



RESOLVE

DIVORCE LAWYERS

(aaron can you insert high res version and update font throughout to match)

BEFORE YOU DIVORCE... HERE'S WHAT YOU SHOULD KNOW

After years of practicing in Family law, there's a few things I have learnt about divorce, that don't relate to the law; practical tips and tricks I find myself telling clients over and over again.

Here are a few of those practical tips which I hope help you keep perspective, think objectively and bring you to a sensible resolution in your divorce.

Don't Believe What Other People Tell You About Their Divorce

Most people are touched by divorce in some way throughout their life. Your best friend's going through it, your neighbour did it last year. Whoever it is and whatever the connection, you will receive advice from all sorts of people about what should happen in your divorce, what they went through, what you should "make sure you ask for", and what you should "be entitled to". All of these people are well meaning and genuinely trying to help. But.... nod politely, thank them for their advice and ignore it.

It is too often the case that the advice and information you will get from well-meaning people (including friends and family) will be wrong, inaccurate, misleading or simply not relevant to your particular circumstances. Remember, every divorce is different because, simply, every couple is different. Some people are emotional, some people are difficult, some people are arrogant, some people are generous, and others are greedy. Simply, the way two people behave in a divorce, will make all the difference on how it goes. Listening to what other people did or what their lawyer told them to do at the time, only makes you anxious about the advice you are receiving, it make you worry that you may be doing something wrong and really, just creates unnecessary stress and tension.

No divorce experience is typical. Like any other professional service, get specific advice from appropriately qualified people that **know** your situation intimately. Trust them and listen to them and only them.

Think big picture. Don't sweat the small stuff.

Don't waste time energy and money on an argument about how to divide the cutlery because that will stop you from moving forward.

We see many people spending countless hours of theirs and our time, arguing over things like their furniture or linen, when in the end, the legal argument costs more than the items they are arguing over. Apart from the cost, the main thing lost is pure perspective; the perspective about what is really important and how to move forward on the bigger issues. The time and energy spent on the argument over knives and forks, leaves people unable to process and make objective and rational decisions when it comes to the bigger questions of the time to spend with their children or how to split the assets they have accumulated over the years.

Give in on minor things which don't matter to you and just concentrate on the issues that really are important to you.

There are no winners or losers

The sooner you realise this, the better your divorce experience will be. It is rare in the context of a divorce to say when you have actually won or lost.

Let's start by looking at the children, what would you consider a win or loss in this battle? Most would define winning, as having the kids living with them full time. But do these people consider that a win may be alienating their children from their other parent? Even if they do actually "win" the time they want with the children, they might have to give up or "lose" in the property settlement or child support to make up for it, so overall, it's hard to tell who the winner actually is.

Winning and losing is a futile concept in family law.

The better questions to ask are

- “What matters to you?” or
- “What does a good divorce settlement look and feel like to you?”,
- “Where do you really *need*”?

For example, is it with a mortgage free home and an income generating asset, school fees paid for and freedom to work regularly? OR is it the knowledge to know that you are able to spend regular and frequent time with your children but still maintain a career you are passionate about?

Think about these questions for a minute. Then, consider how you want your divorce to look? You will soon realise, it's not a fight at all and it's definitely not a competition. It's really just a parting of ways; an understanding that for whatever reason, it didn't work out between you, but that doesn't mean either of you should gear up for a battle to win or lose. Instead, look to your own interests and goals, ask yourself, what would you want and need for your divorce to work for you.

Then, get advice from a lawyer who *won't* pump you up for a fight and make it happen!

Don't think a court room will give you “justice”.

Too many times, we hear people coming in, wanting “justice”. They have been hurt and want to make their spouse pay...fair enough, you might say? Well, too many more times, we hear spouses wanting to punish the other spouse by keeping their children away from them or by stopping to pay the school fees or the mortgage to affect their credit rating and get them back. Unfortunately, these people rarely leave truly satisfied.

The court system is full of disgruntled, upset and emotionally charged people, stuck with a false sense of “entitlement”. They expect the law to be able to protect them and fight for them. Only to find a few years down the track and thousands of dollars out of pocket, that the law can only go so far; it can't change people or people's behavior; it can't make a good person out of a bad one. Trust me when I say, I have seen some people fight all the way, because it was the right thing to do, or because “surely the judge will understand what he is like?”. However, the only way we have ever

seen people leave truly satisfied, is by getting everything they wanted. That doesn't happen very often and it rarely happens in a court room. But it does happen in the majority of cases though, when it's done the Collaborative "round table" way. That is no exaggeration! That is why we have framed our whole business model around it, because it works.

Don't let your emotions run your divorce experience.

Let's be honest, once upon a time there was love between you, for some, the love might still be there, and it's because of that emotion that the job of your advisors are so important. **Whether it is your legal team, therapists or financial advisors, objective and independent advice at this time of your divorce experience is the only way to keep objectivity.** Lots of decisions needs to be made; some that are life changing. Using advisors makes it easier for you to think clearly, rationally and sensibly, for the benefit of you and your children, without selfishly being blind sighted by emotion.

Be Honest

Don't lie to your spouse; it will come up later, only then, your credibility is in issue and there is not a lot you can do to fix it. In this game, full and frank disclosure is a requirement of the law and there are serious consequences for a breach. And anyway, it doesn't help for sensible discussions.

Don't lie to your lawyer. We can tell or if we can't straight away, we too will find out.

We have recently had a case where our client "forgot" to tell us about an inheritance received after separation but before the settlement and which came out in his evidence only to be highly criticized by the judge and made to "repay" the amount back into the pool, even though he had purposely spent it at the casino so that his wife wouldn't get it. That meant, he missed out on his share of other assets the couple had, to make up for his irresponsible spending. Being honest with us in that situation would have helped him understand his obligations and we could have argued that the inheritance shouldn't have been part of the matrimonial pool so that way he could have spent it on something more worthwhile than chips at the casino.

Be honest in your instructions with us and we can advise you how to best overcome the issues you are facing. Be honest in your dealings with your spouse and then they won't question your authenticity. Negotiations are likely to be more successful and compromises made by each of you in the end if you play by the rules.

Choose a lawyer carefully

Firstly, check credentials and experience. Make sure they are specialists in their field and preferably accredited by the law society in your State. Compare hourly rates but don't base your decision solely on that fact. There are a lot of lawyers who "dabble" in family law; so make sure the person handling one the biggest matters in your life, isn't a "dabbler" in family law, but a specialist.

Secondly, make sure they can offer you a variety of dispute resolution options, so you can make the decision about which option you choose. Are they qualified to provide you with other options or just the traditional expensive way? Do they encourage alternative dispute resolution methods such as Collaborative law or Mediation or are they more likely to push you into the expensive Court battle?

Thirdly, check whether they have the same value set as you. This is a tricky one to check but you should be able to get a feel for this when you meet them. What does their website say about them?

Fourthly, make sure you feel comfortable with them. Make sure you feel supported and listened to and handles you and your situation with the empathy it deserves.

Divorce is not easy. But, with some understanding of some of the above tips about divorce, you have a better chance of making your divorce work, even if your marriage didn't.

Written by Rose Cocchiaro, Accredited Specialist in Family Law, Resolve Divorce Lawyers, Adelaide.