

The DIY Divorce

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I belong to a private Facebook group of middle-aged women who share stories of age discrimination, infidelity, sexual dysfunction, depression, hot flashes, melanomas, empty nests, ailing parents, and other baubles of midlife mirth. Every so often, a new post will appear, announcing the rupture of a decades-long marriage, the wound of it so new and gaping you can practically taste the blood dripping off the words. This is a caring group, though most of us are strangers in real life, so the comments below include heartfelt nuggets of empathy ("I'm so sorry. It gets better, I promise ..."). But it is also a proactive group, and tends to advise a take-no-prisoners practicality. "Lawyer up!" each future divorcée is exhorted, by those who've been there. The call to arms is a directive, not a suggestion.

But what if the future divorcée—like me, like so many—cannot afford a lawyer? What if, even if she had the means, the built-in antagonisms and financial excesses of the American divorce industrial complex leave her longing for a less corrosive option, one that might put a more reasonable punctuation mark at the end of a failed marriage than an ellipsis made of tiny grenades?

Divorce in the U.S. is a multibillion-dollar industry, pitting spouse against spouse in a potentially endless arms race of fees. "Make no mistake," my former therapist, a man not prone to hyperbole, once warned me, "divorce is a war."

When I first made the painful decision to end my marriage, after years of dysfunction and thwarted attempts at reparation, I was told I'd have to pay a lawyer something like a \$30,000 retainer just to get the process started. Granted, those were New York City prices, but that's only slightly higher than the average cost of a divorce in the U.S., where estimates run from \$15,000 to \$25,000, depending on whose inexact data you're looking at, whether children and excessive conflict are involved, and whether the case goes to trial. My ex and I had only debt between us, no assets, so we decided to ask a mutual friend to be our mediator, at a friends and family rate.

Big mistake. Though we both had a stated desire to keep things civil, the nature of our particular dysfunction—control issues, if I may be both coy and precise—was evident within the first two sessions, torpedoing mediation as a viable alternative. It also left us \$1,400 in further debt. Why were we in debt? For the same boring reason so many middle-class Americans are in debt: Our basic living expenses (child care, health care, student loans, rising rents, college tuition, food, clothing, etc.) were greater than our joint income.

More specifically, we were still in debt from the exorbitant hospital fees from our first two children, born in 1995 and 1997, as well as the unpaid maternity leaves I'd taken back then as the main breadwinner in our family. By the time our third and final child was born, in 2006, those hospital fees had only increased, so I freelanced throughout the first months of his life to keep us afloat, even as my industry, magazines and publishing, contracted, buckling under the strain of free content and lost advertising. In 2013, the rent on my home, for which we were paying \$3,500 a month, suddenly shot up to \$5,000 a month when new landlords took over at the same time as my marriage collapsed, and my ex moved across the country. I took in boarders to stanch the flow but ultimately had to move to smaller, cheaper digs, which was itself another financial setback. Several serious and unexpected illnesses and their resulting chaos—including losing my executive-editor job at a health magazine and suddenly having to pay exorbitant COBRA fees—were the final nail in my financial coffin.

Suffice it to say, like 40 percent of Americans in a 2018 study by the U.S. Federal Reserve, I would have been hard-pressed, after the separation, to deal with a \$400 emergency—let alone \$30,000 in lawyers' fees. Some weeks, there was not enough money for food.

So for two and a half years post-separation, my not-yet-ex and I did nothing on the divorce front. I felt hopeless. Trapped. Paralyzed by our lack of options. But the system in place—hire lawyers, go to court—held nothing for those of us living hand to mouth but not poor enough to qualify for free representation. As we moved on from the marriage, I didn't even know what to call him. "My ex" wasn't exactly accurate, but neither was "my husband." A friend suggested "was-band," but no. Whoever he was to me, he was no longer physically present or available to parent, so in one sense I was lucky: I didn't have to petition the court for custody, because I was the de facto parent 24/7 for two and a half years. I considered

going to court to ask for child support, but when I factored in what it would cost me in lawyers' fees to do so—not to mention the logistical issues of getting us both in the same courtroom, because my ex was living in California, and I was in New York—it didn't seem like a good use of my time, energy, or money. I was in survival mode, trying to make it from one day to the next.

Then I sold a TV pilot, which finally gave my kids and me access to affordable health insurance through the Writers Guild for 18 months. I put my still-husband on my plan, too, because as his still-wife, I would be still-liable for his bills were he to get sick. My ex and I thus patched together our individual post-marital lives, a continent between us. I paid down our shared debt, tried to put money aside, and prayed for a day when we would have enough to call it quits officially.

