

# The Top 5 Pitfalls to Avoid

When  
Approaching  
Separation  
or  
Divorce



# The Top 5 Pitfalls to Avoid When Approaching a Separation or Divorce

If you are contemplating a separation or divorce, you should avoid these very common pitfalls below, as they can have long-term devastating effects on your family and financial future.

- 1. Accepting the advice of friends and family members as gospel**
- 2. Interpreting what your divorce attorney tells you as a guarantee**
- 3. Making empty threats to your spouse**
- 4. Moving and shifting marital funds without informing your spouse**
- 5. Speaking too openly and too soon to minor children about separation, divorce and custody**

# Pitfall #1

## Accepting the advice of friends and family members as gospel

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Although they are well-intentioned and ultimately want the best for you, any advice from friends or family members must be taken with a grain of salt. They can sometimes unintentionally lead you down the wrong path by offering you advice that is uninformed or does not apply to your particular situation.

Commonly, you will hear things like: “My friend Mary got full custody of her children so you can too,” or “my Uncle John had a great attorney who got him a 60/40 settlement and with enough alimony to carry him through retirement, so you should be able to get the same thing.”

Although this advice may sound good to you at first, you need to understand that **there are no two divorce cases that are exactly the same**, so they cannot possibly be treated the same way by a court.

There are so many factors that go into a court-ordered divorce settlement, such as:

- 1) The state law that applies to your particular set of facts;
- 2) The local court customs and practice in your particular county;
- 3) The effectiveness of your attorney and their reputation with the court, and Since judges are human, the particular mood they are in on a given day.

In actuality then, going to court is truly a “roll of the dice” in which you might spend \$30,000-\$40,000 on average, only to get an end result that is radically different than what you were expecting.

Therefore, when approaching your divorce, you should **seek out the advice of a competent professional first** who will help you to sort out all your rights and options while helping you to develop some realistic expectations up front.

### Pitfall #2

#### Interpreting what your divorce attorney tells you as a guarantee

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Getting the advice of a competent attorney you can trust is always a wise choice and a good place to start. A divorce attorney will attempt to gather all the relevant facts as well as financial and other historical information about your marriage.

They will usually give you a general assessment of the type of settlement you can expect, with a ballpark range of the outcome. However, do not rely on an attorney’s preliminary impressions as a slam dunk for your case. No one, not even a highly trained and experienced divorce attorney can ultimately predict exactly how your case will fare in court. Remember, an attorney’s advice will always be limited to what you tell them and any documentary information you provide. That’s it.

They will not be aware of any financial or other information your spouse may have in which you are not privy to. And that could drastically change the attorney’s analysis of your case.

Moreover, because you may come to an attorney's office feeling upset and angry at your spouse or otherwise emotionally distressed, you might have the tendency to hear only what you want to hear and then hang your hat on it. This can cause you to firmly dig in your heels without any compromise going forward.

This can be the most costly mistake you make going forward which can both deplete your finances and harm your family emotionally for years to come. This is true, especially if your spouse is already in a position to discuss a quicker compromise in order to avoid costly and emotionally draining litigation.

### Pitfall #3

#### Making empty threats to your spouse

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As a precursor to a litigated divorce in court, spouses commonly make empty threats and other nasty recriminations towards one another. "I'll get the meanest lawyer in town and bury you," or "After cheating on me, there is no way you will ever see your kids again, or "My lawyer said you'll have to leave the home and pay me alimony for the rest of your life." Such threats, although understandably borne out of anger, are really meaningless in the long run and have no effect either way on the outcome of your case.

Remember that the way you comport yourself with your spouse early on will not only set the tone for your entire divorce case, but also for years to come after it is all over. This, of course, becomes especially significant if you have children to co-parent which you will not be able to do in a manner that is healthy for them if you carry hatred and resentment towards your spouse into your post-divorce lives.

Therefore, always take the high road in approaching your divorce. You don't necessarily have to be friends with your spouse through all this--just be willing to make an effort to communicate, cooperate and compromise with them as best you can, especially when children are involved. Assure your spouse that you are not out to hurt him/her or the kids (if kids are involved), and that you have good faith intentions of reaching an amicable settlement as soon as is possible.

### Pitfall #4

#### **Moving and shifting marital funds without informing your spouse**

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Mutual trust is a fundamental element that must be present in order for spouses to have a successful divorce settlement that is fair to both parties. When there is a lack of trust between spouses, it establishes an impenetrable wall between them, making any kind of meaningful communication towards a settlement virtually impossible.

One big way to break any trust that exists is for one or both spouses to act underhandedly, especially with the marital finances. When a spouse decides they want a divorce, they will sometimes secretly transfer funds from a joint account into their own account, make significant withdrawals of cash from a joint account or redirect their paycheck from a joint account to their own account. When clients are asked why they do this, they typically say they feel threatened and need to act quickly in order to protect what is theirs.

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Although it is understandable that such activity could occur in the heat of the moment when a spouse may perceive a sense of urgency and desperation for it, it is the most severe breach of a spouse's trust in a divorce case imaginable. If these are marital funds that are being moved in and out of accounts, this activity will immediately be uncovered through the initial steps of the discovery process.

This means generally that if marital monies were withdrawn from marital accounts, this will eventually come to light and they will have to be returned to the marital estate. If a spouse has since spent the funds away, they will be ultimately accountable for them as part of the divorce settlement.

Therefore, if you and your spouse are contemplating a divorce, and you feel the need to move any funds from an existing marital account or redirect marital funds away from a marital account, discuss your intentions with your spouse first and make sure there is a good reason for doing this, and one that also makes sense to your spouse.

This open disclosure early on will go a long way towards ensuring a smooth and efficient settlement in your matter.

# Pitfall #5

## Speaking Too Openly and Too Soon to Minor Children about Separation, Divorce and Custody

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Discussing your separation or divorce plans with minor children is an extremely sensitive subject which must be approached very delicately. Yet, without realizing it, many times spouses who decide to separate or divorce will use their children as sounding boards to vent all the frustration and confusion they are feeling in the moment.

This is the worst thing you can do to your children during this time and can have deleterious long-term effects on their emotional well-being. If you need to vent, find a friend, family member or co-worker, and remember to take any advice they offer you with a grain of salt.

Although your own feelings and interests are very important in a divorce matter, a healthy divorce means considering what's best for your children first. Therefore, if getting a separation or divorce is what you have decided for yourself, try to make every effort to go about your business as quietly as possible without involving your children. This is not to say that children should be completely left in the dark either.

Sooner or later, you will have to face these issues with them directly so that they can begin to emotionally prepare for a life of visitation between two separate households. Figuring out the ideal time and also the appropriate things to say to children is key. Planning in advance with your spouse on how to approach this, and also approaching the children together is the best way. Family therapy with a



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licensed family therapist can also be very effective when working through these issues together as a family.

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Believe it or not, a large majority of divorcing parents can amicably negotiate a compromise regarding child custody issues without legal assistance and only 6-20% of all divorce cases involving children actually need the courts to intervene. Therefore, the odds are in your favor that your custody matter can be resolved amicably without court involvement.

So by avoiding these common pitfalls, you will give yourself the greatest chance of transitioning through your divorce as healthy as possible so that you can look forward to a happier and brighter future for your family.



Best of luck!

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