



SEPARATING FROM YOUR SPOUSE AND CONFUSED BY THE PROCESS?

Clarity about How to Protect Yourself
and Your Children

By Law Office of Andrew H. Griffin, III, APC

Separating from Your Spouse and Confused by the Process?

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Published Law Office of Andrew H. Griffin, III, APC

Printed in the United States of America.

ISBN

Additional copies are available at special quantity discounts for bulk purchases for sales promotions, premiums, fundraising, and educational use.

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Introduction

There's no way to sugar coat it. Divorce is one of life's most emotionally taxing experiences – or at least it can be.

Whether your spouse abruptly announced over dinner that he had “fallen out of love” after 11 years together; or you discovered evidence of infidelity or criminal wrongdoing that prompted you to seek separation, you're no doubt confused, scared, angry and overwhelmed by the challenges ahead.

As a divorce attorney, I have the unique opportunity to connect with people going through this extreme hardship. These moments of inflection define people's lives for better or for worse (so to speak) for years afterwards. Helping people navigate the maze of divorce is a major responsibility – one I do not take lightly.

On the positive side, I know that effective support at this juncture I can be life changing and even profoundly life affirming. For all its horrors and indignities, divorce also is an opportunity to clean the slate and start over – to learn hard lessons, so that the future is more in tune with your values and life purpose.

A skilled divorce attorney wears many hats. On the one hand, he or she must be the equivalent of a chess grandmaster – always calculating strategies and tactics to get “best” results in shifting conditions. But the work isn't just intellectual. As a divorce attorney, you need to stay connected, empathetically, to your clients and to the situation. After all, “victory” is in the eye of the beholder. Do we define it as maximizing how much of the marital estate you obtain? Or is it measured by the speed of the process? Or is a child's welfare the most important metric?

Ultimately, you can't make decisions in a vacuum – the client's values, purpose and complex history all must be considered.

My clients come from every walk of life, and their divorces run the gamut from simple and composed to complex, bitter battles involving millions in assets.

For instance, Joy and her husband Steve were together for 7 years, but Steve's deployment overseas working on civilian contracts for the military opened an emotional void. Their cold war came to a head when Joy cheated on Steve with his best friend back home. Untangling the pain and regret for all involved will take skillful work and creative engagement.

Eleanor and Gill, meanwhile, accumulated a small fortune running an online SEO business but discovered after several years that they were better suited as business partners than romantic lovers. Although they both wanted to "do the right thing" by one another, their tangled financial interests made the separation challenging. Could they continue to run the business in tandem? What would the separation mean for their employees and customers? How would the split affect the succession plan for the company? These questions needed solid answers.

Still other divorces lead to fighting much closer to the heart. Angela and Caroline were married for 4 years. They had two children, one from each biological mother. But their separation touched off bad blood – Angela accused her wife of being emotionally unstable and a risk to the children. A big child custody dispute and accusations of alienation followed.

I wrote this e-book to give you a 20,000 foot perspective on the divorce process.

It's by no means a *complete* guide about how to handle your divorce, nor is it legal advice. Rather, I wanted to address the most common questions that people like Joy, Eleanor, Angela, Gill and Caroline have about what it means to get divorced and what can be done to make the process easier and more certain.

You are in pain right now – maybe one of the most painful experiences of your life – but my team and I can help you get through this in a way that respects your dignity, your needs and your children's rights. If you would like to speak with me directly, please skip ahead to the end of this book for a very special offer about how to get a \$10.00 consultation to explore your options. (Normally, I charge \$395.00 for first time consultations.)

I hope this book is helpful and offers you some solace and hope for the future!

Law Office of Andrew H. Griffin, III, APC: a unique approach

With years of legal experience, our bilingual (Spanish) staff and attorney have the knowledge and skills necessary to provide you with outstanding quality advice and representation. Put our three decades of experience to work for you! Contact, The Law Offices of Andrew H. Griffin, III, APC today! We look forward to assisting you.

Back in Control 1: What are my options for separating or getting divorce?

Let's go over a few scenarios.

1. Uncontested divorce

Jeremy and Melissa mutually decided to part ways after just two years of marriage. They don't have children together, and they don't have many assets or debts. They opted for an *uncontested divorce*. They'll work with their respective lawyers to draft documents to separate (e.g. a property settlement agreement, etc.). For them, the divorce process is straightforward, low stress and fast.