At one point, in pursuit of this goal, I had five jobs, a stress-related skin rash, and a brand-new heart condition that had me occasionally passing out at work: a direct result, some physicians suggest, of intense emotional turmoil. Meanwhile, life was inching forward. My ex moved in with a new girlfriend. I was occasionally dipping my toe into the dating-app pool, with its attendant joys and degradations, when I could afford a babysitter. Maybe, I thought, my ex and I could simply officially stay married until we could afford to split up while simultaneously pursuing lives with new partners. That could work, right? I actually know a couple who did just that.

But then came thousands of dollars in unexpected taxes, which I was suddenly mutually responsible for, because we were still married. I paid it in full, wiping out all my savings. My ex returned to New York, during our third year post-separation, and found an apartment near us. Our two older children were already out of the house, at college, so we only had to work out a custody agreement for our youngest, then 9. We did so relatively quickly, based on a suggestion from my divorced friends: Sunday through Tuesday night at Mom's, Wednesday and Thursday night at Dad's, plus every other weekend. Holidays would alternate year to year. Having easily agreed to a shared-custody schedule without rancor, maybe, I thought, we could figure out a frictionless way to get divorced in the eyes of the law, too, if only to disentangle our finances. But how?

That's when, at a Yom Kippur break fast three years after our separation, I learned something I had not known was possible in the U.S. "You know, you can just represent yourself," said Antoinette Delruelle, a lawyer with the New York Legal Assistance Group, who was also attending the gathering.

In all my forays into divorce blogs, message boards, and government portals of New York matrimonial law, not once had I come across anyone advocating for *pro se* divorce—*pro se* meaning "for oneself" in Latin. Yet here was this highly competent lawyer standing next to the lox and bagels, telling me otherwise.

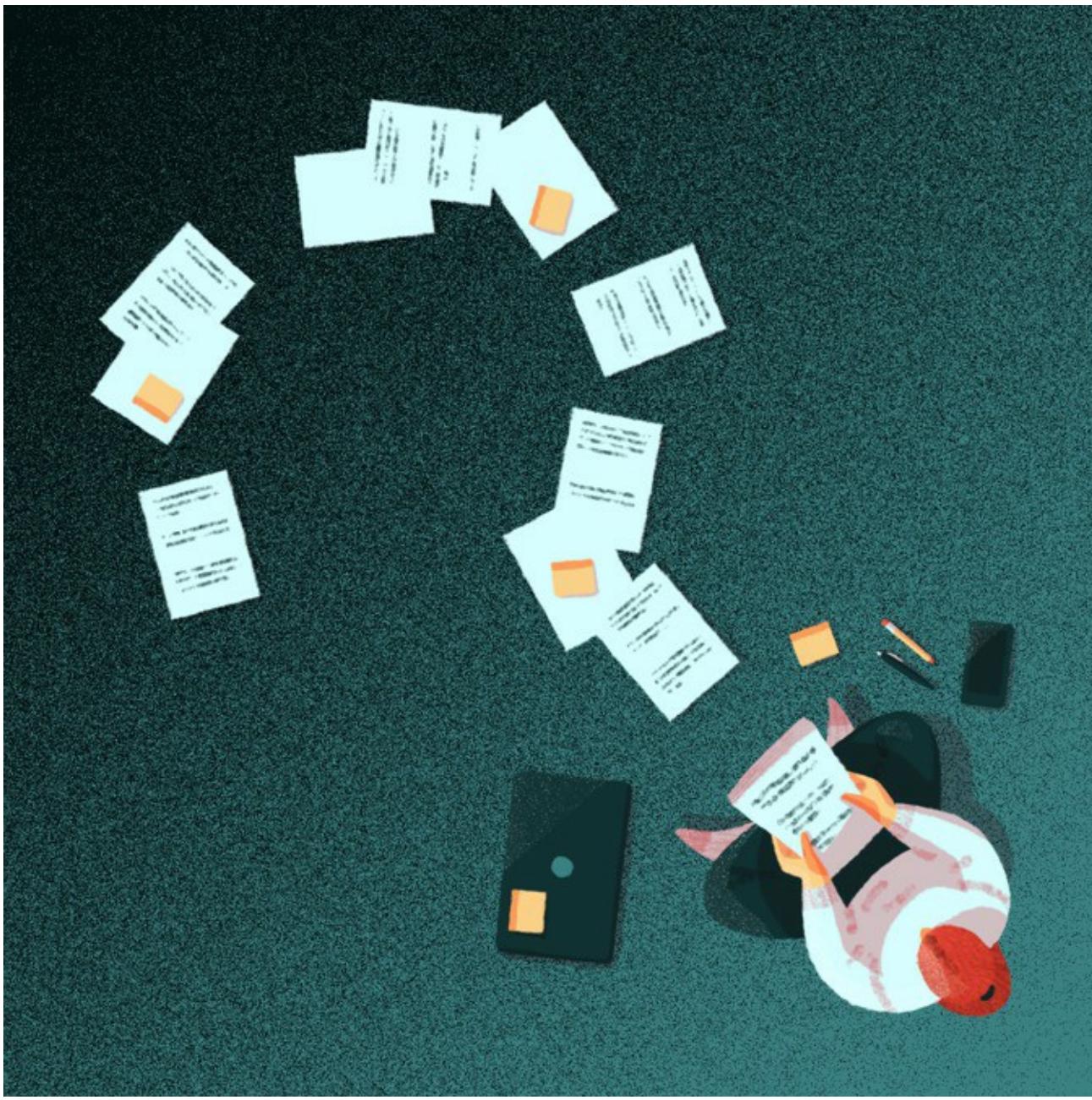
"You're educated, you speak English, you're rational, you're not fighting over custody, and you'll be civil to one another in front of a judge," she said, in my recollection of the conversation. "Already you're way ahead of the game. It's not easy, but it's doable. You just have to do everything in a highly specific, counterintuitive order."

