—after two years and just before trial), he never had access to the books and records of my husband’s company. Therefore, I was never able to prove my ex-husband’s ownership of his successful, privately-owned business. He went to such extremes to keep me from getting a piece of this business, that he was indicted. The Manhattan District Attorney easily proved his ownership, and my ex-husband went to prison for 4¼ to 10 years! The fact that he went to prison is poetic justice!

**11. It is very easy for your husband to put money in offshore accounts or offshore trusts.** However, it’s very difficult for you to find these funds because they can be in a corporate name or a person’s name, or any name for that matter, and they can be anywhere in the world. Your husband doesn’t even have to leave the U.S. to do this. There are people and companies here who will make all the arrangements. I was able to research a couple on the web.

**12. He can access his money without leaving a paper trail.** Your husband can easily access the money in his offshore accounts, foreign bank accounts, or stock accounts with ATM access, or a debit or credit card, connected to the accounts. My ex-husband used a debit card on a British bank account to hide extra income. He transferred money into this account from one of his offshore accounts.

**13. Your husband can hide assets in corporate names or someone else's name** (even using their social security number)—his children, his ex-wife (if you were not his first) and his girlfriend. He can also use fictitious names, which make the assets nearly impossible to find. This can be done with trusts, real estate investments and various other vehicles. A good private investigator may be able to help you here, as sometimes there is a paper trail.

**14. He can have income that isn't reported on tax returns and financial statements.** For example, your husband can invest in a Hedge Fund or an Investment Fund (like a Madoff Fund) and have the interest reinvested without receiving regular statements. Until he takes the money out of this fund, it will never show on his tax return. Another example: He can invest in certificate "bearer" municipal bonds, which do not appear on account statements because they're not registered with the IRS.

**15. He can defer bonuses, raises, commissions, and stock options.** If your husband does this, it means that he doesn't have to show these funds as income during the divorce action.

**16. He can use insurance policies with a cash value to hide money.** My ex-husband took out insurance policies on people in his company (which he owned as a "phantom owner"), naming himself as the beneficiary. He accumulated equity in these policies that were owned by him, while his company paid the premiums on them.

**17. He can purchase property which requires no ownership paper trail.** These purchases can include items of high value, which are easily disposable and easily stored, such as: diamonds, gold, other rare stones, jewelry, art, antiques, etc.

**18. He can stonewall the discovery process.** He can delay, delay, delay, hoping to beat you down emotionally and financially. My ex-husband and his company stonewalled giving my first attorney discovery, using all sort of delaying tactics and obfuscation. After two years, I had very little discovery. I blame my attorney for letting them get away with this. After six months of stonewalling, he should have made motions to the judge holding them in contempt. He was supposed to be an experienced attorney when I hired him—he knew the proper procedures to take. By the way, this is not something that lawyers necessarily object to because the longer the divorce drags on, the more money they make.

**19. Your husband's attorney can excessively litigate in order to drive up fees and obstruct you from getting discovery.** This is called "motion churning," and I was definitely a victim of it! This becomes a war of attrition where the wealthier spouse (usually the husband) prevails. This can drive you deep into debt, and many women just give up. When my divorce was final (the judge's decision), I was heavily in debt. And it's money that I will never be able to get back. My ex-husband, on the other hand, can earn back whatever he spent on the divorce in a year.

Russell Pearce, a Fordham University Law School Associate Professor, said the following in an article in *Lear's* in 1992 when describing motion churning: "[It] is a conventional defense tactic. Part of the game of our judicial system is imposing costs on the other side."

**20. Don't be surprised if your husband's attorneys commit perjury, knowingly and willingly helping your husband to conceal assets.** Two law firms that worked for my ex-husband committed perjury, as did my ex-husband, the people who worked for him, and his business associates during my divorce proceedings and during the trial. It was quite obvious, but the judge ignored it. Perjury is apparently widely accepted as a tactic in divorce proceedings. What ever happened to perjury being a crime?

**21. He may sue for custody of your children.** Many (but not all) custody battles have the hidden agenda of money. Some husbands are just vindictive and want to control their wives through the children. His lawyer may advise him (if he's not the primary caretaker) to sue for custody to get you to give up your economic rights in exchange for custody of your children. Many women end up doing this.

Some men want custody because they want their wives to pay child support. Thank goodness I didn't have children with my last husband, so I didn't have this problem! If you do, however, be forewarned.

In November 2006, an article in *Forbes Magazine* said: "As soon as the divorce papers are served, the asset shuffling begins. It's amazing what angry spouses try to do—and what they can get away with. Fudge any number in a publicly traded corporation....will have you behind bars. But fudge an asset figure in a divorce battle and nothing happens. It's just accepted as part of the rough play that is expected in a bitter lawsuit."

Unfortunately, not enough states penalize a spouse who conceals assets that are later uncovered. I uncovered a considerable amount of money in two offshore accounts after the divorce was final, but the judge wasn't interested. She actually protected my ex-husband (the now twice



convicted felon) during her dissertation in court. She said that I couldn't prove the money was marital, but she wouldn't allow me to investigate it to prove that it was marital. Of course, it was! And he had never shown this money on his tax returns.

Just remember, they will use every trick in the book and then some! There are lots of ways to hide assets.

## YOUR ATTORNEYS—WHAT YOU SHOULD KNOW

Attorneys always start off like “gang busters” because they make most of their money at the beginning of the divorce action (unless you go to trial where they really clean up). You'll be shocked at how quickly your retainer is gone! After about six months, everything will slow down because they have already received the major part of their legal fees from you and are working on new cases. They will start to get bored or grow tired of your case, especially if it is contentious. And as you've already learned, mine was very contentious.

You hire an attorney thinking that they are going to be the one representing you, but that is not always the case. My second attorney totally misled me when I interviewed her. After she received my retainer, she brought in another attorney to be the lead counsel during the trial. Another incompetent attorney, I might add.

Also, the attorney you hire will most likely not be doing most of the work in your case. Associates will be doing most of the work. You'll be lucky if they even show up for court appearances and depositions—which is a reason why they don't want you there. If this is the case, I suggest you advise your attorney that you expect him or her to be there.



## YOU MUST STAY INVOLVED IN YOUR CASE

It's up to you to stay on top of everything and keep things moving along. If you don't stay involved, you might as well dig a hole and get in it! Your life and your future are at stake! Learn as much about your case and the laws involved so that you can be an active participant in making decisions that affect you. Continue to get whatever information you can that will help your attorneys. Be your own detective!

Attorneys are “not used to dealing with smart, aggressive women. They're used to controlling women, not dealing with women who take control. Frankly, if someone calls me a control freak, I automatically say thank you.” –Judge Judy Scheindlin.

Your attorneys will resent your involvement, but don't let that deter you! Remember, it's your life and your future that are at stake!

## ATTEND ALL COURT APPEARANCES

Attend all court appearances. Your attorneys would prefer that you don't because then you can't witness them making mistakes if you aren't there, and you can't see that they've sent another attorney in their place. The first attorneys I had didn't want me to go to court with them, so I didn't because I didn't know any better. When I finally realized that I should be there, I was able to witness their many mistakes.

My second attorneys didn't want me to go to court with them either. They did not want me to go with them to court when they informed the judge that I fired my first attorney and hired them—this was a very big mistake on my part. They went in front of the judge without the “smoking

gun,” which was the letter from my first attorney advising of his partnership discussions with the opposing counsel. I should have been there. They were incompetent and their mistakes were innumerable and cost me dearly.

## ATTEND ALL DEPOSITIONS

Always attend depositions and take notes. You know your case better than your attorneys, so you must be there even if your attorneys say you don't need to be there! At one of the first depositions in my case, I witnessed my first attorney giving up the fact that we had important, potentially damaging documents, far too early in the case. These did not have to be disclosed at that time, and it was definitely to our advantage that the other side did not know that we had these documents. I sat there wondering whose side he was on. He was nervous when he asked the person being deposed about them—obviously hoping that I wouldn't realize what he was doing. I did. I never made an issue of it because it was pointless after the fact—the damage was already done. In retrospect, I should have immediately looked for another attorney and fired him. This was just one more indication to me that the deal he cut with the opposing counsel was made very, very early in the case, much earlier than I originally thought. If your intuition tells you something is wrong, go with your intuition. Your intuitions are usually right. Remember that your intuition is useless if you don't trust it! Learn from my mistake!

## EQUITABLE DISTRIBUTION LAWS

These laws actually work to benefit attorneys. “Instead of just handling a divorce, the lawyer will be asked to help split up large amounts of money and property,” predicted the well-known Manhattan divorce attorney, Raoul Felder, in the *New York Daily News* in 1980. “When this happens, a lawyer becomes a kind of partner in the litigation and makes considerable more money.”

“The lawyer feels it is his or her job to help a paying client achieve the best possible results,” explains Professor Stephen Gillers, a legal ethics expert at New York University School of Law in an article in *Lear’s* in 1992. “So if the client wants to stall to make an opponent desperate, the lawyer is going to see that this is done.” Equitable distribution laws encourage such stalling.

I was definitely a victim of the results of the “equitable distribution laws.” My ex-husband and his company stonewalled for two years not giving us the necessary documents requested for discovery. After two years and very little discovery, and having paid my attorney a small fortune in attorney’s fees, I found out that my attorney had been compromised by opposing counsel. He set a trial date without having finished discovery and without having retained my forensic accountant (my expert), while trying to make me “settle” out of court. He obviously never thought he’d need discovery or that he would have to go to trial. I think the deal that was apparently “cut” with opposing counsel must have been to drag the divorce out until each had made what they wanted to make from the case, and then I would be forced to settle. I didn’t. I fired him instead.

I should have known enough to fire him at the end of the first year when there was little discovery and he had not yet retained my forensic

accountant. But I had no one to give me the kind of advice I'm giving you—what to be aware of and the time limits on discovery, and the steps I should have taken to protect myself. Learn from my mistakes!

***IMPORTANT!***

If you think I'm paranoid, read this:

***“Matrimonial lawyers often overcharge, underperform, and generally take care of themselves at the expense of their women clients.”*** (Quote from an article in *Lear's*, September 1992, “Picking the Pockets of Divorcing Women,” by Mark Green who was at that time the Commissioner of the New York City Department of Consumer Affairs.)

Even though this article was written in 1992, it is no less accurate today as to the injustices women suffer during a divorce. The laws keep changing, and each time they do, women come out worse and with less than before. The “equitable distribution laws” have hurt rather than help women.

## YOUR ATTORNEY CAN OVERCHARGE OR ENGAGE IN PHONY BILLING

According to an article by Stanford Law School professor Deborah Rhode, a legal ethics scholar, “Nearly all practitioners [admit to engaging in] some form of deception, [including] billing two clients for the same time, charging for unnecessary work, or failing to disclose the basis of a bill.” During my case, I felt strongly that my second attorney was billing me for time she wasn’t spending on my case because she had an associate doing all of the work. There was no way I could prove this, however. Billing two clients for the same time (double-billing) is a common practice. She was also overlawyering my case—big time! There is no ceiling to lawyer’s fees. **Lawyers are allowed to charge legal fees that are higher than the total value of the marital estate.**

Some other ways your attorneys can pad their bills (deceptive billing) are:

- Billing you for “reviewing” and “analyzing” documents, etc. (there is no way for you to know how much time they actually spent).
- Billing you for “research” (again, there is no way for you to know how much time they actually spent). He may be learning the law on your money.
- Billing you for phone calls (there are various ways to pad this). Your attorney can be on the phone with opposing counsel, for example, discussing another client and have a brief discussion about your



case. If they even just mention your case, they will bill both clients for the entire conversation.

- Billing you for “conferences” with other attorneys or with you. You might stop by your attorney’s office to sign papers and get billed for a “conference.” He can ask another attorney in his office a question about your case and bill you for a “conference.”
- Billing you for travel time to and from court when they are, in fact, working on another case while traveling.
- Going to court for more than one client and billing each for the entire time spent.
- Overstaffing and overlawyering your case—“spreading the wealth.” In other words, involving as many attorneys, associate attorneys, paralegals, clerks, librarians, secretaries, and other staff as they can on your case in order to increase your fees. They can also show up in court for conferences with more than one attorney, which is totally unnecessary from what I have seen.