2. Mediation

Caroline and Chuck were married for 6 years. They have two children, including one child from Chuck's first marriage. They chose mediation, a form of what's known as "alternative dispute resolution." They each hire attorneys and work with a mediator, a neutral person who helps negotiate how to divvy up their assets and debts and figure out alimony and child support. The mediator does not decide what to do but rather helps negotiations work smoothly.

3. Collaborative divorce

David and Demos chose a different alternative dispute resolution strategy, known as collaborative divorce. This is similar to mediation, in that it's a voluntary process that seeks to get the spouses to resolve their issues and avoid litigation. It involves many support people, such as financial advisors and psychologists, to solve their problems.

If David and Demos can't work things out, they will have to find new attorneys in order to go to litigation. In other words, there's a price to pay if they bow out of the collaborative process.

4. Litigation

Jenny and Alex were married for 12 years, and they have two children together. They owned substantial property – both inherited and earned during the marriage.

They also fought a lot, particularly during the last two years of marriage. Jenny and Alex were not able to negotiate their differences; instead, they chose litigation. Both went to court, represented by different attorneys, to fight over things like child custody and the marital estate.



Back in Control 2: Do I have to prove that my spouse did something wrong in order to get divorced?

No! Every state has its own rules (known as “grounds”) for getting divorced. All states allow what are known as “no fault” divorces. In other words, you don’t need to prove that your spouse did anything wrong in order to get the separation.

For instance, Dani and Sam might say that irreconcilable differences drove them apart. Incompatibility or long term separation can also be grounds for a no fault divorce.

However, some states also have what are known as “fault” divorces. In these states, if you show that your spouse cheated on you, deserted you and your family, engaged in mental or physical cruelty or got convicted of a felony crime, you can gain certain advantages in the process.

For instance, you may get to bypass the normal waiting period to finalize the divorce or ask the court for remedies that wouldn’t otherwise be available to you.

Derek and Carrie, for instance, split up while Derek was doing time for a burglary conviction. Carrie asked for a “fault” divorce, which she was able to get, because Derek was serving a two year jail sentence. This approach let her rebuild her life faster.

Back in Control 3: Who will get to make decisions for my children and take care of them?

Divorce law distinguishes two types of custody:

1. Legal custody

This has to do with who gets to make important decisions about a child's welfare (e.g. schooling, medical care, religious affiliation, etc.)

2. Physical custody

This has to do with which parent gets to take care of the children, when, and under what circumstances.

In general, the courts prefer to award both parents joint legal custody. All things being equal, the court wants parents to participate in the spiritual and educational upbringing of their children.

However, consider the sad case of Elias and Billie. After Billie developed schizophrenic mental illness, Elias asked the court for sole legal custody, arguing that his ex-wife lacked the mental capacity to make safe and well thought-out decisions about the children's welfare.

Physical custody disputes are more common. Sometimes, families split physical custody nearly 50/50. Other times, one parent gets sole custody or majority custody. For instance, Katarina and Georg had two children together. Georg was often away in Europe on business, so they negotiated this situation: Katarina would be the custodial parent (the one who takes care of the children most of the time); while Georg would spend 5 days with them every month after returning from Europe.

Back in Control 4: how does the court decide physical custody, and what can I do to strengthen my case?

Whether you negotiate custody through mediation or fight it out at court, many issues must be considered, including:

- Your and your ex's lifestyle, earning capacity and job schedule;
- Your physical ability to take care of your kids;
- Your mental capacity to make good decisions and keep them safe;
- Whether you or your spouse have a history of violence or emotional or physical abuse;
- Whether you can keep the home safe and nurturing;
- The children's ages and (potentially) their preferences;
- Whether you or your spouse has been the primary caregiver in the past;
- Whether you and your ex can cooperate with each other;
- Whether you or the other parent has violated custody rules in the past.

The courts used to give physical custody priority to mothers. Today's courts are gender neutral. They just want what's in the best interests of the children.



Back in Control 5: Can grandparents, step-parents and others fight for child custody?

It depends. Courts tend to favor parental rights, but they also want to protect children and ensure their welfare.

Dora and Raul were married for 3 years when Raul deserted the family, leaving Dora to raise her 2 year old and 6 month old on her own. Dora then fell into an acute depression and developed substance abuse issues.

