



Divorce

Without Conflict



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Introduction

DIVORCE. The word can feel so heavy. So final. And so... scary.

You have a lot of questions running through your head, like, “What are my options for divorce?” “How can I stay out of court?” and “What does this mean for my kids?” The path ahead feels so riddled with uncertainty that it may seem easier to stay in this “no-man’s land” than to upset the apple cart by moving forward with a divorce.

First, I want you to know that these worries are completely normal.

Divorce can feel like a big, dark hole that you are free-falling into – one where you have lost all control over everything in your life. And if you are anything like me, you like to try and avoid big, dark holes... and you like to have some control over your life.

I understand why you are stuck in this space of indecision. Moving forward feels like a monumental step into the unknown – and venturing into the unknown is something we have always been taught to avoid. But staying where you are feels like you aren’t living the life you were meant to live.

Here’s the thing: I cannot decide for you whether divorce is the right answer. That is one question that you, and you alone, need to answer. But I can arm you with knowledge about your options and rights, and I can show you how you can make this process work for you.

The purpose of this book is that last point – how to make this process work for you so you have some control over the process and your life; so you feel a little less like you are free-falling into that big black hole. In my view, making the process work for you is all about finding a way to keep the process peaceful – especially when your soon-to-be ex is anything but. If you are wondering why a peaceful divorce matters, here’s why: All your questions and fears about divorce – every single one of them – boils down to a fear about acrimony, difficulty, and the loss of control associated with a hostile divorce.

Keeping the peace, both in your internal and external worlds, has everything to do with making your path for divorce work for you. The tips that I lay out in the coming pages will work for you – even if your ex is difficult – as long as you employ them consistently.

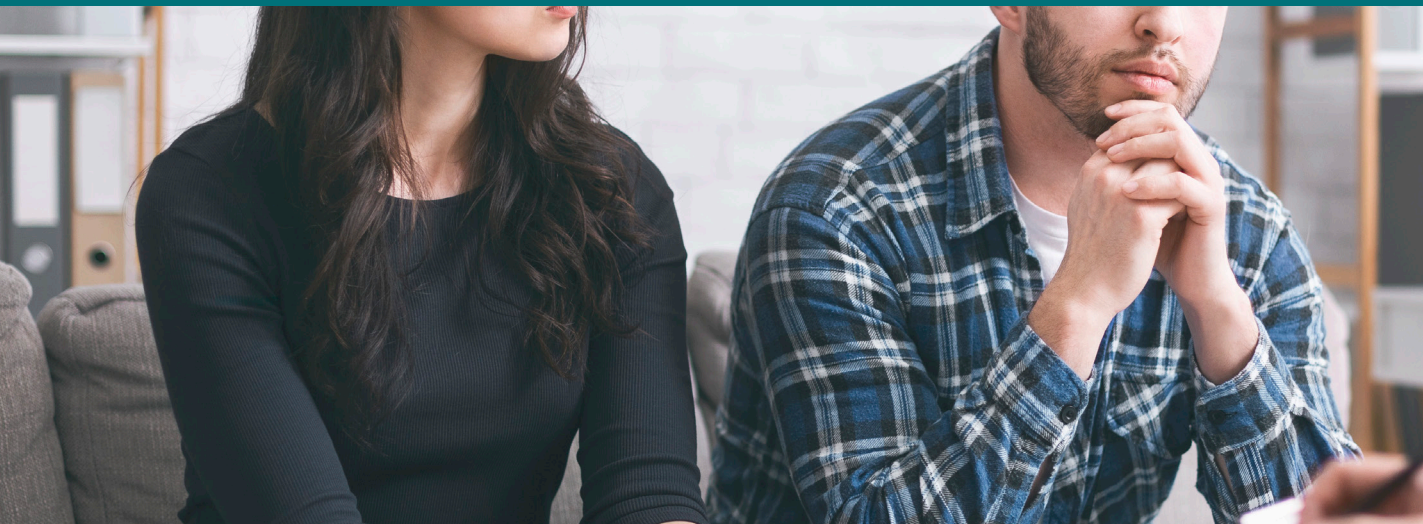
Even with this uncertainty, divorce is not a terrible ending. It is a new beginning. An opportunity to write a brand-new chapter... and one that you alone control.

I've helped many people divorce in my decade of practice. Some divorces have been easier than others, and some have been longer or shorter processes than others. But never once has a client told me (even with uncertainty, stress, and upheaval) that he or she regrets the divorce. Every one of my clients has been happy to move on and design a life that they love.

I know you can, too, and I hope you find this book helpful. If you have any questions, please do not hesitate to reach out. I'm always here, rooting you on.

All my best,





Divorce Without Conflict

litigation: is it necessary?

The one question that I am routinely asked in each new consult is, “Do we have to go to court?”