My second attorneys showed up in court every time with three attorneys—two partners and an associate. They also had three attorneys (incompetent ones I might add) in court throughout my trial. Court appearances could easily have been handled by one attorney—and two attorneys (an attorney and an associate) would have been more than enough during trial.

- Adapt documents from previous cases to fit your case and charge you for the time it took to research and draft the original document. With computers, it is so easy to make the changes necessary for each client with very little time expended.
- Billing for a partner when an associate actually did the work.
- Doing mediocre or sloppy drafts of documents or letters, which must be redrafted repeatedly before they are final. You are billed for every draft and the time expended discussing and preparing them. My last attorney was the guiltiest of this. It was exasperating! I had to rewrite and edit almost everything he wrote, especially his letters.

As you can see, you must review your bills and have your accountant/auditor review them. You may not see the mistakes and padding that an accountant will easily see. I never did this because no one advised me that I should—which was a big mistake—but I’m advising you to! Learn from my mistake!

Some law firms put quotas for billing on their attorneys. As I mentioned before, attorneys can overstaff and overlawyer your case to generate fees; and if they know you have money, they’ll make sure they get as much of it as they can. My second attorneys were guilty of overstaffing and overlawyering my case. I was totally financially raped by my second attorneys.

The bills from the last attorney I used made me feel like he would pick an amount of money that he wanted from me that month and work backwards, padding it wherever he thought he could. “Review” and “research” were his favorite words. He was always “reviewing.” On more

than one occasion I asked him for his time sheets, but he never produced them. You are entitled to receive your attorneys' time sheets, and they must account for every minute they spend on your case! I didn't pursue it because I got tired of "fighting" everyone.

"Among the most common complaints filed with state bars is that lawyer fees are too high for the work done." *Using a Lawyer* by HALT.

### ***A WORD OF CAUTION!***

Attorneys are known to "bug" different areas in and around their offices (i.e., elevators, elevator lobbies, reception area, conference rooms, and maybe even the bathrooms). When you are interviewing attorneys, or when you are waiting to see your attorney, or when you have just left a meeting with your attorney or opposing counsel's office (during your depositions), do not discuss anything of importance with the person who has accompanied you or on your cell phone until you get outside the building.

## YOUR ATTORNEY CAN ABANDON YOU WHEN THE MONEY RUNS OUT

It is not unheard of for an attorney to refuse to continue to represent you if you don't have the money to continue paying him. Or your attorney can pressure you to settle prematurely when he/she sees that your resources are running out or if your spouse (who has been ordered to pay legal fees) doesn't pay them. Usually, as long as your attorneys know that they are being paid, they will work diligently for you. After they've milked you for all you're worth, however, they will lose interest. My second attorneys tried to make me take a settlement at the beginning of the trial that I knew was unfair—after they had already billed me an outrageous amount of money. I refused. It was obvious that they had financially raped me for “enough money” and wanted get rid of me and my case. Unfortunately, they did such an incompetent job of representing me during trial that I didn't do much better than the offer that was made. I actually ended up doing worse because they billed me a ludicrous, exorbitant amount of money for their incompetence during trial that I had to pay after the divorce was final.

Attorneys are the most notorious liars! My first attorney wasn't honest with me for two years, dragging my case out and not aggressively pursuing discovery. Then he lied to the judge in his Affirmation about the fact that discovery was finished, causing the judge to deny me the right to finish it. My second attorney lied to the judge by trying to mislead her the first time she went in front of her about when I had retained her, and the judge knew she was lying. It was downhill from there. My second attorney lied about a letter I had given her the first week of trial asking that the lead trial attorney (she had brought into the case) be



removed from my case. She did not tell the truth about her promise (the same day) to combine his and her fees on the final bill, when I also complained about having three attorneys. She's lucky her name isn't Pinocchio because her nose would be sooo long from all the lies she told. The associate did not tell the truth and backed up whatever lies my attorney had told during the fee dispute. My ex-husband's attorneys perpetrated his lies in all their papers, including affidavits, during court appearances and during trial, perjuring themselves with apparently no fear of prosecution. And I could go on and on...

Remember that attorneys like to win, but they don't really care who wins in a divorce because they get paid by the hour. The more contentious your divorce becomes and the longer it lasts, the more money they will make. The only real winners in a divorce case are the attorneys.

***IMPORTANT!***

Never allow your attorney to "force" you to sign anything. My first attorney forced me to sign our 2000 joint tax return, promising me that he would get an indemnification because my ex-husband had already been convicted of tax evasion. He never got the indemnification. When my ex-husband was convicted for tax evasion the second time—after the divorce was final—the year 2000 (which was the year I sued him for divorce) was one of the years involved. I ended up having an open assessment against me (keeping me from getting a tax refund that was due me) until I finally found out about the "Innocent Spouse" form, which the IRS accepted.



My attorney told me that he had told the judge that I would sign the return, so he said that I had to sign it. He didn't want to risk the judge's displeasure, and I let him force me to sign something that I knew I shouldn't.

## WHAT YOU SHOULD KNOW ABOUT YOUR HUSBAND'S ATTORNEYS

Divorce is War, and you are the enemy. Your husband and his attorneys will do anything and everything to try to destroy you emotionally and financially. They will know your weaknesses and vulnerabilities and will be ruthless and unscrupulous. Unethical tactics are the norm. My ex-husband's attorney "relishes the role of 'Your Worst Nightmare.'" (*Town & Country* article, January 1998.) The viciousness and underhanded tactics that he and his partner used to try to destroy me were unnerving. These tactics should not be allowed.

They will commit perjury by signing documents, including letters and affidavits, which contain blatant lies and deceit and will get away with it! This seems to be widely acceptable in a divorce action.

They will use character assassination to disparage you in every way possible by lying and distorting the truth to discredit you and trying to convince the judge that you are a bad person. This tactic works against women because judges (especially female judges) are prejudiced against them anyway. When your husband's attorney uses character assassination, an already prejudiced judge is all too willing to believe the

lies. Once the judge has a negative impression of you, the prejudice becomes magnified. This is exactly what happened to me.

There is a saying, “if you tell a lie big enough and keep repeating it, people will eventually come to believe it.”

This is exactly the tactic my ex-husband and his attorneys used against me. Every document they prepared, whether it was a letter or a motion, repeated the same lies and distortions of the truth they were saying about me. Every time we were in court, either for an appearance or during trial, they repeated the same lies. The judge, every time we were in front of her and in her decisions repeated the same lies—using them to rule against me. You would like to believe that the judge would be wise enough to be aware of these tactics and ignore them; but if the prejudice exists to begin it, they don't mind listening to and like to believe all the lies. The judge in my case definitely did. It didn't matter that the lies were obvious.

The irony was that my ex-husband was a convicted felon (now a twice-convicted felon). I had to remind the judge of this more than once during court appearances when she started disparaging me—repeating the lies and distortions of the truth that my husband's attorneys kept repeating.

A judge is supposed to be impartial, wise, and fair, but I have not found this to always be the case. There is no justice in our court system.

Sometimes, your own attorney may start to believe the lies and distortions of the truth. I once had to remind my first attorney that he was parroting something my ex-husband's attorney had fabricated. My second attorney once made a remark to me about something that I had “allegedly” done, and I was stunned that she would believe the lies that my husband and his attorneys kept saying. I had to remind her that it was not true!

A divorce has been equated emotionally to losing a parent. A divorce is difficult enough emotionally without your spouse's attorneys trying to destroy you emotionally and financially. This is exactly what most of them are going to do, so be prepared! Divorce is War!

One last thing you should know about attorneys is that occasionally when they work together, they decide to enter into a partnership when your case is over. This not only happened to me but also to my daughter.

## FIRING YOUR ATTORNEY

If after a couple of months of working with your attorney, you realize that you have made a mistake, you should definitely fire him or her—after first finding another attorney. Your right to fire your attorney is almost absolute. If you have been diligent and kept your own files of all court documents and letters that your attorney has produced or received, you will have no trouble moving on. Your attorney should also cooperate with your new attorney and turn over your files.

But if you are well into your case, you have to weigh the consequences **carefully** before making a decision. You should consider what firing your attorney will cost you. The further along you are in your case, the more serious the firing of your attorney becomes. Doing so may very well jeopardize your case and cause you irreparable damage. This is what happened to me.

As I've mentioned, about two years into my case, about six months after the associate had left the firm who was the associate involved in my case from the beginning, I realized that not much was happening and discovery seemed to be going nowhere. My ex-husband and his company were stonewalling and getting away with it, and my attorney was doing

nothing about it. He never had gone to the judge with a contempt motion to force discovery. He had not even formally hired my expert (forensic accountant), which should have been done at the beginning of the divorce action, as I have mentioned earlier in this book.

I knew the day my attorney agreed on a trial date without having finished discovery that something was terribly wrong. My intuition proved to be right. I later learned that my attorney had essentially been “bought” by opposing counsel with an offer of a partnership when the case was finished.

Everyone around me (including attorneys who were friends) advised me that I must immediately get another attorney—even though my gut feeling was not to change attorneys. What I should have been advised to do was insist that my ex-husband’s attorney recuse himself from the case so that my ex-husband would have had to hire a new attorney! It was his attorney who broached the subject with my attorney, thus compromising my attorney and tainting the case. My daughter had a similar situation and got better advice. She insisted that her husband hire a new attorney, and he did. This, by the way, would have forced my ex-husband to settle our case.

Against my better judgment, I took everyone’s advice and hired another attorney, firing my first attorney. This turned out to be the biggest mistake I could have made. I was not only put at a terrible disadvantage, but the financial repercussions were enormous. I jeopardized my case and caused myself irreparable damage. This bad advice cost me dearly.

In retrospect, the letter from my first attorney admitting that he had been in partnership discussions with the opposing counsel would have worked to my advantage. He would have worked harder to get me the best results possible. I should have trusted my gut feelings.



My second attorney took the case without a moment's hesitation. That, in itself, should have made me have my doubts about her. Most attorneys are unwilling to take a case that is so far along and already has a trial date set. The associate from the firm who did most of the work on my case told me that they weren't busy, which is why they took the case. After hearing my story, this attorney apparently saw dollar signs! I should have asked her during the interview what she anticipated the fees to be. If she had been honest, that would have deterred me. If I had followed up with a letter memorializing our conversation, as I have advised you to do, I could have argued about excessive fees if the bill was higher than her original estimate.

Unfortunately, I was so emotionally distraught during my divorce that I wasn't able to think rationally.

The second attorneys I hired were totally incompetent. No one ever advised me how expensive it would be to have a new law firm "get up to speed." "Spread the wealth" must have been her motto. In three months, they billed me the same amount that my first attorney had billed me for the two years he handled my case. I knew by then that I had made a terrible mistake by hiring them, but I had no choice but to stay with them. I was totally financially raped by them. Their incompetence permeated every facet of my divorce action. Firing my attorney and hiring a new attorney cost me dearly.

When my second attorneys went in front of the judge the first time, they tried to mislead her about when I had hired them, and she knew it. I honestly believe that the judge was so frustrated by the bungling and incompetence of these attorneys that I became a victim of her anger and dislike of them. This judge, who had already shown blatant prejudice against me throughout my case, went even farther now. She denied me the right to finish discovery or use any discovery (financial documents)



that I received after the day my first attorney had set a trial date. This caused me irreparable financial damage. Changing attorneys proved to put me at a terrible disadvantage.

Remember, when you meet with your attorney to discuss either working things out or firing him/her, take someone with you, and tape the conversation. Chances are that the attorney is also taping the conversation!

#### ***THE LESSON HERE...***

My advice to anyone thinking of changing attorneys is, unless you realize very early that you made a mistake and do it then, try to work out your problems with your attorney. Hiring and educating a new attorney can be costly, and the repercussions can be enormous—not only financially, but in irreparable damage to your case. And your new attorneys will never know the intricacies of your case like your first attorney. Learn from my mistake!

## WHAT YOU SHOULD KNOW ABOUT THE JUDGE

Judges are lawyers who become judges either by appointment or by election. Both systems are flawed. Divorce judges are notoriously low caliber. They usually have no domestic relations experience and dislike being a judge in divorce court because it's the lowest court in which a judge can serve (which says it all). Unfortunately, it's very difficult to get an incompetent, prejudiced, corrupt judge removed from the bench. Because of the lack of adequate standards in the selection of judges, the chances that you won't get a bad judge aren't very good because they are few and far between.