"Meaning what?" I said.

"Meaning, first you file for custody, then child support, and then, only once you have those two rulings firmly in place, you can file for divorce." This seemingly reverse order is important, she explained. Normally one spouse files for divorce first, then both spouses hire lawyers who begin the battle over custody, alimony, and child support. But once a judge sees that a couple is in agreement on what's usually a key sticking point—the material and custodial care of the kids—then the divorce can usually proceed smoothly from there. Especially if the parties are willing to forgo maintenance (a.k.a. alimony) and the equitable distribution of marital assets and debt, which was the case for me and my ex-husband.

While it was nice to have Delruelle's advice to go it alone, for those who want a bit more of a leg up, any divorce lawyer in any state can kick-start the pro se process at minimal cost (an hour or two of their time), provided the client is willing to do all the filing, legwork, and self-representation in court, as well as bone up on state-specific laws. This is called "limited-scope representation," meaning the lawyer is there only to give you advice and help you weed through the paperwork by yourself, nothing more. With legal fees being what they are, more and more couples are opting to do so, but you can also do all this without ever speaking with a lawyer. All the information you would ever need to get divorced yourself is available online, as long as you're willing to dig for it. In some states, courts offer nighttime seminars for those seeking pro se divorces, with the hours of the classes posted on fliers they hand out with the reams of paperwork. The fact that New York, my state, finally has no-fault divorce—the last of all 50 states to have enacted it, in 2010 (California went first, in 1970)—was key. That meant I could check off the "irreconcilable differences" box and not have to accuse my ex of cruelty, infidelity, or abandonment.

I emailed my still-husband: Would he be game to try the lawyer-free route? I would do all the legal legwork; he'd just have to show up in court on the appointed days. He was hesitant, but Delruelle told me I did not need his consent or permission to start the process by filing for custody, just as one does not need permission to file for divorce. Filing for custody, just like filing for divorce or child support, is judicially identical to filing a lawsuit. I am embarrassed to say I did not know this. Then again, having never attended law school, why would I?



MATTHEW SHIPLEY

I went to family court on April 20, 2017, and filed the paperwork for custody, on which I scribbled down the exact shared arrangement we'd already had in place for more than a year that had been working well. Only later, as I was walking through Washington Square Park, would it occur to me with one whiff that today was not just special for cannabis enthusiasts, but that 4/20 was also the 27th anniversary of our first date.

My ex, in a flurry of emails, expressed fear that this would now cost him \$30,000 in lawyer's fees. I assured him, once again, that it would not cost him a penny. More emails followed, which I either ignored or responded to by saying we shouldn't get into it over email: that's why we have a judge. Had we actually had lawyers, all those emails would have been read and processed by both lawyers, at an hourly rate.

On the day of the hearing at family court, we arrived separately at the appointed hour. Then we waited. And waited. We were the only couple in family court actually sitting together on the same bench. Everyone else had lawyers and was scattered as far away from their former spouses as the space in the room allowed. By doing it pro se, we were being forced into something resembling civility. I suddenly felt slightly smug about how well this was going. Then my ex began to lose patience as the first hour of waiting stretched into a second, and I was worried he would leave. Now I was feeling much less smug. I Googled *What happens if you don't show up in court for a custody hearing?* while my ex left to use the restroom, which was, of course, the exact moment we were called into court.

