

## TRIAL & ERROR

EMOTIONS HAVE NO  
PLACE IN DIVORCE COURT

By Stacy D. Phillips



Whether you're legally separating or filing for divorce, don't allow emotions to get the best of you. Keep a level head and make certain your financial affairs are in order. One of the most common mistakes that people make is becoming so preoccupied with feelings (and for good reason!) that they can't step aside and take stock of their finances. I impress upon my clients that the financial disasters they create during and after a marital dissolution can impact them for years.

Following are some important considerations should you find yourself in the breakup of a relationship:

1. Provide your attorney with a list of assets and liabilities, including: house, car, furniture, credit card debt, what you owe the bank, IRS and contracts you've entered into, including those overlooked such as a monthly agreement to the pool man.

Now take action on your own. Cancel all credit cards and open new ones in your name only. But before you cancel a credit card also used by your spouse, warn him/her and help that spouse to get new credit cards in his/her name alone. Write creditors letters as back up; don't just make arrangements by phone. You want everything in writing. There are long-lasting benefits only documented records can provide.

When conferring with your attorney, insist that your settlement agreement calls for the payoff of all debts. Even if your ex says he/she will pay off the Mastercard balance as a part of the settlement agreement, don't agree because third-party creditors can still hold you liable. If the debt is a joint one belonging to you and your spouse, the third party creditor is not obligated to chase only your spouse for payment, regardless of what your divorce decree states.

If you have significant debt and

you have equity in your home, it's generally better to sell the house and use proceeds to pay off debts. This provides you with a clean start and affords you peace of mind, knowing no one can come after you to collect money. Some people moving into a condo and leaving the house to their former spouses often forget to remove their names from utility bills (phone, gas etc.) If your ex starts calling Brazil and doesn't pay the phone bill, you are still on the hook. Under new bankruptcy laws, if you haven't severed ties appropriately, you may still be liable for your spouse's debts

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in the event he/she files a Chapter 7 action.

2. Make certain any stocks and bonds you are awarded are re-issued in your name. This takes paperwork and tedious follow through, but it's worth it. Get a new broker/money manager not working for your ex. Some financial representatives can remain mutual and keep relationships with both parties after the divorce, but I find it's better to have a broker/money manager who strictly looks after your interests!

3. If you keep outside service professionals on-call (pool man, housecleaning service, gardener) make sure they're under contract to you and they are not owed anything under your old agreement with them.

If your ex continues to use the services of the pool man and owes several hundred dollars under your old contract, you will be forced to pay. The message is: get a fresh start.

4. Re-do your will and living trust. Hire a new and an independent estate planning attorney to draft it.

This document is often overlooked, but could be one of the most important documents you update or re-do. You wouldn't want your heirs to suffer, especially your children, from a previous marriage.

5. Hire a new accountant or business manager to make certain you are financially sound. You don't want to use the same person who once looked out for your spouse. That person might not be objective and torn between his allegiance to you and your former spouse. Assure that your financial matters are kept private and the person you choose to look after them is your sole advocate.

6. If you were not involved in financial matters of your marriage, contact an independent credit source to determine any outstanding debts you may not have known about. You can also retain a private investigation service to ensure your financial bases are covered. Considering you are going through a marital breakup and it's probably costing you a lot — you certainly don't want more stress or any unhappy surprises.

Before you marry again, consult an estate planner, bankruptcy attorney and an accountant. Each of these professionals will help you plan wisely, in the event of another breakup. Something else to consider next time around: A prenuptial agreement! And that requires a family-law attorney. **W**

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