Gerry Spence in his book *"Win Your Case"* describes a judge as an "ordinary lawyer" who with a black robe on him has more power over a person than the President of the United States. "He can make rulings that will forever change lives. In the courtroom, he is omnipotent." He may be a tyrant or a buffoon and may have been a lawyer with little wisdom, who just may have contributed to the right political party (or had the right political connections). The judge in my case is a political appointee.

### **JUDGES HAVE TOO MUCH POWER THEY THINK THEY ARE GOD!**

If you are a woman, and especially a woman who has lived an affluent lifestyle, this immediately sends up a red flag to a judge in divorce court. If you have a woman for a judge, she will most likely be envious of the lifestyle you have led and want to make sure that you won't keep this affluent lifestyle after your divorce. You will get no credit for giving up a career to become a homemaker or for being the "woman behind the successful man." You will get no credit for a long-term marriage (more

than ten years). The judge will not take into consideration your age at the time of your divorce. They base their property awards on what “they” think a woman should get, rather than on what a woman deserves or needs.

In my judge’s Judgment of Divorce, she gave me no credit for being a homemaker or having lived with my ex-husband for 23 years of my life. She did not take into consideration that he was just a salesman for his father’s company when I married him. His financial success was achieved while he was married to me. I was the “woman behind the successful man.” She did not take into consideration that after being a homemaker for 40 years of my life, I had no career or means to support myself. Being a homemaker was my career. She did not take into consideration my age. She did not take into consideration my pre-divorce standard of living. She did not take into consideration the “wasteful dissipation” of my husband’s successful, privately-owned, construction companies because of his misdeeds, indictments, and convictions. (Now two indictments and two convictions.) She did not even take inflation into consideration!

Judicial commissions give the benefit of the doubt to incompetent judges who make arbitrary, shoot-from-the-hip, prejudiced, and downright bad decisions and rulings. Even when judges have been shown that they have made a mistake, they never admit it and rectify the error.

At the beginning of my divorce action, my ex-husband, the convicted felon (now twice-convicted felon), did a sworn affidavit saying that he had given me the money in my stock accounts to pay our 2000 taxes. This was untrue, and I could have proven it. This was my life’s savings beginning when I married my first husband and included money I received when I divorced him.

The judge, without any evidence (or without asking for any evidence) accepted the sworn affidavit from my ex-husband, the convicted felon, and ruled that I had to pay the taxes. I had never paid taxes in 23

years of marriage! This effectively crippled me financially at the beginning of the divorce action. She worked in tandem with my ex-husband and his attorneys to try to destroy me, and this was not the only instance. A year later, after the initial depositions when my ex-husband admitted that he had never given me money to pay our taxes, the judge was shown proof that she had erred. Even then, she did not make my ex-husband give me back the money. She said she would reallocate it at trial. I'm sure she hoped that the case would end before trial, and she wouldn't have to deal with it.

After trial, in her Judgment of Divorce, she ruled that this money was marital, so I never got it back. She did this to "cover her ass" because of this very wrong decision she had made early in the case. She then punished me for taking a loan against my apartment, and selling my jewelry and my car to replace this money so that I could pay my attorneys. She punished me for doing everything I could to survive the war!

Unfortunately, my first attorney handled this very badly. He did not take the proper steps right at the beginning to show the judge that this was not money set aside for taxes, but my life's savings. I had all the documents to prove that my ex-husband had not given me this money to pay our taxes. He could have prevented her from making this very bad decision and financially crippling me at the beginning of the divorce action, but he did nothing. I still can't understand that. When she did make this bad decision, he should have immediately appealed it, but he didn't. He had other cases in front of her, and he didn't want to "ruffle her feathers" or get her annoyed at him, so, I was the scapegoat.

Judges can and do show definite prejudice. The judge in my case showed prejudice which was reflected in all of her decisions, her conduct, and her comments during court appearances, during trial, and in her final Judgment of Divorce. At the court appearance in December 2002, when I



was trying to delay the trial date so that my new attorneys could be ready, she denied the request and said: "And I don't think that because people are very rich that they have the right to think that they can disrupt court schedules." We had given her proof that my first attorney had been compromised and that I thought I had no choice but to change attorneys. This really says it all, doesn't it!

Judges turn a blind eye to the unethical conduct of lawyers. They also ignore economic fraud by wealthy, self-employed men. Even in cases where there is evidence of perjury, judges will do nothing. Perjury is a felony, but it's widely accepted as a tactic in divorce. Perjury was rampant throughout my divorce action, including during trial. It was so evident, but the judge just ignored it and did nothing. She was still "protecting" my ex-husband when I was in court in front of her after he went to prison. It was totally disconcerting.

It was so evident throughout my divorce action, during court appearances, and during trial that perjury was taking place, not only by my ex-husband and his attorneys, but also his employees and his business associates.

As former New York Mayor Ed Koch said in 1993 at the annual meeting of the American Bar Association in New York City, "In real life when your job is at stake and you know you're coming before a panel of politicians...and you know they are going to decide your fate... [judges] are going to be very careful not to make enemies."

The monied spouse, usually the husband, has the ability to control the court. It's very frightening, isn't it? A woman just doesn't have a fair chance.



## **JUDGES WILL PUNISH YOU FOR YOUR ATTORNEYS' ACTIONS AND INCOMPETANCE**

When I had to change attorneys after finding out that my first attorney had been compromised, the judge requested that he produce an Affirmation for her regarding the lack of discovery. He did not tell the truth in this Affirmation and said that discovery was completed. She should have been smart enough to realize that this document would be self-serving and not worth the paper it was written on. She obviously wasn't, because even though my new attorneys showed the judge proof that my first attorney had been compromised and proof that he had done very little discovery over the two years that he was my attorney, she denied me the right to finish discovery or use any financial information that I obtained after the date that he had agreed on a trial date. Then, in her Judgment of Divorce, she had the audacity to say that she had no financial information on my husband's company. This cost me dearly in the amount of money that I was ultimately awarded in her Judgment of Divorce.

Because the judge used my first attorney's Affirmation that was totally, blatantly untrue to rule against me, opposing counsel included this Affirmation as an exhibit during trial. Every time I was in front of the judge and the subject of discovery came up, she used my first attorney's Affirmation to justify her decision to deny me discovery. Every time discovery came up and opposing counsel had the opportunity, they also used my first attorney's Affirmation against me.

As I mentioned before, the first time my second attorney went in front of the judge, she lied to her. The judge punished me for my attorney's lying to her in the decisions she made after that. She was "sticking it to me" because of my attorney. She also punished me for my attorneys' incompetence during trial and denied me a fair trial.

While the judge denied me the right to discovery regarding my ex-husband's businesses, she allowed my ex-husband to have my clothing of 23 years appraised. Something is definitely wrong with this picture!

Don't forget: Judges are government employees, and we pay their salaries!

## MARITAL ASSETS

The New York State Domestic Relations Law, Section 236 (I'm sure they are similar for every state) describes marital property as *"all property acquired by either or both spouses during the marriage and before the execution of a separation agreement or the commencement of a matrimonial action, regardless of the form in which title is held...."*

This means that any "gifts" given to you during your marriage by your husband are marital. Any jewelry or other gifts given to you for a birthday, anniversary, or any other special occasion are considered marital. This doesn't seem fair, does it? If nothing else, you should have a prenuptial agreement that states that any gifts given to you by your husband are to be considered yours.

This also means that anything else acquired during marriage is marital. My ex-husband had successful, privately-owned businesses, real estate investments and financial investments. The same "Law" calls for "compulsory financial disclosure." It says: *"there shall be compulsory disclosure by both parties of their respective financial states."* My ex-husband actually disclosed very little and got away with it. The fact that my first attorney didn't aggressively pursue discovery was one of the reasons why my ex-husband was able to get away with it.

In New York State, an inheritance is not considered marital property. This can work for you or against you, depending on whether you or your husband receives a substantial inheritance. Be sure to keep copies of inheritance checks or large gifts from your family!

## LEGAL FEES

*Charpie v. Charpie* is a very important case regarding legal fees. The judge in my case denied me legal fees throughout my divorce action, ignoring this very important case regarding legal fees. She demonstrated this by refusing to award me legal fees throughout the divorce action and by awarding me very little toward my exorbitant legal fees in her Judgment of Divorce.

I am a woman like in *Charpie*, who sacrificed a career to be a homemaker. I was the woman who had decent-sized financial resources (my life's savings), which dissolved rapidly once the battle began. The judge believed (or pretended to believe) all of my ex-husband's stories about poverty—even though his attorneys called him the “Derek Jeter” of the construction industry in their initial papers and our lifestyle was never disputed. My ex-husband had unlimited sources of income. I had none. I ended up without my savings of 25 years and heavily in debt.

In my application for counsel fees, the judge ignored the fact that, like Micheline Charpie, I was the woman whose assets were finite, while my ex-husband's wealth was far greater and his earnings continued to amass.

The judge was “experienced” enough as a divorce judge to know how men pretend that they have no money and that they're broke (while

retaining one of the most expensive attorneys in New York City, who is known for making a divorce contentious and for his ability to destroy a spouse). She gave no consideration at all to the extent of my ex-husband's resources.

Like Micheline Charpie, I provided substantial basis for my assertion that my husband's resources were actually far greater considering our lifestyle during marriage.

Most women are like the woman in *Charpie*. Once you have depleted your assets, you have no source from which to replenish the savings that you spent. You may have enjoyed an affluent lifestyle while you were married to your ex-husband, but you have no "lifestyle" to speak of afterwards. Women suffer disproportionate economic consequences as a result of a divorce. One of the most poverty-stricken groups in today's society is divorced women.

The fact that the judge showed definite prejudice against me from day one is documented. She apparently decided that I was a spoiled, rich lady, and she was going to make sure that at the end of divorce, I was not! Her remarks during court appearances and during trial reflect this prejudice.

I didn't know enough to insist that my attorneys appeal her constant decisions not to award me legal fees during the divorce action. If she had awarded me legal fees and my ex-husband had had to pay them, he never would have dragged the divorce out so long and definitely would not have gone to trial.

Don't let your attorney get away with this conduct! They may not want to "ruffle the judge's feathers," and you will be the scapegoat! My first attorney had other cases in front of my judge at the same time as mine and obviously didn't want to get her annoyed with him, so I was the scapegoat!



Here is *Charpie v. Charpie*. Every woman should read it and understand it. This was a very important decision. Even though I had heard it mentioned during my divorce, I never saw a copy of it until after the divorce was finished. I never understood what a really important decision it was, or I would have asked to see a copy of it. Certainly, my attorneys should have given me a copy of it. I have underlined the portions that I believe are most relevant.

### Charpie v. Charpie

"SUPREME COURT, APPELLATE DIVISION, First Department, January 2000, Ernst H. Rosenberger, J.P., Betty Weinberg Ellerin, David B. Saxe, John T. Buckley, David Friedman, JJ., Micheline Charpie, Plaintiff-Appellant v. 19N Pierre Alain Lucien Charpie, Defendant-Respondent.

Plaintiff appeals from an order of the Supreme Court, New York County (Laura Drager, J.), entered June 11, 1999, which, to the extent appealed from, denied her motion for an award of interim attorney's fees. David A. Field, of counsel (Field, Lomenzo & Turret, P.C., attorneys) for plaintiff-appellant. Joan L. Ellenbogen, of counsel (Ellenbogen & Goldstein, P.C., attorneys) for defendant-respondent. SAXE, J.

Much has been said about the post-divorce gender gap, in which men's standard of living increases and women's decreases after a divorce (see, e.g., Lenore Weitzman, The Economic Consequences of Divorce are Still Unequal, 61 Am Soc Rev 537 [1996]; Braver, The Gender Gap In Standard of Living After Divorce: Vanishing Small?, 33 Fam L Q 111 [1999]). Recognizing the economic realities that women frequently earn less than their husbands, and that they often sacrifice their own career advancement, or any career at all, in the interests of caring for their husbands and children, our Domestic Relations Law appropriately provides numerous protections to women. Their non-economic contributions are taken into account in the context of equitable distribution of marital assets (Domestic Relations Law § 236[B][5][d][6]); their earning power in relation to that of their spouses, and any lost earning capacity resulting from foregoing educational or employment opportunity, must be considered in awarding spousal support (Domestic Relations Law § 236[B][6][3].



