

Top 10 Divorce Mistakes to Avoid

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Divorce can be an unpleasant and stressful process. Parties who have not educated themselves or who proceed without the guidance of an experienced divorce attorney often make mistakes that can last a lifetime and are typically more expensive in the long run. Don't be one of them. Here are 10 of the most common mistakes to avoid during a divorce:

1) Involving the kids in the process

If your case involves a custody or parenting time dispute, nothing will anger a judge more than involving the children in the dispute. One rule is straightforward: leave the kids out of it. Do not talk to the kids about your case. Do not use them as pawns in your "battle" against your spouse. Do not put your spouse down in front of the children. Do not "coach" your children as to what they should say if they have to meet with a custody evaluator, a doctor, a therapist, or a judge. By doing so, you are not only harming your case; you are harming your children. Even after the divorce is over (and it will be over), the children will still have (and need) both of their parents — always place the children first.

2) Taking advice from friends, family, or the internet

Everyone always hears about a friend's cousin who took the other spouse "for everything they had" and advises that you should demand nothing less. This free advice is worth exactly what you paid for it — nothing. Each case will be resolved based on the unique facts and circumstances of that case. What one person is awarded is often very different from what another person has been awarded. While friends and family are a great source of emotional support, they are not legal professionals.

3) Letting your emotions get the best of you

Frustration, despair, and sadness are just a few of the many intense emotions that can be at play during the divorce process. Seeing things clearly can often be hard when such heavy emotions cloud your judgment. Take a moment to do what is necessary to regain a logical, calm, and clear perspective. Take the time to acknowledge your feelings and practice self-care to regulate your emotions. Don't make hasty decisions based on heightened emotions. Having the assistance of an experienced divorce attorney is critical to ensure you are acting with your head, not just your heart. A skilled therapist can be hugely helpful as well.

4) Hiding or failing to produce documents

You have an absolute right to see your spouse's financial documentation. Your spouse has a fundamental right to see your financial documentation. The court will order you both to produce your financial documentation to each other. If you fail to do so promptly, it will only cost you more money and time down the road. More importantly, if you fail to disclose certain accounts or statements, any agreement you reach could become void, and it is highly likely that a court will impose extreme sanctions on the offending party. A full and complete disclosure will ensure that you are aware of the assets and liabilities subject to

distribution and that you are receiving a fair division of same in your divorce.

5) Lying to your attorney

Your attorney is there to help you. They are there to fight for you and ensure you get the best possible resolution of your case. Your communications with them are privileged – meaning they cannot (with a few exceptions) disclose what you tell them without your permission. The more your attorney knows, the more (and the better) your attorney can help you. No matter how embarrassing, outrageous, or ugly, an experienced divorce attorney has likely heard it all before. You need to keep your attorney fully informed and prepared to confront and manage any issues that arise in your matter.

6) Failing to identify separate property

While most of the assets you and your spouse acquired during your marriage are subject to distribution in your divorce, most of the assets you acquired before your marriage are not. Under New Jersey State law, generally speaking, “separate property” is defined as property acquired by an individual prior to marriage, and “marital property,” in the absence of a prenuptial agreement, is defined as property acquired by one or both spouses during the marriage, irrespective of whose name the asset is in. It is important that you identify to your attorney any assets you acquired before the marriage and any potential commingling of that asset into a marital asset so that your attorney can protect your separate assets for equitable distribution.

7) Making oral agreements

Even if you and your spouse continue to have an amicable relationship after separation and throughout the divorce process, do not make the mistake of entering into side oral agreements with your spouse concerning issues in your divorce. Memorializing all agreements in your written settlement agreement is essential to protect your interests. It is often very difficult, if not impossible, to enforce oral side agreements, especially if your written agreement purports to incorporate the entire agreement.

8) Failing to consider post-divorce finances

Once you separate, the economic realities of having two separate households can be stressful. Not only are there two sets of expenses for two different households, but you are also transitioning from a two-income household to a one-income household. After separating, you should prepare a financial plan or budget for your new financial circumstances. It would be best to refrain from creating new or additional debts. Finally, do not assume that debts from your marriage are paid. If you and your spouse jointly accumulated debts during the marriage, ensure that you advise your attorney of those debts and have an agreement in writing as to which party is responsible for the payments of these debts during the pendency of the divorce. Upon finalization of your divorce, ensure that your settlement agreement explicitly sets out who is responsible for paying back that debt and remove your name from any liabilities that you are not responsible for, such as mortgages or credit cards. This will ensure that you are not held liable for debts you do not incur or are unaware of.

9) Being your own attorney

Many couples believe it is unnecessary to hire attorneys to aid them in the divorce process, or they believe one attorney can represent the interest of both parties. However, an attorney (unless you go through the mediation process) only represents one individual and is there to protect **only** that individual’s interest. Both parties should retain their own independent counsel to represent their respective interests. Failing to hire an attorney may lead you to enter into a disadvantageous agreement. Note that a mediator cannot represent either party and can be hired as a neutral to assist you and your spouse negotiate an agreement.

10) Having unrealistic expectations

In order to reach an equitable agreement and resolution of your matter, both parties must often modify their expectations. Most divorces require some give and take, and your attorney will work with you to create a strategy to obtain the things most important to you. Going through each of the issues in your divorce and deciding which ones are worth the time, energy, and expense of litigation and/or negotiations is the best way to utilize your resources and save money on your divorce.