Her parents – the children’s grandparents – sought physical custody of the children to ensure they got good meals, stayed safe and avoided dangers caused by Dora’s mental illness and impulsiveness.

Step-parents can also seek legal recourse to obtain custody under special circumstances – for instance, if the biological parent is in jail or if he or she has abandoned the family.

Back in Control 6: Are custody and visitation terms set in stone, or can they ever be changed?

The court wants to create stable environments for children, but the process is flexible. Custody and visitation arrangements can be modified. Here are some examples:

Julie and Lander had worked out a timesharing agreement regarding care for their 4-year-old son, Nils. At the beginning, the timesharing was practically equal. Julie got Nils on the weekends and on Monday and Tuesday; Lander took him Wednesday through Friday. But then Julie contracted Lyme Disease, rendering her chronically fatigued.

Suddenly, Julie couldn't handle the responsibility of taking Nils on weekends, so she and Lander renegotiated the custody arrangement, expanding Lander's responsibility and time with the child.

Aziz and Karen had worked out a deal in which Aziz would be the primary caregiver and breadwinner. However, after one of Aziz's clients sued his company, he had to file for personal bankruptcy, and he could no longer support the children. The court allowed him and Karen to renegotiate child support.

Kendra and James, through mediation, worked out the perfect timesharing plan... perfect, that is, until James got a job offer that he couldn't pass up and moved three states over. This move coincided with Kendra moving in with her new fiancé. When you change your relationship status or move out of state, the court will generally allow you to modify support and timesharing arrangements.

Back in Control 7: How do I figure out what property is mine and what belongs to my ex?

The answer might take some investigation and forensic accounting work.

It depends on things like whether you and your spouse had a prenuptial or postnuptial agreement and how you accumulated your assets and debts.

For instance, Debbie and Lawrence owned diverse marital property jointly that needed to be distributed equitably between them. They had bank accounts to which they both contributed, wedding china, investments, and a home they bought and remodeled together. Splitting these assets equitably wouldn't mean cleaving it down the

middle, like the Biblical story of Solomon. Equitable means fair – each side gets a fair share of assets.

When Doug and Sadie divorced, Sadie claimed that some property was hers and separate from the marriage. For instance, five years ago, she received an inheritance from her great aunt, which she kept in a separate bank account. Sadie also owned a beach cottage given to her in trust by her father. These items would not be considered part of the marital estate.

The situation can get quite tricky. When Georgina and Rafael got married, Rafael had a Roth IRA that had several hundred thousand dollars of contributions already in it. During the course of the marriage, Georgina contributed several thousand dollars to that IRA, transforming it into what's known as "hybrid property."

A qualified divorce lawyer can help you figure out exactly what belongs to whom and what you need to do about it.



Back in Control 8: What if I don't have a catalogue of all our assets and debts?

If you don't have a handle on what you own and where those assets are kept, prioritize finding out!

Kelly let her husband, Ernesto, take care of the family finances, while she managed the home and raised their twins and three Great Danes. During the divorce, thanks to a tip off from Ernesto's brother, Kelly discovered that her husband had been keeping a separate bank account with \$230,000 in it.

Her investigation of the financials also revealed evidence that Ernesto had been going on "business trips" with his secretary to posh hotels and that he had purchased champagne and roses for her. She was able to use this information to leverage better terms from Ernesto during the divorce negotiations.



Back in Control 9: If I go to litigation, how does the court figure out how to award alimony and distribute property?

The court looks at a lot of factors when it weighs in on who gets what, such as:

- How liquid the marital assets are;
- The health and future earning capacities of each spouse;
- How different assets were acquired and whether they're considered marital property, separate property or hybrid property;
- How much each spouse contributed to the marriage and to child rearing;
- Why the marriage broke up;
- The estate's debts or liabilities, if any.

Back in Control 10: Once alimony has been established, are we stuck with that agreement forever?

No. For instance, Britney and Kayden had been married for 3 years before separating after a bitter fight at Christmas. Britney did obtain alimony support from Kayden but only for 2.5 years after the marriage.

Richard and Carol, however, had been married for 25 years. Since she was the bigger earner, Carol was prepared to pay alimony to Richard

indefinitely. But when Richard got remarried, Carol renegotiated the spousal support and ended it.

Back in Control 11: What should I do if my ex said or did something that threatened me or my children?