[4], [5], [8]). And, recognizing that when divorcing spouses have vastly different access to funds, a spouse who lacks financial resources may not be able to obtain the necessary assistance so as to achieve a just resolution of the issues, the monied spouse may be directed to pay counsel fees to the lawyer of the non-monied spouse (Domestic Relations Law § 237[a]). The unusual circumstance of having one litigant pay the other side's counsel fees, even during the course of the litigation, while unique to matrimonial litigation, reflects the recognition of the unequal economic positions of men and women in a traditional marriage arrangement. Counsel fees are awarded "to make sure that marital litigation is shaped not by the power of the bankroll but by the power of the evidence" (Scheinkman, Practice Commentaries, McKinneys Cons Laws of NY, Book 14, Domestic Relations Law C237:1, at 6, citing O'Shea v O'Shea, 93 NY2d 187). Matrimonial litigation in New York is expensive. It has been repeatedly recognized that in a fiercely contested case, the costs of the litigation can consume the marital estate of even an affluent couple (see generally, Saxe, Reflections on Matrimonial Lawyers, Judges and Practice -- Part I, New York Law Journal, January 8, 1993, p 2; City of New York, Department of Consumer Affairs, Women in Divorce: Lawyers, Ethics, Fees & Fairness, March 1992). Even women in possession of decent-sized financial resources have cause for concern when it becomes apparent that disputed issues will require litigation, because those resources can dissolve rapidly once a battle begins. Unless she continues to receive a substantial income, beyond that which she needs for living expenses, a woman in the midst of matrimonial litigation, even a formerly well-to-do woman, may wind up without funds and in debt. Recognizing this reality of litigation, the possibility that even a woman who had enjoyed an affluent lifestyle can end up in dire financial straits cannot be ignored. Ironically, the theoretical framework for the concept of the "feminization of poverty", normally applied to households headed by women with only limited or low-level employment opportunities, whose earnings and resources fall short of their families' basic needs (see, Rowe, The Feminization of Poverty: An Issue for the 90's, 4 Yale J L & Feminism 73, 74), becomes applicable to the affluent in this context. When a couple's affluence has been due to the earnings of the husband, and his wife's earnings are minimal in comparison with the family's lifestyle, their separation and their divorce proceedings can leave such a wife without funds and at the mercy of her ex-husband, whose cooperation in making support payments is the only thing keeping her and their children from a lifestyle of substantially reduced means. These considerations should be kept in mind on an application for counsel fees in a matrimonial litigation where a wife has assets that, although considerable, are finite, while her husband's wealth is far greater and his earnings continue to amass. When a wife's expected attorneys' fees will exhaust a large portion of her finite

resources, while her husband will be able to pay his ongoing attorneys' fees without substantial impact on his estate, the court should not limit itself to inquiry into whether the wife is able to pay her attorney with the funds then in her possession. Rather, when considering an application for interim counsel fees, the court must consider the relative financial circumstances of both parties (Domestic Relations Law § 237[a]). This direction is intended not only to permit determination of one side's need and the other's ability to pay; it is also to ensure that a spouse with substantially greater financial resources cannot use those resources against the less powerful spouse to obtain the outcome he desires. "The courts are to see to it that the matrimonial scales of justice are not unbalanced by the weight of the wealthier litigant's wallet" (O'Shea v O'Shea, 93 NY2d 187, 190). At one time this Court espoused the rule that counsel fees were precluded any time the spouse making the application had already paid her attorney, thus demonstrating the ability to pay (see, e.g., Kann v Kann, 38 AD2d 545). However, it has since been held that her possession of assets, and her use of some of those assets to pay counsel, does not preclude the court from awarding counsel fees (see, DeCabrera v Cabrera-Rosete, 70 NY2d 879, 881). The oft-repeated rule that "[i]ndigency is not a prerequisite to an award of counsel fees" (DeCabrera v Cabrera-Rosete, 70 NY2d 879, 881), while true, should not be understood to imply that a spouse's assets must be spent down to near-indigency before a counsel fee application will be entertained. A party who has finite assets and a small income should not be required to spend down a substantial portion of those assets in order to qualify for such an award, where her spouse appears to have much more extensive assets and income, with the concomitant ability to conduct legal battles over any contested issue. This holds especially true if, in addition, there are indications that the spouse with the financial clout may intend to assert his will over such issues of mutual concern as the children's care and custody, prepared to take unilateral action, and to conduct a legal battle if his wife disagrees.

All of the foregoing observations come into play in the present case. The parties and their four children, ranging in age from 9 to 14, are citizens of Switzerland who moved to New York in 1994. In order to do so, plaintiff wife, who had been working as a pediatrician, gave up and sold her medical practice in Switzerland. Defendant husband is a European-trained attorney and businessman with an international law practice. The apartment they now reside in was purchased for \$1,200,000. The children attend the Lycee Francais, take music lessons at the French American Conservatory, and the two daughters take ballet lessons. Family vacation travel has included such destinations as Bali, Hawaii, New Zealand and Australia. According to plaintiff, the family's living expenses are over



\$300,000 per year. The assets plaintiff has in her possession, \$160,000, consist primarily of the proceeds of the sale of her practice. Her current income, derived from her employment with the French American Conservatory, a not-for-profit music school attended by their children, is approximately \$24,000 per year, before taxes. In denying plaintiff's application for counsel fees, the motion court took particular note that defendant is paying \$2,000 per week for spousal maintenance and child support, as well as making direct payment for private school tuition, the children's extra-curricular activities, domestic help, and medical and life insurance. The court also noted that plaintiff has already paid a \$25,000 retainer to her counsel; defendant asserts that he paid a retainer of \$20,000. What the motion court did not note is that in view of the parties' pre-nuptial agreement, the plaintiff will receive no distributive award; whatever sums she is forced to spend on this action will not be replenished at its conclusion. The court apparently gave no consideration at all to the extent of defendant's resources. Defendant asserts that his annual income is \$183,000; however, plaintiff provides substantial basis for her assertion that it is actually far greater, in view of their lifestyle during the marriage. Defendant's statement of net worth does not report the total value of his estate, marital and separate, inasmuch as the numerous businesses he owns have not been valued; those assets whose value he acknowledges total approximately \$300,000. Inasmuch as defendant's statement of net worth is incomplete, it is appropriate to apply an adverse inference on the issue of his finances (see, Wildenstein v Wildenstein, 251 AD2d 189, 190). Certainly, there is good reason to acknowledge the possibility that plaintiff defendant's wealth is substantial, far in excess of the funds to which plaintiff has access.

Given the large discrepancy in the parties' respective incomes and the assets at their disposal, as well as the nature of the issues in dispute, concerning child support and custody, we conclude that it was an improvident exercise of discretion to deny the plaintiff wife's application for an award of interim counsel fees on the ground that she is financially able to meet that cost herself. The case of Fisher v Fisher (208 AD2d 433) does not require a contrary result. In Fisher, the wife could expect to receive a substantial distributive award. Here, it is undisputed that once plaintiff depletes her assets she will have no source from which to replenish any savings she must spend. For the foregoing reasons, we reverse and remand for further consideration. Accordingly, the order of the Supreme Court, New York County (Laura Drager, J.), entered June 11, 1999, which, to the extent appealed from, denied plaintiff's motion for an award of interim attorney's fees, should be reversed, on the law, the facts, and in the exercise of discretion, without costs, and the matter remanded for further proceedings consistent with the Opinion herein. All concur.

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT. ENTERED: JULY 13, 2000.”

***IMPORTANT!***

If you are awarded legal fees during the divorce action, pay the fees, and have them reimbursed to you by your husband. It is very bad for your husband to pay the legal fees directly to your attorney for several reasons. If he pays them directly, then your attorney is on your husband's "payroll," so to speak. Remember that your husband controls anyone who is on his "payroll." Also, he can challenge every bill, not pay your attorney, and your attorney will not represent you with the same integrity and vigor. He may even make a deal to "sell you out."

## DEPOSITIONS

Make sure that you are properly prepared by your attorney for any depositions that you attend. Review any documents necessary to refresh your memory. Know your case cold. I was never properly prepared for my depositions by my first attorney. I really didn't know what to expect or how to answer in order to protect myself. This hurt me in several instances. I also had no idea how stressful a deposition can be. You are under constant pressure. Remember that "Divorce is War," and you are the enemy!

A deposition is the out-of-court process of taking the sworn testimony of a person. A deposition is a "fishing expedition." Opposing counsel will try to find out everything they can to use against you later. They will watch you carefully to find out your weaknesses and vulnerabilities. The best answers you can give are: "Yes, No, I don't remember, I don't know, I don't recall" or a short narrative including the question in the answer. Listen to the question carefully and answer with care. Always think your answers through. If the question is ambiguous, and you know that it will hurt you to answer it the way it was asked, ask that the question be rephrased. Otherwise, say that you can't answer it—or you won't answer it. Do not answer the question until it is a question you can answer safely. Do not let opposing counsel put words in your mouth. Always correct an inaccurate statement!

Stay calm, cool, and collected. If they are able to rattle you, they have won. You want to be the winner in this!

Be an "active listener"—where is this going—and take your time answering. Speak slowly and spell words and names so the court reporter will record your testimony accurately. Ask to be shown alleged documents,



and take the time to read them. Say just what is needed to answer the question and no more. Repeat the question in your answer to prevent misquotation.

During my deposition, I was asked if I knew the cost of the diamond (ring) that my husband had bought me for my tenth wedding anniversary. He had paid cash for it, and there was no receipt. Plus, **I only knew what he had told me**. I only knew what the convicted felon, the liar, the thief, the cheat, the sociopath had told me! Because I hadn't been properly prepared for this deposition by my first attorney, I answered what I **thought** was the amount paid. This is the perfect example of the time to say, "I don't know" because I really didn't know. In reality, after talking to people in the diamond industry, showing them the GIA certificate, and finding out what diamonds were selling for at that time, I discovered that my husband must have paid about a third of the amount that I said—the amount that he told me. The amount that I said became the amount that was used during trial, in my husband's post-trial brief, and in the judge's final decision—against me! The amazing thing was that there was never a receipt produced to back up the cost of this stone—just what I testified to what my ex-husband had told me!

Never speculate when you answer a question. Never guess, and never add anything this is unnecessary in order to give a full and honest answer. Only answer a question with what you know to be fact! Slow down and formulate your answer in your head before you speak. Count to ten if you need to before you answer.

This is also the perfect example of incompetent attorneys. My first attorney should have asked my ex-husband during his deposition what he paid for this ring and demanded a receipt for it. He didn't. During their deposition of my ex-husband and during the trial, my second attorneys

could have corrected this by asking my ex-husband what he paid for the ring and demanded that he produce a receipt. They didn't.

During the deposition, take bathroom breaks to give yourself a break when your concentration starts to fade. Drink lots of water to keep hydrated. Use M&M's to give you a sugar fix when needed. Depositions can be long and tedious. You will tend to get tired and sloppy with your answers—rushing to answer them just to get it over with. I know that I did, but don't let that happen to you!

The opposing attorneys will do everything they can to rattle you. They will try to “push your buttons” to make you come unglued. Don't let them. Take a break every time things become too intense. They will be watching you carefully to see how you react under pressure. Remember that they will be watching you to find your weaknesses and vulnerabilities. Don't let them upset you!

Be very careful what you say! Remember that you are under oath and that whatever you say can be used against you later—during litigation and during trial. Remember my “diamond” story.

Never let your guard down during a deposition when it seems to be going smoothly and easily. Such a mental lapse sets you up to be caught off guard. Make a special effort to control your facial expressions, your hand gestures, and your emotions. Try to sit still and relaxed. A slight lean forward communicates energy and a positive attitude. Put yourself in a positive state of mind and be confident. **Body language is very important.** Truthful, concise, confident answers are best. Think of this as a chess game and always play to win.

“Remember the three C's of a good witness: It's for you to remain courteous, calm and considerate.” –Gerry Spence

When you break for lunch, do not eat a heavy meal because digestion uses a huge amount of energy and will prevent you from being

“on” 100%. During the trial of my fee dispute, one day I was so stressed that I decided to really “eat” during a lunch break. When I was on the witness stand after lunch, I couldn’t get my thoughts together. My brain was mush. I never ate a big lunch after that.