This question makes sense, not only from a practical standpoint (you want to know the process and your options), but from an emotional standpoint as well. When most people think of “court,” images of Judge Judy yelling at two warring people from her bench (and various other dramatized situations) usually come to mind.

The short answer is no, you don’t have to go to court to divorce in New York. There are numerous ways to stay out of court. And yes, these out-of-court options can work for you... even if your soon-to-be ex is difficult and hostile.

Here’s a brief summary of the out-of-court divorce process in New York State.

First, you need grounds for divorce. New York is a no-fault state. You simply have to sign an Affidavit of Grounds that says your marriage has been irretrievably broken for a period of six months or longer. This is your own subjective belief. You do not need to prove that your marriage is irretrievably broken. Signing the affidavit is proof enough.

You must also resolve your ancillary issues through a settlement agreement or a court order. Ancillary issues are issues that you need to settle to dissolve your marriage contract. They include things such as child custody, child support, spousal maintenance (alimony), property and debt division, and legal fees. You can resolve these issues in or out of court.

THESE ARE YOUR OUT-OF-COURT OPTIONS FOR A DIVORCE:

1 Mediation

In mediation, you and your spouse sit with one mediator (a neutral person) and resolve disagreements. The mediator draws up a written agreement that you and your spouse sign.

2 Collaborative Divorce

Collaborative divorce is like “mediation plus.” In mediation, you typically only work with a mediator; your attorneys are not there with you. However, in collaborative divorce, you each hire legal counsel and a family professional (typically, a therapist) who helps keep negotiations focused. You and your spouse establish overarching goals and work on each issue, negotiating until you reach resolutions. Your attorneys draft an agreement outlining all your resolutions, and you both sign it.

3 Out-of-Court Negotiation

In this final option, you and your spouse negotiate outside of court to reach a resolution. You may be able to do this without attorneys, but if you get stuck, you may hire attorneys. After you and your spouse resolve all issues, your resolutions are incorporated into a separation agreement that you both sign.

I am a trained mediator, so if you'd like to learn more about mediation,

➤ **Call 518-438-9907**

You can also get a more in-depth look at your options, possible scenarios and an explanation of the divorce process [Here](#).

In every scenario, the negotiation process concludes with you and your spouse signing a written agreement. Your attorney files that agreement – along with your Affidavit of Grounds – so you can apply for an uncontested divorce.

An uncontested divorce does not involve any court conferences or appearances. The result of the uncontested divorce is a signed Judgment of Divorce that makes your separation agreement a binding court order.

Now that you know a little more about the procedural process for obtaining a divorce, let's focus a bit on the emotional process of keeping your matter peaceful so you can move forward confidently.



5 Steps to a Peaceful Divorce

These are the five key steps to keeping your divorce peaceful:

- Commit to staying out of court
- Avoid blaming each other
- Put your children first
- Remember that divorce is a means to an end
- Negotiate in good faith

1. Keep Your Divorce (and its Outcome) in Your Hands

I cannot tell you the number of times I have been in a court conference and been told by a judge that I need to go “sell” a particular result or resolution to my client because that is what the judge believes to be fair based upon a short recitation of the facts. Every single divorce attorney has heard these words, and every single time, we mentally shake our heads as we dutifully head out to tell our clients the court’s initial response.

Let me be clear: Court is a necessary process in some situations. However, those situations are far fewer than the number of divorces that clog every judge’s docket. In those rare instances when court intervention is truly necessary, you need to know that the judge’s ruling may not feel fair (or even result in a situation where the judge hears all your facts and concerns). And even if the judge hears all the facts, there is no guarantee the judge will assess them to your liking.

Every time you enter a courthouse, whether for a conference or trial, you give up control to the main decision maker: the judge.

You don't need me to point out the problems inherent in giving a stranger control over decisions that impact you and your children. Every skilled attorney knows that in court, the outcome is unpredictable.

So, how do you avoid this result? It's shockingly simple. You and your spouse decide that you will move forward with an out of court option for divorce and then stick to that option. In making this agreement, you may want to list the reasons you are choosing a non-court option. Those reasons can include things like:

- Having a say in the process
- Keeping decisions about your children in your hands (not a judge's)
- Saving money

These are just a few of the many reasons why people choose a non-court-based option for divorce. It's a good idea to come up with reasons you are choosing to avoid court (and then write them down). When you write something down, you solidify your goals far better than you would if they simply lingered in your brain. Writing them down will allow you to revisit them when you get stuck or need a reminder of why you chose this option. Many times, this will force you to undertake a valuable cost-benefit analysis that may help break any log jam you are facing.

Your spouse may think that he or she is dead-set on going to court. If this is the case, you may think you have no other options. That's not accurate. When your spouse is intent on hiring an attorney and pursuing a court-based option, you can still commit (at least on your side) to keep the matter out of the judge's hands.