Short answer: get help right away!

Call the police if you believe that you are in imminent danger. If you have been hit, or if you or your children have been physically assaulted, seek medical assistance ASAP. Document everything that happens.

After Leila confronted her ex, Dennis, about his failure to make child support payments on time, he showed up at her house in his truck with two of his friends. Dennis announced that he was here to pick up the kids and take them to his parents' house. When Leila stood her ground, Dennis threw her to the ground, breaking her arm, and then left.

Leila immediately called the police and took pictures of her injury. She also kept notes from her doctor and wrote down exactly what happened during their argument, word for word, in a journal. One of Dennis's friends from the pickup truck later agreed to write out exactly what he had seen.

With the help of a lawyer, Leila obtained an order of protection to prevent Dennis from harassing her and her children in the future, and the court modified timesharing to grant her sole custody.

Back in Control 12: What if my ex makes up false allegations about me in order to get a better result at court?

Domestic violence is a huge problem in the United States – and probably vastly under reported. But some desperate parents abuse the protections the law affords battered spouses by engaging in what’s known as “Parental Alienation.”

In other words, the spouse lies about abuse or neglect and attempts to brainwash the children to go along.

For instance, Candy and Reggie had a 5-year-old daughter together. When Reggie announced that he wanted to leave because he had fallen back in love with his flame from high school, Candy reacted in outrage. She lashed out by saying horrible (and untrue) things about Reggie to her daughter, effectively brainwashing her. In addition, she made up stories about how Reggie fed her daughter only sugar cereal when he had custody (not true) and hit her when she wouldn’t go to bed (also not true). Reggie carefully documented these allegations and worked with his attorney as well as a therapist to address the situation compassionately.

Fortunately, Candy also worked through her anger and came to understand that it arose from a place of love. She wanted to protect her child, and she still felt deeply hurt by Reggie’s abandonment. They worked out a solution and managed a cordial relationship going forward.

Reggie’s quick but measured response helped turn this potentially devastating situation around.



Back in control 13: What if my spouse and I have substantial assets (or debts)?

The Securities and Exchange Commission (SEC) defines a “high net worth divorce” as one that involves marital assets of a million dollars or more.

Hallmarks of this kind of divorce include:

- Challenges identifying all the marital estate’s assets and debts.
- Debates over whether or how to enforce a prenuptial agreement.
- Fights over business property, heirlooms, jewelry, precious art, and collectables.

Fortunately, not every high net worth divorce becomes as contentious as Michael Douglas’s in *War of the Roses*. But given the high stakes, the fighting can get intense. Charlie and Merissa owned two businesses together and had a net worth of \$2.4 million. Their assets included real estate investments and offshore trusts.

After delicate negotiations, they managed (just barely) to avoid litigation by liquidating one of their companies and distributing its assets. Merissa then bought out Charlie from the second business.

Back In Control 14: How should I use social media (and other forms of support) to get through the divorce?

You need empathy and support. But you want to be smart about meeting those needs! Avoid saying things or publishing things about your ex that could come back to haunt you. A good rule of thumb is: *don't post anything to social media that you wouldn't want on the front page of the New York Times or read aloud in court.*

Find solid support from relatives, friends, and even online communities. However, avoid being overly disclosing about the particulars, just as a matter of practice.

Pay attention to your needs, and try to meet them. For instance, after her separation, Karen recognized through therapy that she needed companionship badly. She also needed a constructive way to vent her anger.

With that knowledge under her belt, she rescued a Dalmatian (a new friend) and got back into racquetball, which gave her an opportunity to smash a ball around a court, instead of allowing negative feelings to well up with no release.



Back in Control 15: How much will I have to pay during the divorce?

The average United States divorce costs \$15,000, give or take, but your divorce might cost much more (or possibly less) depending on:

- Whether you go to litigation;
- The size and scope of your marital estate and debts;
- Whether you need to hire experts to negotiate or testify on your behalf;
- How cooperative your spouse is during the process.

Mara divorced her husband Tim for only \$12,500, all told, including legal fees and court costs. However, she hadn't planned for the fact that Tim had been bringing in \$70,000 a year in income. Suddenly, her household budget didn't work at all.

Mara hired a financial planner to triage her finances. By doing this planning and getting a promotion from her boss, she weathered the financial storm.