And...it is very important that you only bring a small purse with you with the bare essentials—money, keys, lipstick, etc. Opposing counsel has the right to look at the contents of anything you have with you.

## SETTLEMENT

A settlement does not mean that you’ve lost. Most cases settle before trial, and I hope yours does too. But don’t let anyone deter you from achieving a fair and equitable settlement.

Hopefully, you have a fair, reasonable husband and can reach an amicable and equitable settlement. You are better off with a lump payment that you can invest rather than having maintenance payments paid out over time (over the next ten years, for example). Unfortunately for me, after living with and taking care of my ex-husband for 23 years of my life, he didn’t want me to get a penny! He was spiteful and vindictive during our marriage, but I never thought he would be so uncaring and ruthless during our divorce.

If you take the money over a period of time, instead of as a lump settlement, you will ultimately be getting less, because with inflation, money is worth less with time. There is a chart that your accountant can use to figure out what the “present value” of a lump settlement would be.

Just remember that any money you get either as a settlement or as maintenance (alimony) is taxable to you and deductible to your husband. You may think that you are being offered a lot of money until you realize

what it is worth after taxes (after-tax dollars). If you are offered a settlement, have your accountant analyze what you would be getting and what your after-tax dollars will be.

If you are offered your house or apartment or other assets in lieu of other assets or cash, be aware that you will have to pay capital gains taxes when the property or assets are sold. Also, the cost of maintaining this asset—monthly carrying charges, insurance, property taxes, repairs, painting, etc.—may be more than you can afford. If you buy out your husband's share, will you still have enough money to live on? You need to discuss the potential consequences with your accountant before making your decision.

### Here are some other considerations ...

If you should get remarried, you will be cheated out of the money you should have gotten if the maintenance ends.

If you get a job, the judge may decide to reduce your maintenance.

**Most importantly of all**, there is no guarantee that your ex-husband will continue to make the payments. Even if you go back to court and get a contempt motion against him after he defaults, there is still no guarantee that you will get your money. It is difficult to collect even if you get a judgment against him. Your legal fees will eat you up! Or, he could do something as simple as declare bankruptcy, move out-of-state or even move out of the country (remember Jane Maharam's story). Then, you can't do anything. My ex-husband paid me maintenance for six months and stopped.

And, if you can't agree on a lump settlement, you should insist that the money that is supposed to be paid to you be put in a trust. Another alternative would be to have the money that is supposed to be paid to you secured by a non-cancelable life insurance policy on his life to protect your maintenance payments (and child-support payments if you have them).



You need to make a list of your cost of living expenses before you consider a settlement. I have so many expenses that I never realized I would have. The maintenance on my apartment (which has gone up considerably since I sued my ex-husband for divorce), property taxes, future assessments on my apartment, my health insurance, homeowner's insurance, home alarm, telephone and cell phone, dentist and doctors, veterinarian for my dog, accountant, personal maintenance, food. And these are just my basic living expenses! You will also have entertainment, travel, vacations, and clothing. You may have car payments and car insurance, as well as a garage for your car. Birthday gifts, tips, holiday presents and tips should also be included. Don't forget to take inflation into account, too, and the taxes you must pay on the money you receive! The first year that I had to pay taxes, I nearly died! I had to take money out of my savings to pay them.

Remember that you should never accept a settlement offer unless you fully understand it and have discussed it with your own accountant. It may take more negotiations to get it to work for you. Don't sell yourself short just to get it over with. I know too many women who have done exactly that only to be very sorry later when it's too late! Don't ever sacrifice your financial security for a quick end to the War!

And...If you have a boyfriend (live-in or not) while you are negotiating your settlement, you must negotiate it as though he doesn't exist. There are no guarantees in life, and there is no guarantee that he will marry you when your divorce is over. I know someone who was going through a divorce at the same time as her boyfriend. He couldn't wait for both of them to get divorced so that they could get married. He got his divorce first, giving his wife a very substantial settlement.

When she negotiated her divorce settlement, she didn't take any maintenance or health insurance, thinking that she would be getting

married right away. It didn't happen. Her boyfriend was in no rush to get married again so quickly or to take on the financial responsibility of another wife. So, I will reiterate, you must negotiate your divorce settlement as though your boyfriend doesn't exist—because he may not when it is all over.

## TRIAL

Most divorces never go to trial. I hope for your sake that yours doesn't, but mine did. Not only is it extremely stressful, but it affords your attorneys (who are already financially raping you) the opportunity to *really* financially rape you! Attorneys love to go to trial because they have carte blanche to bill you excessive amounts of money, and there is not much you can do about it. The only people who win at trial are the attorneys.

During trial, you will not only have to pay your attorneys, but you will also have to pay experts and appraisers. Your financial expert will have to do a report and testify. You will have to pay expert appraisers, who will have to do reports and maybe even testify. You may need other expert witnesses, and you will have to pay the costs of a court reporter. The costs are endless.

Taking your case to trial involves a risk—a big risk. You are putting your life and your future—your fate—in the hands of a judge who may be unpredictable and/or prejudiced and who will be making major life decisions for you. If your judge is prejudiced against you to begin with, like mine was, then you don't have a chance of getting a fair trial. The judge in my case showed blatant prejudice throughout my pre-trial divorce action, so why should the trial have been any different? The trial transcripts, as

well as the judge's Judgment of Divorce, are the proof that I didn't get a fair trial.

Take an active part in helping your attorneys prepare for your trial. Don't let your attorneys intimidate you by making you feel that they know better than you because they are attorneys. You know your case better than anyone. I allowed my second attorneys to intimidate me, which was a big mistake. Take notes, and type them on your computer when you get home to help you make a list of questions or points that need to be made. Help your attorneys—they need your help!

When you are the witness, answer questions in the same way as a deposition with: "Yes, No, I don't remember, I don't know, I don't recall" or a short narrative that includes the question in the answer. Listen to the question carefully and answer with care. Think your answers through. Slow down—and formulate your answer in your head before you speak. Count to ten if you need to. Don't answer mechanically. If the question is ambiguous, and you know it will hurt you to answer the way it was asked, ask that the question be rephrased. Say that you can't answer it, or you won't answer it otherwise. Do not answer the question until it is a question you can answer safely. Do not let opposing counsel put words in your mouth. Listen intently to what the opposing counsel recites back to you. Is it what you said, or is it what he *wants* you to have said? Always correct any inaccurate statements!

Never speculate when you answer a question. Never guess and never add anything that is unnecessary to give a full and honest answer. Only answer a question with what you know to be fact! Be concise and keep your answers succinct.

You will have to sit there and listen to your husband's attorney say the most outrageous lies about you—lies that are beyond your comprehension. He will do everything to portray you as a terrible wife,

mother, and person. No matter what runs through your mind, stay calm, cool and collected. Never show how much you loathe him. Answer him calmly. You must think of the opposing counsel as a nice man who has to be gently straightened out on a few things. If he gets frustrated and/or angry, you have won. The more hostile or angry he gets, the more you know that you are winning and the more calm, cool and collected you must become. If he gets you upset or angry, he has won! So, don't let that happen.

Remember, like in war, you will be continuously under siege. Your husband's attorneys have one job, and that is to win!

During my trial, the opposing counsel was screaming at me. I told him to stop screaming at me. Unfortunately, the judge, whose prejudice was so blatant, told me "to just answer the question." She didn't reprimand the attorney for screaming at me.

Be an "active listener" –where is this going? Take your time before answering. Speak slowly, and spell words and names so that the court reporter will record your testimony accurately. Ask to be shown alleged documents and take the time to read them. Say just what is needed to answer the question. Repeat the question in your answer to prevent misquotation. Remember my "diamond" story from the section on Depositions, and learn from my mistakes! If you don't know the answer to something, don't speculate. Say that you don't know. Giving an inaccurate answer can hurt you, just as it did me.

Take bathroom breaks to give yourself a break when your concentration starts to fade or things become too intense. Drink lots of water to keep hydrated. Use M&M's to give you a sugar fix when needed. Trials can be long and tedious. You will tend to get tired and sloppy with your answers—rushing to answer them just to get it over with—I know I did. Don't let this happen. Don't let opposing counsel upset you. He will



do everything he can to rattle you. He will try to “push your buttons” so you will come unglued. Don’t let him. He’s won if he does.

Remember that you are under oath, and whatever you say can be used against you later. It is very important to be very careful what you say!

***AND MOST IMPORTANT!***

Just as in a deposition, never let your guard down during trial when it seems to be going smoothly and easily. Such a mental lapse sets you up to be caught off guard. Remember to watch your body language: Make a special effort to control your facial expressions, your hand gestures and your emotions. Try to sit still and relaxed. A slight lean forward communicates energy and a positive attitude. Put yourself in a positive state of mind and be confident. Truthful, concise, confident answers are best. Think of this as a chess game and always play to win.

When you break for lunch, do not eat a heavy meal because digestion uses a huge amount of energy and you won’t be “on” 100%. During the trial of my fee dispute, one day I was very stressed and decided to really “eat” during lunch break. When I was back on the witness stand, I couldn’t get my thoughts together. My brain was mush. I never ate a big lunch after that!

Again, as Gerry Spence says: “Remember the three C’s of a good witness: It’s for you to remain courteous, calm and considerate.”

I have heard that 78% of men who are prosecuted by the IRS for tax evasion (and who go to jail) is the result of divorce—evidence that comes out at trial. I warned my ex-husband of this, but because he and his attorneys were so hell-bent on destroying me, they ignored the warning. He did go to prison after the divorce was final because of his illegal business dealings that came out at trial, as well as the extreme measures he took to prevent me from getting my fair share of his successful, privately-owned business, his investments and our assets.

# The Decks Are Stacked Against Women

## THE COURT IS PREJUDICED AGAINST WOMEN

Divorce judges are notoriously prejudiced against women. It's a fact. It's a man's world—men have the money and the power—and no one really cares about women. We are second-class citizens, especially when we are getting a divorce! The judge will often award a woman what he or she thinks a woman *should* get, not what she is *entitled* to get. Even when a woman is entitled to a generous settlement, a judge may decide not to give it to her.

## A POSSIBLE SOLUTION TO OUR PREJUDICED COURTS

I think that a solution to this problem could be to have two divorce judges handle every case, rotating for court appearances but both present at trial. This way, a prejudiced, corrupt judge could not be the only one making the decisions. These judges would also rotate with other judges, so that the same “team” of judges would not always work together on every case.

## ATTORNEYS HAVE NO INTEGRITY

A very important organization to know about is HALT (Help Abolish Legal Tyranny), based in Washington, D.C., described on their website as *“an organization of Americans for Legal Reform that pursues an aggressive education and advocacy program that challenges the legal establishment to improve access and to reduce costs in the civil justice system.”*

HALT was founded in 1978 by four pioneering legal reformers. In the three decades since then, HALT has matured into the nation's largest legal reform organization and is a nonprofit, nonpartisan public interest group of more than 50,000 members. Their website is very informative: <http://www.halt.org>.

“In state after state, the attorney discipline system not only fails consumers, but ultimately undermines the integrity of the legal profession,” explains HALT Associate Counsel Suzanne Blonder.

“Despite decades of repeated calls for reform, nothing has changed. According to a 2002 nationwide survey commissioned by Columbia Law School, two-thirds of Americans believe lawyers are overpaid, even in comparison to doctors and corporate executives; about half think that attorneys do more harm than good; four in ten say lawyers are dishonest and over two-thirds of Americans lack confidence in the integrity of the lawyer discipline system.”

“A Columbia Law School nationwide survey found that two out of three Americans do not think lawyers are even ‘somewhat honest.’”



“A 2003 CNN/USA *Today*/Gallup poll found that 84% of Americans do not believe lawyers have ‘high ethical standards.’”

“According to the *National Law Journal*, 69% of Americans think that lawyers are more focused on making money than serving their clients.”

“Instead of working for all Americans, too often our legal system arbitrarily denies us access and unfairly shields unethical lawyers from answering for their misconduct. Sadly, when this happens, it’s not justice, it is legal tyranny.” –former HALT Executive Director, Jim Turner

HALT’s grade for Lawyer Discipline in New York was a D+! What is it for your state?