YOU DO THIS BY



Hiring the right attorney.

Hire someone who understands your desire to keep things away from the judge and when to turn on the heat or lay off the heat.



Determining your individual goals.

If your spouse doesn't want to create mutual goals, that's fine. But that shouldn't prevent you from creating your own goals. Take some time to decide on your own goals for the process and write them down. Revisit them to stay committed to them.



Engaging in a cost-benefit analysis.

Talk with your attorney about the financial and emotional costs throughout the process. Share your goals with your lawyer so she can keep them in mind as she strategizes.

So often people say, "I had no choice," but that's not true. Even if your spouse forces you to go to court, you have the ability to shape that process with your own response. Following the above approach will ensure that even if you end up in court, you are doing everything you can to control the matter.

2. Steer Clear of the “Blame Game”

I can recall my first few years in practice. It was a whirlwind as I became used to the fast-paced nature of divorce litigation. It was also a lesson for me in how the “blame game” can quickly escalate a matter from amicable to hostile... and “in need” of court intervention.

I saw the blame game happening all over the place. Certainly, it was present in interactions between parents – often, neither parent was able to see the other’s position, nor were they able to see how their own actions could contribute to the problems they were facing.

But looking back, I also saw it in the interactions between counsel. In many situations, attorneys were pointing the finger at the other spouse (or worse, the other attorney). There would be endless emails and letters, all designed to show how the other party was just the worst while ignoring their own client’s shortcomings. And I, too, played the blame game.

Words – spoken or read – are very hard to undo. Whenever something is said about you, especially something that may be critical to your parenting ability, it is hard to overcome.

But the blame game is also **expensive**.

If you want to keep your divorce peaceful, you need to steer clear of the blame game. It will put you on the path to the courthouse.



Avoiding the blame game is simple. When you are complaining about your spouse or the process, pause for a second and ask yourself:

- 1. How is this thought serving me?**
 - 2. How will this help me in resolving my divorce peacefully?**
 - 3. How can I address this issue in a way that brings meaningful change for my children?**
-

These simple questions are incredibly powerful. They will help you to determine whether your thoughts are productive and helpful to you.

If you have answers to these questions, think about how what you’re feeling can help you. For example, if you are frustrated about your spouse being continually late for custody exchanges, you certainly need to address it. However, after you identify the problem, spend time thinking about concrete solutions that you and your spouse can implement. Focusing on creative solutions will help you avoid frustration in the future.

Recognize that there will always be frustrating parts of life, but you have the power to recognize them, create space for them, and compartmentalize them so they stop taking up valuable space in your world.

3. Put Your Kids First

My parents divorced when I was in the second grade, and they don't win any prizes for a peaceful or amicable divorce... at least not from my point of view. I can remember years of tense custody exchanges, situations where they refused to even say hello to each other, and instances when they would not sit next to each other at my awards ceremonies or recitals (so I would have to pick which parent I said hello to first after the recital). And those are only the things I'm willing to write publicly about!

Suffice it to say, you don't have to do that. In fact, you **shouldn't** do that.

Instead, focus on ways that you can make your children's lives easier, regardless of the other parent's actions. This is a little easier said than done, because it's human nature to focus on the other person's actions. However, you need to train your brain to ignore whatever it is your ex does because, try as you might, you have no control over someone else's actions. You can only control your actions.

Keep your actions focused on your children and how you can make their world easier, regardless of the other parent's participation.

Say hello to the other parent at exchanges. Go to therapy so you have an outlet for your frustrations. Do some mindset work every morning to remind yourself of your overall goals. Touch base with your ex before events to see if there is a way you can coordinate time so your child doesn't feel torn between you at the event.

Now, if you have a co-parent who is hell-bent on being difficult, perhaps some of these options will only create more aggravation for you; they may invite too much interaction with your soon-to-be ex-spouse. If that is you, then please know this: You can still put your children first, even if your spouse doesn't.

Put your children first by being strategic about what interactions you will have with your ex. Remove instances when you have to see or interact with your spouse by ensuring that custody exchanges coincide with the start and end of a school day, a practice, or a social event. Time your interactions with your spouse for times you are away from your children so you have time to process your frustrations. Another strategy that can be incredibly helpful is a technique that I learned from my own therapist: compartmentalizing. (Yes, I have a therapist. It's an important part of my self-care and I suggest you consider working with one, as well.)

If you have young children, you want to be able to keep it together in front of them while still giving yourself the time you need to process everything – good and bad – that is happening.

