

## Divorce Documents:

### Avoid Getting Entangled In Fraud

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*D*ivorce is never pretty.

It's often a harsh, contentious and heartbreaking procedure in which nobody escapes unscathed — even the Notary, whose sole duty is to be an impartial, third-party witness to document signings, sometimes becomes a casualty. The charged emotions and financial stakes may push divorcing spouses to take unscrupulous actions they normally wouldn't dream of in order to secure assets or even simply to spite their former partners. Sometimes, these actions rise to the level of fraud. As California attorney and author Stacy Phillips put it: "Criminal attorneys represent bad people on their best behavior. Divorce attorneys represent good people on their worst behavior."

Unfortunately, divorce cases sometimes involve attempts to persuade Notaries to bend or break the rules through coercion or trickery or by playing on sympathy. All too often, these Notaries find out afterward that they have become unwitting pawns in frauds that involve thousands — even millions — of dollars.

"Most people treat each other honestly and are aware that there are kids and other factors they have to take into account, but there are certainly people that don't play fair," said Lee Rosen, a North Carolina divorce attorney and family law specialist. "There's so much anger and bitterness in some divorces that people feel justified in committing fraud, because they feel this is their chance to get even. Even rational people sometimes do it in a divorce because they are in the grip of strong emotion."

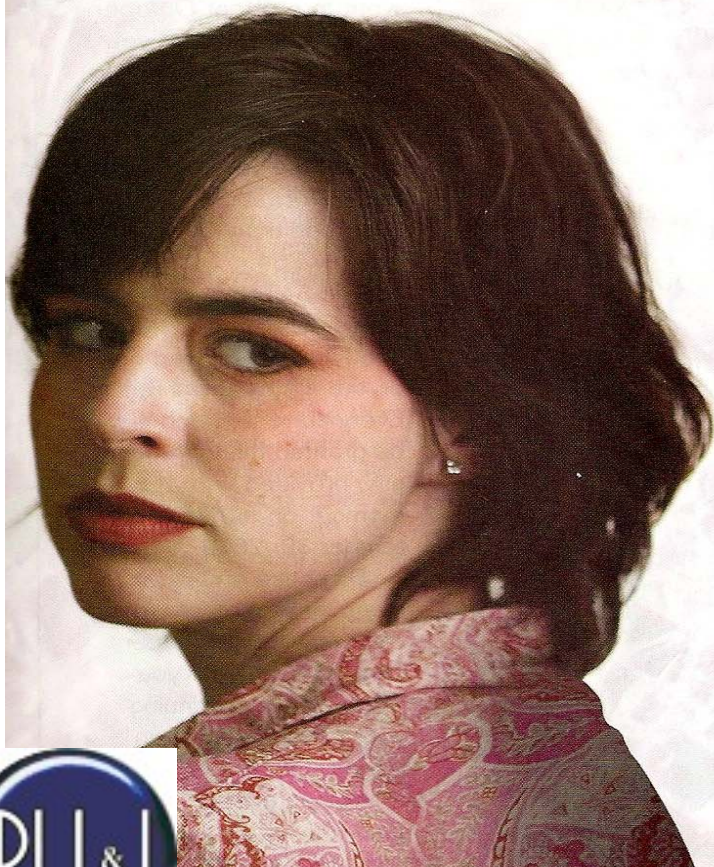
In divorce proceedings, spouses must declare their assets so the court can decide how to divide them. People sometimes rationalize committing fraud in a divorce as protecting their property from their ex-spouse "unjustly" taking it.

"The fact is, everybody lies in a divorce, because it's all from their perspective," said Pennsylvania attorney Lynne Z. Gold-Bikin. "Everyone thinks they are the injured party, even if having an affair. There's always a justification. Ultimately, they justify their behavior because they can't live with themselves otherwise."

"People think this is just a civil matter between them and their spouses," said New York attorney Cynthia Rubin. "They think to themselves it's about keeping property they own rather than stealing. Actually, they are stealing from the spouse, but they don't see it that way."

Spouses in a crumbling marriage sometimes go to great extremes to conceal or take assets. In one case, a husband transferred millions of dollars out of the country to keep it from his wife. In another, a man swapped the diamond in his wife's ring for a fake, and then sold the diamond. And in one of the most extreme examples, a man burned down property he and his wife owned, then filed false claims to keep her from receiving anything of value from the property.

In some divorces, it's not only feuding spouses trying to take advantage of the situation. Some fraud cases





have even involved employees or business associates who decided to defraud a company while the owner was distracted by a divorce.

Because so many documents involved in divorce cases require notarization, Notaries need to be acutely aware of the common tactics that lead parties to coerce, mislead or otherwise convince a Notary to violate lawful or ethical duties. One of the most common areas affected is real estate documents, said G. Daniel Jones, a Pennsylvania forensic accountant who specializes in finances related to matrimonial litigation.

"If Notaries hear that signers are involved in a divorce case, they need to be very careful," Jones said. "A lot of wealth in this country is tied up in personal real estate and retirement benefits. Real estate can't be transferred without written documents signed by everyone on the title. Notaries should be highly suspicious, for example, if a husband brings in a signature he claims to be his wife's that appears under a statement in which she agrees to transfer benefits to his girlfriend or another person."

Attorneys agree that Notaries should be extra skeptical if any married person makes an out-of-the-ordinary request, regardless of whether the word "divorce" has even been mentioned. The biggest red flag — and a request Notaries should always refuse — is when a signer appears before the Notary and asks for an absent spouse's signature to be notarized without a proper power of attorney.

"Everything that warns you should be heightened. The hair on the back of your neck should go up if someone getting a divorce says, 'I need to sign for my spouse because he or she isn't available,'" Jones said.

Notaries who work in an office setting must be wary of falling into the trap of notarizing for the boss's absent spouse "as a favor." All too often, an employer going through a divorce, or anticipating a divorce, will take advantage of a Notary working on staff in order to get the better of a spouse in the divorce proceedings. Rosen said he has encountered this tactic — quite often among attorneys who themselves are getting divorced!

"Attorneys get into a lot of habits with their office staff and the Notaries they employ," Rosen said. "They ask, 'My wife signed this document last night. Will you notarize it?' and because the Notary is a staff member, he or she notarizes the signature without thinking about it. Sometimes they are aware they are bending the rules, but they do it anyway. Now

the attorney is manipulating assets and debts with the Notary's cooperation, and the Notary often doesn't realize he or she is bending the rules and helping to commit fraud against the spouse."

The Notary's best protection against getting caught up in a divorce-related fraud is also the simplest one: just follow the rules. Refusing notarization without personal appearance, checking for correct identification and always following proper procedures will make it almost impossible for a devious spouse to trick the Notary. "Take care to follow all the proper procedures," Rubin said. "The worst mistake would be notarizing a signature for an absent signer. Preferably, have the person sign the document in front of you and be sure the signer appears before you."

Don't be so swayed by tears, sob stories, threats, sentiment, or loyalty that you break the rules of notarization. Be true to the high standards of the respected Notary office. By doing so, you will avoid getting caught up in the messy entanglements of someone else's divorce and ending up in court yourself. **NNA**