## ATTORNEYS HAVE TOO MUCH POWER— ESPECIALLY DIVORCE ATTORNEYS

Judges are attorneys, and attorneys who become judges—either by election or by political appointment—are influenced by attorneys. Attorneys also contribute money to the judges’ campaigns and remember them at Christmas. It is one big club, and we are the outsiders. Attorneys have a monopoly over our courts even though we pay the taxes that keep our court system running. Our taxes pay the judges’ salaries. **Judges have too much power. Attorneys have too much power.**

“We the people” have given lawyers too much power. Lawyers write the laws and control the enforcement of the laws. “We” are excluded from

the policy-making decisions in court, and “we” are the ones getting hurt. Lawyers have a monopoly over our courts.

In New York City in 1995, there were three divorce judges that handled the bulk of the divorce cases that were “mysteriously” transferred. These judges were replaced with judges unfamiliar with the modus operandi of New York City’s matrimonial court.

The rumor was that a group of powerful New York divorce attorneys complained about one of the judges, saying that she was biased against men. She basically would not allow men to get away with their usual shenanigans, and she could not be manipulated by these divorce attorneys. So, they had her removed.

There was also a rumor that this judge tried to prevent attorneys from financially raping their clients by over-staffing their cases by always having more than one attorney in court, even on trivial matters, when one attorney could have easily sufficed.

I can definitely attest to being financially raped by my attorneys regarding court appearances. My first attorney always showed up in court with another attorney. My second attorney never showed up in court for me with less than two attorneys and usually three, even on the most trivial matter. My ex-husband’s attorney always showed up in court with another attorney. He always had his “sidekick” partner with him to carry his briefcase and papers.

It was after this that the judge in my case was moved to the divorce court from the criminal court (definitely a demotion since the divorce court is possibly the lowest court). She shows definite prejudice against women, and everyone is very aware of it. Interestingly enough, you don’t see these same attorneys complaining about her or having her removed from the divorce court! It’s a man’s world—men have the money and the power—and no one really cares about women. We have no clout!

“Unlike the relative anonymity of Manhattan’s criminal law practice, where hundreds of lawyers appear before dozens of judges, in the matrimonial part, as divorce court is called, there is a cadre of lawyers who regularly appear before the same four judges.

The matrimonial part is an intimate little viper’s nest, where a lawyer’s survival skills must include the art of fine-tuning a case to play to the quirks of whichever judge hears it. This is because the matrimonial bar, perhaps more than any other group of lawyers, depends heavily on the kindness of judges. Judges have almost untrammelled power over the outcome of a contested divorce, and they can also order the spouse with the deeper pockets to pay for the other spouse’s lawyer.” *The New York Times*, January 1996.

This “situation” is not unique to New York City. It exists in every city, every state, and every country throughout the world!

## DIVORCE ATTORNEYS TAKE ADVANTAGE OF WOMEN

Divorce attorneys intimidate and take advantage of women. You have already read about the myriad of ways in which all of my attorneys and my husband’s attorneys took advantage of me as a woman. I also told you just a few stories about how my girlfriends and other women I have heard about were taken advantage of by attorneys.

Karen Winner was a former policy analyst and investigative writer for the New York City Department of Consumer Affairs and the author of the book, *Divorced from Justice*. In 1997 in an interview on DC’s Expert Online Series, she spoke on “Protecting Yourself from Your Lawyer.”

“Karen Winner uses these venues to demonstrate how divorce clients, especially women, are often financially defrauded and manipulated

by their attorneys—the very lawyers they pay to protect their interests. She also explains how women are subjected to ‘dirty tricks’ by opposing lawyers and discriminated against by prejudiced judges.”

“I was assigned the task of looking into some complaints brought by women to the NYC Department of Consumer Affairs. I was working as a policy analyst there...It took a year of research. I interviewed lawyers, judges, academics and ‘victims,’ and my findings showed illegal, unethical patterns of abuse that particularly affected women. Women’s own lawyers were perpetrating unethical practices such as overcharging, driving up unnecessary fees and ruining the women’s cases.

Divorce has become a very lucrative industry for lawyers. There is no independent oversight of the practices that lawyers engage in. Consumer laws do not for the most part apply to lawyers. They are...regulated by their own tribunal. As a result, unethical practices flourish. Each year, 100,000 complaints are dismissed WITHOUT INVESTIGATION by the grievance committees. Lawyers have the opportunity to cheat clients because no one is watching over them. Women are more vulnerable to abuse because women usually don’t control the family assets and are financially dependent. They are literally at the mercy of the lawyer and judge to get a fair hearing in court. But even the most well-respected lawyer may be greedy and scheming, and not represent the interest of the woman. She relies on the lawyer, places her trust in the lawyer, but the



lawyer knows that he or she will probably not be disciplined if the woman complains.”

Winner went on to report that the American Bar Association did a major malpractice study in the 1980's and found that the most experienced lawyers received the most complaints. “This says something about what happens to lawyers in the profession the more comfortable and powerful they get.”

This interview took place in 1997, but nothing has changed. I've lived through it—I know!

## **WOMEN IN THE COURTS: A WORK IN PROGRESS**

In April 2002, the New York State Judicial Committee on Women in the Courts did a report: Women in the Courts: A Work In Progress. The Web address is:

[http://www.courts.state.ny.us/ip/womeninthecourts/womeninthecourts\\_report.pdf](http://www.courts.state.ny.us/ip/womeninthecourts/womeninthecourts_report.pdf)

This report was done over a fifteen year period beginning in 1986 and ended in 2001. At the beginning of this report, which was published in April 2002, there are congratulatory letters to Judge Ellerin and members of the Committee. Congratulations for what? This report was supposed to identify and help eliminate bias against women in the New York State courts. After reading this report and after living through a divorce from 2000 to 2006, it is obvious to me that nothing has changed. Women have gained nothing in the now 23 years since the research for this report began. When a judge, who is as bad as the judge in my divorce case,

continues to sit on the bench and ruin women's lives, it shows that this report is basically useless and a total waste of taxpayers' money.

Excerpts from the "Report" Under DIVORCE, beginning on page 10:

### **1986 Findings of the New York Task Force on Women in the Courts**

1. The manner in which judges distribute a family's assets and income upon divorce profoundly affects many women's economic welfare. Women who forego careers to become homemakers usually have limited opportunities to develop their full potential in the paid labor force.

2. Many lower court judges have demonstrated a predisposition...to minimize the homemaker spouse's contributions to the marital economic partnership by:

- a. Awarding minimal, short-term maintenance or no maintenance at all to older, long-term, full or part-time homemakers with little or no chance of becoming self-supporting at a standard of living commensurate with that enjoyed during the marriage.
- b. Awarding homemaker-wives inequitably small shares of the income-generating or business property.
- c. Economically dependent wives are put at an additional disadvantage because many judges fail to award attorneys' fees adequate to enable effective representation or experts' fees adequate to value the marital assets.
- d. Many judges fail to order provisional remedies that ensure assets are not diverted or dissipated.
- e. After awards have been made, many judges fail to enforce them.

A brief summary of this report: the report says that judges did not give women whose *career* is being a homemaker any credit for being a homemaker; they minimize women's contributions to the marital economic partnership by awarding minimal maintenance—if they award any at all—which gave these “spouses” no chance of having the lifestyle they experienced while they were married; they did not award adequate attorneys' fees or experts' fees; they did not award an equitable distribution of assets; and they did not enforce the judgments that they make in divorce cases. That was in 1986.

## 2001 Findings of the New York State Judicial Committee on Women in the Courts

1. Judges are more likely to recognize homemakers' contributions to a marriage and women have a greater chance of achieving post-divorce economic security than they did fifteen years ago, but women whose marriages end are still at risk financially.

2. Women with dependent children are particularly vulnerable because their dual roles as wage-earners and primary caretakers go largely unrecognized.

3. Maintenance awards still are often not adequate to provide financially dependent spouses with sufficient support. Judges often fail to consider pre-divorce standards of living when making maintenance awards.

4. Although the disadvantages women face in matrimonial litigation are eroding slowly, the cost of a divorce is still a major obstacle for women who want to end a marriage.

5. New York's complicated procedures and extensive paperwork contribute to the high cost and difficulty of getting a divorce.

6. Despite legislation encouraging judges to exercise their discretion to make adequate interim awards to lawyers for the spouse with fewer resources, counsel fee awards are too often too low to provide a level playing field.

A brief summary of this report: the report acknowledges that nothing has changed since the first report was done in 1986. Maintenance awards continue to be inadequate, judges continue to show prejudice



against women, and the cost of a divorce is almost insurmountable for many women who want out of a marriage. Women have gained nothing in the 23 years since the research for this report began.

### **AT ALL COSTS, KEEP YOUR COOL!**

There are going to be times when you get angry, angry at your husband, angry at your attorney, angry at opposing counsel, angry at the judge. Remember: Don't react! When you get angry, you lose. Listen! Play poker—don't show your hand. Wait! You'll deal with the problem more rationally when you have calmed down. (I must admit that I didn't always do that.)

During your divorce, you are very vulnerable and an easy target. Everyone will be out to take advantage of you financially—from your attorney to your accountant (it took me three tries before I found an honest one) to your private investigator...and on and on. Be careful and be savvy!

### **WHEN YOUR DIVORCE IS FINISHED**

- Be sure that any bank accounts, stock accounts, or any other accounts that are in your name, but were deemed as “marital” property for the sole purpose of dividing them, are closed; and you open new ones. I was never advised to do this, and ten months after my divorce was final, and after my ex-husband put his company into bankruptcy, a hold was placed on my checking account. The attorney who put the hold on it claimed that it was a

“marital” asset. It cost me a fortune in legal fees to have this hold removed.

- Change the beneficiaries on your IRA's, 401(k)'s, life insurance policies, or any other asset that requires a beneficiary.
- Update your Will and Power of Attorney (if you have one), immediately, as well as your Living Will and Health Care Proxy, to remove your ex-husband's name, if you have named him in any of these documents.
- If your home or any real estate that you received in the divorce settlement is currently in your joint names, change the title. This is not always easy, especially when a mortgage is involved, so don't delay in doing it—don't procrastinate! Until the title is changed, that asset can be subject to your ex-husband's creditors.
- Have your ex-husband's name removed from your mortgage.
- Change the title of your automobile and your automobile insurance.
- Make sure that you record the transfer of ownership of all deeds for your homes and automobiles, etc. at the appropriate county recorder's office.
- Change any insurance policies that are in your joint names (example: your homeowner's policy) to your name only. Make sure there are no other policies held jointly. My ex-husband let a policy lapse that we had on our country home. Because it was in both of

our names, I had to pay what was owed so that it wouldn't adversely affect my credit.

- Make a copy of your final divorce judgment and settlement agreement. Keep the original in a safe or safe deposit box.
- You are entitled to a portion of your husband's social security benefits. Go online or call the Social Security office to find out what you need to do to make sure you get what you're entitled to.

***IMPORTANT!***

Before your settlement or judgment, you should have your attorneys ask the judge to reserve jurisdiction over "after-discovered assets." I asked my attorneys to do this, but they ignored my request. I should have been more adamant! After my divorce was finished, I found two off-shore accounts with a considerable amount of money in them, but the judge refused to let me do the discovery needed to prove that these assets were marital property.

The unavoidable reality is that sooner or later, most people will change their marital status. According to the most recent figures from the U.S. Census Bureau, 41 percent of men and 39 percent of women will have gone through a divorce by the time they are in their fifties.

Women suffer disproportionate economic consequences from a divorce. A divorced woman's standard of living will drop by as much as 27%, according to the *Marriage Project* at Rutgers University (while a man's will increase by 10%). One of the most poverty-stricken groups in today's society is divorced women. A man's "earning power" usually increases with age, while most women don't have "earning power." Whatever they get from their divorce settlement is a finite amount of money that has to last them the rest of their lives.

The time immediately after a divorce is when women are the most vulnerable financially. Unfortunately, women frequently go on spending sprees after a divorce. The reality of their situation doesn't immediately sink in. They spend without thinking about the fact that they have a finite amount of money, instead of investing it.