"All rise," said the Honorable Douglas E. Hoffman. My ex stood alone at his table, I stood alone at mine, the width of a wedding aisle between us. My heart was racing. Doubt crept in once more: representing myself in family court? What was I thinking? I kept forgetting to say, "Your Honor." The judge asked whether the custody arrangement I'd stated on the filed papers was the arrangement we wanted to keep in place, and I said, "Yes." Pause. "I mean, yes, Your Honor."

He turned to my ex and asked the same. Had he answered, "Yes, Your Honor," we would have been done.

But he said, "No, Your Honor. I want 50-50 custody." Our current arrangement was almost exactly 50-50, minus a few hours of Sunday-night sleep. To make it perfectly equitable, we'd have to alternate Sunday nights. I was confused. Not only had our custody arrangement been working well for more than a year, our son, who'd just turned 10, had told us he wanted to keep it as it was, because it allowed him to know where he'd be on any given school morning.

Suddenly, what should have been an easy day in court became anything but. I quickly Googled *50-50 custody* under the table. With precise, down-to-the-hour 50-50 custody in New York State, I learned, the higher earner would be responsible for paying child support to the lower earner. Never mind that both of us knew precise 50-50 custody was impossible: I was, had been, and would always be our children's primary caregiver. This was one of the many issues that tore us apart, the inequity in our domestic responsibilities. My smugness was gone. I longed for a lawyer. The only way this custody hearing would work without representation is if we presented a united front.

The judge asked whether I would be amenable to a strict 50-50 schedule, which would add every other Sunday night and two afternoons a week at his father's apartment to the existing schedule. I explained that since my ex's return to the East Coast after a two-and-a-half-year absence, I'd relinquished as close to half of physical custody as an odd-day week and his professional schedule allowed. Be that as it may, said the judge, he could not "so

order" a custody agreement upon which we did not agree. He asked us to meet in his private chambers with his clerk, who would help us draft a temporary agreement. But for now—down came the gavel—our hearing was over.

I cried in those private chambers. My great experiment in self-representation felt as if it had failed. Our new hearing was scheduled for three weeks later, exactly one week after I was scheduled to have major surgery to remove my cervix. I begged my ex, with the clerk sitting between us, to just keep the arrangement we had in place. He refused. The clerk, a woman, reached out and squeezed my hand. Fearing losing momentum, I said yes to the new court date and agreed to a temporary order of custody, acquiescing to everything my still-husband now wanted until a permanent agreement could be reached.

"But you promised!" my son accused me through tears, when I told him about the new custody arrangement. "You said we'd keep the same schedule we have!"

"The judge thought this was a better plan," I said, presenting it in as sunny a light as possible.

"It's not," he said. "Why didn't you fight for me?"

Of all the reasons I kept putting off divorce for years, this was by far the most heartbreaking: the pain of a young child caught in its cogs.

Then, the next morning, a miracle. My ex sent an email, saying he'd been thinking about it all morning, and we should keep the schedule as is, so long as the Sunday night return time could be flexible. Of course it could, I said. In fact, it felt as if we had turned a corner, one I'm nearly certain would not have been turned overnight, if at all, had lawyers been involved.

I showed up in family court three weeks later, fresh from having my cervix yanked. Judge Hoffman saw us in his courtroom, we said we were in agreement this time, we mapped out what that agreement was, the judge wrote it up, we signed the paperwork, and voilà, custody was done, after which I immediately took myself to the nearest emergency room to deal with an infected incision from the surgery.

The rest of the pro se proceedings went fairly smoothly, after I lost several weeks to further complications from the surgery, when the stitches holding me together came undone. (I bled out, which required a second emergency surgery three weeks after the first.) Child-support payments were decided in a single hearing in family court by a support magistrate, who is not a judge but who has legal authority to decide issues of child support. She used a standard formula to come up with a \$309 amount for my ex to pay every two weeks, based on our combined income from 2016.

Would a lawyer have argued for more support money on my behalf? Probably. That's their job. Friends afterward told me I was cheating myself and my kids, going it alone. But though a lawyer might have been able to increase my child-support payments by a small fraction, our combined income back then was modest and finite. Would that tiny margin of more support really outweigh the cost of the legal fees it took to achieve?

In pro se divorce, as in life, it pays to practice a basic level of nonattachment—even when you're arguing over the family home, if you're lucky enough to own one. Either one spouse will have to buy out the other, or the home will have to be sold so that the proceeds can be split evenly. I understand why many of my divorced friends wanted to keep the family home, so the kids could have some stability amidst the chaos. But for my part, I can't say either my kids or I were unhappy to leave behind our old apartment, when I could no longer afford its high rent alone, and begin a new life in a new space. In fact, a clean slate felt better, liberating.