Back in Control 16: How soon after my separation can I date or get remarried?

Particularly if you're going through a child custody negotiation, strongly consider forgoing dating while the divorce process is happening.

This isn't to say that you shouldn't date or find companionship, but you want to show the court that you can create a stable environment for the children.

Consider the cautionary tale of Larissa, who began serial dating almost as soon as she separated from her husband, Edgar. Within the first year after the split, she had been in five whirlwind relationships, destabilizing the home for her 7 and 2-year-old children. The court did not particularly like Larissa's behavior and restricted her timesharing accordingly.



Back in Control 17: Do I need a lawyer to handle my divorce?

Penny was a natural “lawyer skeptic,” perhaps because her ex-husband, Paul, was an attorney. In any event, she opted to handle the divorce by herself. She and Paul were married for 3 years, and they spent most of that time living on opposite sides of the country.

As Penny did more and more research, however, she realized how overwhelming the endeavor was (not to mention how daunting the paperwork).

When she discovered evidence from a friend that Paul had been sleeping around while on a work assignment, Penny decided to hire a qualified divorce attorney to take control of the situation.

While divorce law is not rocket science, it is a highly complex field. When you build a rocket, a small mistake can lead to a catastrophic outcome (e.g. an explosion). Likewise, a small error in a seemingly trivial legal detail (e.g. a missed filing deadline or an inelegant way of expressing yourself to the judge) can similarly lead to terrible outcomes, such as a bad child support or alimony arrangement.

Don’t approach this like Penny did. The “Do it Yourself” (DIY) strategy has its uses in life, but sometimes it’s smarter to get the right help from the right people.

Back in Control 18: How can I choose a qualified attorney to represent me?

First off, identify your goals, priorities, and values – possibly before you start researching lawyers.

Dana, for instance, was on the verge of breaking up with her husband of 5 years, Jason. Before she started looking for an attorney, she wrote down exactly what her priorities were:

- Split amicably and maintain a friendly relationship with Jason;
- Make sure we divide our property fairly and protect the \$70,000 in inheritance my father left me;
- Get the process done as quickly as possible, all else being equal;
- Find an attorney who's respected, ethical, good at negotiating, and not afraid to go to court, if need be.

Next, collect referrals from friends and family and from online sources you trust. Check out these attorneys' backgrounds, qualifications, physical locations (are they near enough to you?) and experience with your type of divorce.

For instance, someone like Kay, who has a large business and three houses, would probably want an attorney who deals frequently with high net worth divorces.

Steven, meanwhile, who is girding for a custody battle, might want an attorney known for skillfully handling child custody and time sharing negotiations.

Next, schedule consultations with your top picks. Write down questions in advance, such as:

- Will an attorney be handling my case, or will an associate or paralegal be helping me?
- What distinguishes your firm from your competitors?
- How would you handle my case? What appear to be its biggest weaknesses and biggest strengths?
- How do you prefer to communicate with your clients?
- How much do your services cost, and how does the payment process work?
- Do you do mediation, collaborative or other types of alternative dispute resolution?
- How much experience do you have with litigation (taking cases to court)?
- Is there anything else I should I know about your firm or background?

Once you've interviewed attorneys, take time to consider your decision. Listen to both your head and your heart.



Back in Control 19: Why should I choose you and your team, specifically, to represent me in my divorce?

We understand that every client has a unique set of needs, and we will work hard to provide quality service with personal attention. We care about your case and we will strive to obtain the best possible result for you. With more than thirty-five (35) years of experience, our comprehensive services can help you in a wide variety of areas, to put you on the path of success.

Take Action Now!

Thank you for investing your time and attention! I hope this book has given you a clearer understanding of what to expect from the divorce process and how to protect your rights and get fair treatment.

I'd like to return the favor and offer you something in kind. Normally, I charge a prospective client \$10.00 for an initial 30-minute consultation with me. However, if you call my offices and mention that you've read this book, I would be happy to waive that charge and provide that service **for free**.

You've experienced uncertainty, sadness and frustration. I would love to help and restore your peace of mind.

Please call my team now at (619) 440-5000 to schedule your call. I'm looking forward to helping you put the past behind you and enjoy a brighter and more hopeful future.

The Law Office of Andrew H. Griffin, III APC

Andrew H. Griffin, J.J.I

Attorney at Law



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