Coping with anger after a divorce, some women try to change their lives to escape the emotional trauma, while others become paralyzed. You should wait at least a year to make any serious financial decisions. It takes at least that long to be able to think rationally, and sometimes longer.



## PRENUPTIAL AGREEMENTS

*“You can be as romantic as you please about love...but you mustn't be romantic about money.” –George Bernard Shaw*

A prenuptial agreement takes precedent over state law, which is why it is so important. It should be dealt with like a business partnership. It is designed to protect your separate property. There should be a complete description of both parties' assets—full disclosure—including sources of income **and** liabilities. There should be a clause in it regarding maintenance in the event of a divorce—a fair amount of support according to the length of the marriage. There should be a clause in it regarding estate provisions at the time of death of either party. Income and assets have to be taken into account.

A prenup reduces legal fees in the event of a divorce. It prevents you from having an unpredictable or prejudiced judge make major life decisions for you. Negotiating a prenup and communicating about money matters can actually strengthen and improve the quality of your relationship. It can help you to establish greater trust in each other.

A prenup should be strictly about money, nothing more. Some men want to put in it how many times they will have sex a week. I have a girlfriend whose prenup required her to be weighed every week, and if she gained any weight, she wouldn't get her allowance.

Every woman should have a prenup to protect any assets that she has before the marriage. In a second marriage, a prenup is mandatory. This is particularly important when there are children. You want to make sure that your children from a previous marriage are financially protected. Setting up trusts to protect your children is one way of handling assets and retirement savings that are pre-marital.

Another reason why a prenup is especially important in a second marriage is that it can protect your pre-marriage assets if one of you should die. You want to make sure that your pre-marriage assets remain yours if your husband should die, or that your pre-marriage assets go to your children or other beneficiaries if you should die. I have heard too many stories of a second husband's children claiming that everything belongs to them after he dies—even the wife's pre-marriage assets.

If you have separate property, you need to think very carefully as to whether you want to put it in a joint account. It's easy to give up control to show that you trust someone, but you may regret it later—when it's too late. There's nothing wrong with having your own money!

A prenup should also state that any gifts (jewelry, real estate, art, etc.) that you receive during the course of your marriage should be considered yours. Most women think that any jewelry or gifts given to her during the marriage, whatever the occasion, are hers. But in most states, it is considered marital property. How unfair!

The first thing you have to do when preparing or signing a prenup (that your husband may have had an attorney prepare) is to have your own attorney. You must have an attorney who specializes in prenuptial agreements and will look out for your interests. (But be aware that if you don't have the proper counsel, the prenup could be voided at a later date; of course, if the prenup is not properly written, this could be to your advantage.) You should also have your own accountant to protect your interests.

You have to be very careful when preparing or signing a prenup that you don't give up any assets that you acquire during your marriage or your fair share of the money that your husband earns during your marriage. An example is if your husband presently owns a business, and

during the course of your marriage, it becomes much more successful than it was when you married him; you have to make sure that you reap the benefits of this success. You have to be careful not to give up your share of his future successes. Or if “you” should buy real estate or art, for example, that it is both of yours, marital, not just his.

If you own any real estate before your marriage, and there is a stipulation that says if you should get a divorce your husband will benefit from the appreciation of this property, it is very important that before (or immediately after) you get married that you have it appraised by a certified real estate appraiser—**not** a real estate broker. This property may have already been appraised if you recently went through a divorce, but it is very important that you have it reappraised. Your attorney should be able to recommend a certified appraiser.

It is very important that you have a clause in the prenup that protects you from your husband’s pre-marriage debts. I know someone who found out a few weeks after her marriage (and after weeks and weeks of negotiating a prenup) that her new husband owed the U.S. Government a huge amount of money and that he was basically broke. She was told that his attorney didn’t realize it until after they were married. (If you believe a story like that, than you must also believe in the tooth fairy!) Don’t ever forget that anyone who is on your husband’s payroll (no matter how long you are married) will tell you whatever he tells them to tell you—even if it’s a blatant lie. You must protect yourself and your assets.

There should be a clause that the prenup will be renegotiated in a specific amount of time. This usually takes place after ten years and/or when something important happens in the marriage, such as the birth of a child.

You should have a non-cancellable life insurance policy on your husband’s life, that you should pay for if necessary, in case he should die.

It is also very important that you work out all of the details of your prenup with your future husband **before** you get your attorneys involved. Attorneys have an agenda—money. The more details you have agreed upon before you get attorneys involved, the less controversy there will be, and the less money it will cost you.

***AND MOST IMPORTANT!***

A prenuptial agreement should be negotiated, drawn up, and signed well before your wedding. Some people can never agree on the terms of a prenuptial agreement and never get married. It is better not to get married if you cannot agree on the terms of a prenup because you will treat each other more fairly before you marry than if the marriage should end—when you are less likely to do so. If you address money issues before you marry, there is a greater chance that your marriage will last. The biggest mistake women make is thinking that their husband will always take care of them. “Dream on,” as the expression goes.



## YOUR WILL

Every woman should have her own Will. There is no more important legal document that you will ever sign than your Will. A Will, unlike most contracts, cannot be changed after it becomes effective at the time of your death. If you already have one at the beginning of the divorce action, you will need to update it to protect your assets and your children, if you have any. If you don't have a Will, then you will need to have one drawn up. At the end of the divorce, after everything is settled, you will need to redo your Will again to protect your assets and any children. A Will is the only way you can have the last word!

Attorneys are famous for suggesting that you appoint them to be the Executor of your estate. I strongly suggest that you do not do this unless your attorney is your trusted friend. If possible, appoint your child or children jointly (if they can do this amicably), or appoint a close relative as your Executor. I appointed my accountant, after asking him if it was okay. He is neutral and honest, he knows my finances better than anyone, and I know that I can trust him to make the right decisions under any circumstances.

Never use your divorce attorney to write your Will! There are attorneys who specialize in writing Wills called Estate Attorneys. Spend plenty of time going over the language of the Will and the decisions you are making in it. By the way, it should be updated every few years or when your financial or other circumstances change.

Also, if you should remarry, do not assume that a Will and a prenup do the same things. Your Will is your explicit wishes and instructions as to how your assets should be distributed after your death. A prenup is a business partnership designed to protect you and your separate property.

## RECOMMENDED READING

*Using a Lawyer*, published by HALT —You can order it from their website <http://www.halt.org>.

*Divorced From Justice* —Karen Winner

*Women & Money* —Suze Orman

*What Every Woman Should Know About Her Husband's Money*  
—Shelby White

*Beauty Fades, Dumb is Forever* —Judge Judy Sheindlin

*Win Your Case* —Gerry Spence

*Your Heart's Desire* —Sonia Choquette (You can go to her website to order it.) A friend gave me this book after my divorce was over, and I wish I had had it to read when all of this began. It's the kind of book you don't read right through. Read a few pages at a time and highlight—then read and reread. It will help you so much to get through the trauma of your divorce.

*Trust Your Vibes* —Sonia Choquette. This is another very special book with very wise advice. Again, it's one you don't just read right through.

Informative websites:

HALT: <http://www.halt.org>

NOLO: <http://www.nolo.com/index.cfm>

The Public Library of Law: <http://www.plol.org./Pages/Search.aspx>

Lorna Wendt's Equality in Marriage Institute:

<http://www.equalityinmarriage.org/>

Monica Getz's National Coalition for Family Justice:

<http://www.ncfj.org/>

Great Divorce Advice – divorce advice for men you should read

<http://www.greatdivorceadvice.com/>

## ANTICIPATE THE WORST

My girlfriend always says, “You should always ask yourself what is the worst thing that can happen—anticipate the worst.” At the end of my divorce, I owed my second attorneys an obscene amount of money ... and for a job poorly done. They offered me a 10% reduction (even though it should have been less because my attorney promised that she would combine fees). I should have just paid them and gone on with my life. Instead, I chose to have a referee decide how much I should have to pay them.

It was apparent from my entire “divorce” experience that the New York Court system is totally corrupt, and I should have realized that a referee would be the same. His ruling was against me—ruling in favor of a big law firm, whose senior attorney in my case had a long list of “Affiliations” and “Professional Memberships”—need I say more. I didn’t have a chance.

To make matters worse, the referee who had a three-month window to make his decision took almost a year to do it. I had to pay interest on the money that I owed (which was being held in an escrow account, by the way). New York State’s interest is 9% compounded—so I had to also pay an outrageous amount of interest.

**REMEMBER!**

**“Living well is the best revenge!” You want to get through your divorce and live well!**

You will be very stressed, sometimes depressed, and you will feel a great deal of anxiety during this time of your life. Try not to take pills to help you get through it. I found that exercising helped me. Exercise releases endorphins that help relieve stress and makes you generally feel better. I have a treadmill in my apartment, which was a good investment. You can also do Pilates or Yoga. They are good for both your mind and your body. Massages are relaxing and will also help you deal with stress. If you think “I can’t afford it,” remember that you are important, and if you don’t do something to help to get rid of your stress, it can make you sick! It will be money well spent!

When your divorce is finally over—be creative—start a business! It will give you something positive to focus on and help you to go on with your life.

**You can sit around waiting for things to happen, or you can make them happen!**

According to the U.S. Census Bureau, more than half of women age 55 and older are widowed and close to one-third are divorced.



AND...For those of you whose husbands have cheated on you (both of mine did), and you keep asking yourself “WHY”—you know that you were a good wife and had a good sex life—you may even have thought you had a good marriage—so WHY?

Walter Scott of *Parade Magazine* addressed this in an article published on June 10, 2007:

“Q: Why are beauties like Halle Berry, Christie Brinkley and Sienna Miller cheated on by partners?

A: Our favorite Hollywood relationship guru, Kathryn Alice, tells us,

‘Partners cheat due to their own problems—anger, boredom, jealousy, sexual addiction—not due to something lacking in the women.’”

I hope this makes you feel better. It did me!

By the way, there’s an old cliché: A man who cheats on his wife will cheat on her replacement. This is so true! My ex-husband cheated on me and then, cheated on his married girlfriend with someone else. He had two relationships going at the same time! Viagra!

## QUOTES AND SAYINGS

“Divorce fights are much worse than murder trials.” –Louis Nizer

“Being divorced is like being hit by a Mack truck. If you live through it, you start looking very carefully to the right and to the left.” –Jean Kerr

“A lawyer is never entirely comfortable with a friendly divorce, anymore than a good mortician wants to finish his job and then have the patient up on the table.” –Jean Kerr

“What goes around, comes around.” –Law of Karma

“Always get even.” –Donald Trump

“Be optimistic, but always be prepared for the worst.” –Donald Trump

Living well is the best revenge comes from The Talmud: “Live well. It is the greatest revenge.”

“When you get to the end of your rope, tie a knot and hang on.”

–Franklin D. Roosevelt

“Change is a dragon. You can ignore it, which is futile. You can fight it, in which case you will lose. Or you can ride it.” –Chinese proverb

“The only place where success comes before hard work is in the dictionary.” –Vidal Sassoon

“When one looks at it, one cannot see it. When one listens to it, one cannot hear it. But when one uses it, it is inexhaustible.” –Zen

“A coeur vaillant, rien d’impossible.” (With a valiant heart, nothing is impossible.) –Catherine Deneuve

“Beauty Fades, Dumb is Forever.” –Judge Judy Sheindlin

“Sometimes I think they’re still not used to dealing with smart, aggressive women ... they’re used to controlling women, not dealing with women who take control.” –Judge Judy Sheindlin on Men

“If women are going to continue to be successful, we must toughen our facades, develop a protective shell to shield us from all the flak that flies in our direction. Frankly, if someone calls me a control freak, I automatically say thank you.” –Judge Judy Sheindlin

“Guaranteed Divorce Insurance: If a woman has an education and a skill, she has guaranteed divorce insurance for her lifetime. And since half of all marriages don’t survive, women had better shake themselves loose from their fantasies and get divorce insurance. What is divorce insurance: It’s an education a skill, a profession, an ability to take care of yourself, come what may. The only insurance protection you have is financial independence.” –Judge Judy Sheindlin

“Do Not Abdicate” –Judge Judy Sheindlin

“The difference between divorce and legal separation is that a legal separation gives a husband time to hide his money.” –Johnny Carson

“Don’t give up when the going gets tough—most people are tested when they are five feet from the goal—that’s when most people give up!”