When the child-support hearing was over, my ex and I reached across the aisle and spontaneously hugged. As if we'd just been pronounced man and wife, not man-who-now-owes-child-support and ex-wife-who-was-glad-to-finally-have-it. "We did it!" I said, high-fiving him. The hardest parts were done, the only money I'd spent so far was \$57 to have the papers served, and the process had felt fair to both of us. The judge smiled. "Well, now," she said, "we've never seen that in this courtroom before."

A month and a half later, on October 11, 2017, I went to the New York State Supreme Court and formally filed for divorce. I paid \$210 for an index number, the number each divorce is assigned, and they want that in exact change, ma'am, so I had to purchase a bottle of water downstairs to break a large bill. The final filing of the papers, once both parties had signed, I was told, would cost an extra \$125, plus a second \$57 to have the papers served. So a divorce without lawyers in New York costs, at a bare minimum, \$449. If you want to change your name, as I did, a new driver's license costs \$12.50, and a passport costs \$145. Retrieving the final judgment months later would cost \$20 for three copies. When all was said and done, I spent \$626.50 to dissolve my marriage.

At the end of December 2017, I finally had what I thought were all the signed papers, rulings, and affidavits in hand. But then, after the winter holidays, I hit a mental roadblock: I couldn't figure out the next step. Or was it steps? I panicked. Felt paralyzed once more. The handout at the courthouse listed 20 documents I needed to file to be done with my divorce, in a specific order, and looking over that list, I had no idea what most of them were.

I emailed Delruelle and apologized for bothering her again, but I needed help navigating the final leg of this journey. She reassured me that what needed to be done to compile all 20 divorce documents in the right order shouldn't take too long, and she would be happy to help me with the final push, because most of the documents listed on the court handout were standard.

The night before my meeting, however, my ex emailed to say he would not get a new affidavit I'd asked him to sign and notarize on time. With knee surgery for a torn meniscus scheduled days later, I begged him: Please, I was heading into another six-to-eight-week recovery. I really wanted to file the final papers prior. Sorry, he said. It could not be helped. I'd have to wait until after my surgery.

In the end, a week after my newest surgery, I compiled the papers with Delruelle and hobbled on crutches up the massive flight of stone steps of New York's supreme court to file them pro se. Halfway up the stairs, I started to laugh. It all felt too symbolically on point, the lady on crutches struggling up the stairs, the massive Corinthian colonnade of justice, the inscription carved into granite: The True Administration of Justice is the Firmest Pillar of Good Government.

Yes, I thought. All couples should have access to a legal expert who can help them through a divorce, step by step, as well as fair judges, such as the ones we were lucky enough to get, to dispense justice. But maybe the true administration of justice is, at a minimum, an ability for two people to amicably get divorced without breaking the bank or going to war.

"This all looks good. Nice job!" said the affable court clerk specialist in the matrimonial-support office, glancing through all 20 documents, the final one of which is a self-addressed stamped postcard, upon which one literally has to use scissors and tape to cut and paste a portion of one of the forms. The school-project-looking postcard would, I was told, arrive at my home when the divorce had finally gone through, approximately four months after the date of filing. "So you did this all yourself?"

I did. With a little backstage guidance from a lawyer acquaintance. It only took a year and three months from start to finish. Plus four years of paralysis before I started the process. But yeah.

As it turns out, "Lawyer up!" is advice that only the most privileged in our country can afford to take. And it isn't necessary. Pro se divorce might not work for everyone, especially those who can't agree on a custody arrangement, or whose finances are more complicated than ours. But my divorce from my ex was hardly an amicable parting, and we still got through it on our own. It can be done.

Four months later, my cut-and-pasted postcard arrived in the mail, rubber-stamped with the following: A CERTIFIED COPY OF THE JUDGMENT OF DIVORCE (\$8.00 PER CERTIFIED COPY PLUS 25¢ PER PAGE) MAY BE OBTAINED IN ROOM... The room number was smeared and illegible. Of course.

I had the papers picked up and, three weeks later, I took my last trip to family court to file one last copy of the finalized papers with a friendly clerk, who smiled warmly as I choked back tears. "It's done," she said. "You never have to see any of us ever again."

A week later, after co-signing a new lease with my new boyfriend, I met up with my now officially ex-husband at the aptly named House of Yes in Bushwick to start planning our son's bar mitzvah. We will still struggle to afford the party, but it would not be possible at all had we spent \$60,000 on our divorce. Snow was falling heavily outside, the first of the season. But inside, we laughed warmly with each other, for the first time in years.