–Anthony Robbins

“Above all, be the heroine of your life, not the victim.” –Nora Ephron

I don’t know the source of these, but I wanted to include them...

“Today is not a dress rehearsal.”

“The best way to predict your future is to create it.”

“Nothing is forever...”

“Have patience. All things are difficult before they become easy.”

And most important of all...

“Behind every successful man, there is a woman.” –Bernard Shaw

Cindy Adams elaborated on this in *The New York Post* in 2006 when speaking of Coretta Scott King, the wife of Martin Luther King, after he had died:

“Butcher, baker, candlestick maker, emperor, every man somewhere sometime someplace somehow suffers a failure, the loss of his job or some bout with adversity. And when misery’s tidal wave engulfs him, no matter how big he is in size or success, the buoy who keeps him afloat is usually the woman closest to him.”



And for those of you who are homemakers...

“My case was never about the money. It was about someone implying I was a ten percent participant in my partnership. In reality, I always gave 100 percent, putting my career on hold to raise the children, manage the household and support him in his business endeavors.”

—Lorna Wendt, Founder, Equity in Marriage Institute.

Every woman who is or has been a homemaker knows that being a homemaker is a 24/7 job. My day started early in the morning and didn't end until late at night, seven days a week. I gave 100 percent to being the best wife, the best mother, and the best homemaker that I could be. This was my career, and I was successful at it. I was “the woman behind the successful man.” I was there for my husband “through thick and thin.” I married him when he had no money. He used to tell me that I was the only person who had ever been good to him his whole life—but he quickly forgot when he was threatening me he was going to divorce me, and he had hidden his money, and that I wouldn't get a thing. Sad, isn't it?

In January 2006, *Town and Country* magazine published an article entitled, “Woman of the Year.” Pamela Fiori, who is Editor in Chief, said the following in her Editor's Letter:

“Finally we have chosen our first ‘Woman of the Year,’ someone we believe is the most powerful individual in America. She is self-confident, willing to change, resistant to looking or feeling old and brand-loyal only up to a point. She is a great deal more successful and sophisticated than her predecessors and only too happy to call the shots, which she does on a regular basis. She's got money and moxie—what a combination—and she is nobody's fool.”

The following is an excerpt from the article by Joan Hamilton:

#### “MORE POWER TO HER

##### The American Woman

- Approximately 42 million women are aged forty to sixty.
- Women solely or jointly own 87 percent of homes.
- Women control or influence 80 percent of consumer purchases.
- Boomer women are six times more likely to share responsibility for savings and investment than their mothers were.
- Full-time college enrollment by older women has increased 31 percent in the past decade.
- By 2010, 60 percent of wealth will be controlled by women.”

Why isn't this same fabulous woman fighting for her rights and fighting to correct the injustices done to women by dishonest, corrupt attorneys and prejudiced, corrupt judges in our corrupt court system?

## SOME MISTAKES WOMEN MAKE REGARDING THEIR HUSBANDS

- The first mistake most women make is thinking that their husband is smarter than they are just because he is a man.
- The second mistake women make is letting their husbands totally control all of their finances. I read or hear about women every day (even career women), who have turned their money over to their husbands to manage—who wake up one day and find out that he has either mismanaged their finances or stolen their money. You should always know the amount and location of your joint finances.

“Ask yourself: Do you have control of your own money? Your *own*, not *his*. It’s an important distinction. Even when a woman controls the money, and her husband gives her the paycheck, it remains in his power to cut her off. Have a profession, a vocation, your own source of money. It’s your security, girls. Nobody can take it away.” –Judge Judy Scheindlin

“It’s benevolently empowering for someone to have her own means, rather than depend upon someone else for her financial well-being. I truly believe that this yields greater health in the equal balance of a partnership as well – fewer power differentiated dynamics.” –*Town & Country* article entitled, “Women and Wealth” February 2008

I got an “allowance” every week to pay bills and for myself. Needless to say, that stopped the minute I sued my husband for divorce!

I controlled my own stock account, which the judge ruled as “marital” even though it wasn’t—it was my life’s savings. But I never knew anything about my ex-husband’s successful, privately-owned businesses or any of his investments. I allowed him to totally keep me out of his (our) businesses, and I ended up with nothing from them as a result. I also never knew how much life insurance he had (and found out during the divorce he didn’t even have one life insurance policy naming me as the beneficiary). He also kept his Will a big secret, so I doubt that I was even mentioned in it. **Don’t let this happen to you!**

- And the biggest mistake a woman can make is believing that her husband will always take care of her and treat her fairly and equitably. “Dream on,” as the expression goes. Once a man decides that the marriage is over, you are “yesterday’s news.” After living with and being married to my ex-husband for twenty-three years of my life, taking care of him, being “the woman behind the successful man,” he didn’t want me to get anything. He turned our divorce into a vicious battle, a war, causing both of us to run up huge legal fees rather than give me a fair, equitable settlement. It’s a sad commentary on life and marriage, but it happens every day. He went to such extremes to keep me from getting an equitable share of our assets, that he was indicted, convicted and went to prison.



## SOME MISTAKES WOMEN MAKE REGARDING THEIR ATTORNEYS

- Thinking that your lawyer is your friend or confidante. Remember that this is a **business** relationship!
- Assuming that your lawyer is smarter than you are, assuming your lawyer knows best, and not questioning his or her judgment, expertise, or fee requirements.
- Allowing your lawyer to intimidate you.
- Assuming that your lawyer has your best interests in mind.
- Allowing your lawyer to make all of your decisions for you in your divorce case.
- Not asking your lawyer up front to tell you the total anticipated fees.
- Not asking your lawyer up front what referral fees are being paid (if any).
- Not having your accountant/auditor review your attorney's bills regularly.

- Expecting your lawyer to be honest with you as to whether you should proceed with a lawsuit when he/she is aware that it will be a waste of time and money; expecting your lawyer to be honest with you about the ramifications of the lawsuit, **or most importantly**, that he/she doesn't have the expertise to handle your case.

I do want to add that there are many competent, honest attorneys and judges out there; but, unfortunately, because the profession is self-regulated, the corrupt ones continue to exist.

Donald Trump says, "Be optimistic, but always be prepared for the worst." I was always optimistic during the whole divorce—that is what kept me sane. But I was never prepared for the outcome—the worst! My ex-husband used to say that I was a "Pollyanna," and I guess he was right. Even today, when I think about what happened to me, I am in total disbelief. It is all a bad nightmare. But "living well is the best revenge"—and I plan to do just that!

## CLOSING THOUGHTS

We all start off a divorce thinking that the justice system works fairly. Surprise, Surprise! We trust that our attorney will be honest. We're sure our attorney is going to protect us. Surprise, Surprise! We're sure our attorney will work hard to obtain a fair and equitable divorce settlement. Surprise, Surprise! We trust that the judge in our case will be competent, ethical, honest, wise, and fair. Surprise, Surprise! We trust that the judge in our case won't be prejudiced or corrupt. Surprise, Surprise! We're shocked at how vicious and ruthless our husband has become. We're shocked at how vicious, unscrupulous, and ruthless our husband's attorneys can be. Money does that. Divorce does that. Surprise, Surprise! We had no idea how corrupt our court system is. Surprise, Surprise!

Only when women start demanding changes from their legislators, and when they realize they have the power to make changes, will something be done! The expression "you can't fight city hall" is the position women are in today. **IF WE STICK TOGETHER, WE CAN FIGHT CITY HALL AND GET REFORMS TO OUR CORRUPT COURT SYSTEM! LAWYERS AND JUDGES NEED TO BE HELD ACCOUNTABLE FOR THEIR CONDUCT AND RULINGS!**

"Instead of working for all Americans, too often our legal system arbitrarily denies us access and unfairly shields unethical lawyers from answering for their misconduct," explains former HALT Executive Director Jim Turner. "Sadly, when this happens, it's not justice; it is legal tyranny."

Unfortunately, we don't have an advocate—no one out there to help to protect women from our corrupt court system. **WE HAVE TO HELP OURSELVES!** If you have a complaint against an attorney or a judge, make a *formal* complaint! Even though filing a grievance seldom results in discipline, your complaint may be the one that gets something done. Plus,

establishing a record is very important. If there is a pattern of complaints, there is a better chance that the grievance committee will take disciplinary action. If no one complains, there will be no record of an attorney's or judge's misconduct. Complaining about your attorney's or judge's misconduct can potentially spare other women your experience. Again, your complaint may be the one that gets something done because it establishes a pattern that can't be ignored. Write your Senators and Congressmen. Write your local newspapers and television hosts.

**If there are enough complaints, and if we make enough noise, the “powers that be” will have to sit up and take notice. They will have to do something about our corrupt courts, attorneys, and judges, won't they? WOMEN DESERVE JUSTICE!**

One last thing—if you don't have a dog, think about getting one! I could not have survived the last eight years of my life without my four pound Yorkie (Yorkshire terrier), Molly. Dogs give you unconditional love and affection, and in times of stress they can save your life! Molly is a sugerpie and the love of my life. If you do decide to buy a dog, buy it from a breeder—never from a pet store!

**GOOD LUCK!**



## CHECKLIST OF THINGS TO DO

### Prepare

- Get Yourself Financially Secure
  - Credit cards – have at least two
  - Checking Account
  - Real Estate
  - Utilities
- Accumulate as much financial information as possible
- Know your husband's financial information
- Stash cash
- Document your standard of living
- Document your involvement in your husband's business(s)
- Document your valuables
- Know your husband's Will
- Know what life insurance policies exist
- Empty your safe deposit box
- Empty all joint checking and savings accounts
- Be your own private detective
- Find a therapist or someone to talk to (not a friend or relative)

### Interview and Hire an Attorney

- Find out the top five divorce attorneys in your city
- Make appointments to interview as many as you can afford to
- Interview at least three
- Bring a close friend or close relative with you if possible
- Retainer Agreement – do not sign on the spot – take home and read
- Immediately after hiring your attorney, hire a forensic accountant
- Hire a private investigator if necessary

### Working with your Attorney

- Bring a close friend or close relative to meetings
- Get in the habit of being “wired”
- Always have a written list of questions
- Follow-up a meeting or phone conversation with a letter memorializing what was said
- Document, document, document and backup, backup, backup!
- Stay involved in your case
- Attend all court appearances
- Attend all depositions
- Never pay your attorney’s bills in full every month

### Ways your husband can hide his assets

- Lie and commit perjury about everything
- Drop his income and plead poverty
- Use his credit cards to “live on”
- Drain his IRA’s and pensions
- Undisclosed retirement accounts
- Custodial accounts in others’ names
- Borrow money
- Hide his real income
- Skim money from his own business
- Bankrupt his company and start a new business
- “Phantom Owner” of his own business
- Hide money in offshore accounts or offshore trusts
- Use credit cards to access offshore money
- Hide assets in corporate names or someone else’s name
- Undeclared income
- Defer bonuses, raises, commissions, and stock options
- Insurance policies with cash value
- Purchase property with no paper trail
- Stonewall discovery
- Excessively litigate to drive up fees and obstruct you from discovery
- Sue for custody of your children

## Deposition

- Be properly prepared by your attorney
- Best answers: "Yes, No, I don't remember, I don't know, I don't recall."
- Stay calm
- Be an active listener
- Do not speculate
- Never let your guard down
- Do not eat a heavy meal during lunch break

## Settlement

- A settlement does not mean you've lost
- Take lump settlement
- Discuss the settlement with your accountant before agreeing

## Trial

- Taking your case to trial involves a risk
- Take an active part in helping your attorneys prepare
- Be properly prepared by your attorney
- Best answers: "Yes, No, I don't remember, I don't know, I don't recall."
- Stay calm
- Be an active listener
- Do not speculate
- Never let your guard down
- Do not eat a heavy meal during lunch break

## Life After Divorce

- Close all bank accounts, stock accounts, and open new ones
- Change beneficiaries on your IRA's, 401(k)'s, life insurance policies
- Update your Will and Power of Attorney, your Living Will and Health Care Proxy
- Change title of any property
- Remove your ex-husband's name from your mortgage
- Change title of your automobile and automobile insurance
- Record transfers of ownership of all property
- Change all insurance policies to your name only; i.e., homeowners
- Make a copy of the final divorce judgment
- Be creative, start a business