If you have a high-conflict spouse, then before you enter into any interaction (oral or written) with your spouse, take a moment to consider whether you are in an emotional place where you can handle the interaction without allowing it to impact your inner peace. You may be coming off a stressful day, or maybe you're in the middle of a toddler tantrum, or perhaps you're just dead tired. Usually, there's no harm in waiting 24 to 48 hours to reset yourself so you can have that interaction while you are in a better frame of mind.

To do this, take a moment to pause and scan yourself before entering the conversation. Are you feeling a bit heightened or anxious? Are you calm? Are you in a bit of “fight mode,” or are you more open to ideas? Are you already feeling down about yourself or generally feeling okay? After you take that full scan, if you aren’t in a position to communicate, open your calendar and schedule a time for the following day when you can respond to the text or email.

The key to putting your children first, especially when you are dealing with a high-conflict ex, is to maintain your stability so you can remain on an even keel and be present for your children.



4. Keep an Eye on the “Big Picture”

When I meet a new client, I ask him or her to envision what their ideal post-divorce life looks like. Of course, everyone wishes they could live on a beach somewhere, a tropical drink waiting by an oceanside cabana, and their co-parent nowhere in sight. But when we strip the responses down, we get concrete values I can use to guide my client through the divorce process, as well as to create successful settlement and negotiation strategies.

That simple exercise is my way of understanding my client’s “big picture” from the start. Using this exercise, I know exactly what marks we need to aim for... because if you don’t know where to aim, you are going to miss every single time.

Most attorneys do not use this exercise. They think it may be a little “woo woo” and unnecessary. I totally disagree. But that’s not the point. The point is that, regardless of the attorney you hire, you need to know where your marks are. You need to understand your big picture and make sure your attorney is on board with it. This way, as you move forward, you know exactly where you’re going (and can course-correct along the way).

Now, a word to the wise: If you create the “big picture,” you have to be willing to revisit it and commit it to memory. This isn’t a five-minute exercise. You need to make these post-divorce goals so vivid, so solid in your mind’s eye, that you don’t need to go back to your Word document or your notebook scribbles to refresh your memory. Your ultimate goals should be as vivid to you as that tropical drink waiting on the

table near the oceanfront cabana.

Every time something threatens to pull you off course (which will happen often), you have to be ready to course-correct. You have to be ready to look at your goals and remember what matters to you. Then, you need to talk to your attorney about your goals, and the costs and benefits of different approaches.

Keeping an eye on that overall vision for your life is something you need to continue to do, and you should continue to draw your attorney into it, as well. This will also help you realize when things matter so you don't waste time on "small things." The key here is that by staying focused on the needle-moving pieces, you will keep your inner peace more intact. That allows you to stay clear-headed for the bigger decisions that will drive you closer to that delicious tropical drink.

5. Always Negotiate in Good Faith

While this seems like a "given," negotiating in good faith is something that deserves more than an honorable mention.

If you want to keep your divorce peaceful, you need to make sure that you are taking all actions in your power to do that... because there are two people involved in every divorce. Your input matters just as much – if not more – than your spouse's does.

Make sure that every step you take is geared toward creating trust (or at least giving someone no reason not to trust you). Be open and honest, and negotiate in good faith. Negotiation in good faith ensures that, even during the fray, there is no reason for someone to point the finger at you and say you created turmoil by withholding information. Further, if your matter has to go forward in court, negotiation in good faith is the ticket to building credibility; that's a key factor to nearly all parts of a court-based process.

The other benefit to negotiating in good faith is that doing so reduces conflict, helps parents find common ground, and allows people to start working on a mutual resolution. This leads to lower costs overall and greater long-term satisfaction for yourself, your spouse, and your children. However, there is a difference between negotiating in good faith and simply being an open book. You don't need to do the latter in order to negotiate in good faith. There is a fine line between what you have to disclose and what you want to keep to yourself. While I firmly advocate for being open and honest in your dealings, I do not think an "open book" approach is helpful for everyone. Here's why: Some things are completely irrelevant but could generate hard feelings, which could impact your negotiations; others could generate more questions that derail you from a focused and streamlined process.

Focus on disclosing only information that is relevant to getting a divorce. It is relevant if it deals with any of the ancillary issues. If the information relates to finances, property, debt, the children, income, or other divorce-related matters, there is a good chance you need to disclose it to stay operating in good faith. This means you need to disclose the bank account you created in your own name and funded with your income, even if your spouse doesn't know about it. It also means you need to disclose the debt that you incurred while trying to support the marriage. But if information relates to the reason you are leaving the marriage – say, you want to start a new relationship (or have started a new relationship) then you may want to keep it to yourself (although you should discuss it with your attorney).

A WORD ON MEDIATION

The mediation process, as with any out-of-court negotiation process, is based upon the fundamental idea that if you negotiate in good faith, you both leave the negotiation table satisfied with the result. In my experience, this is exactly the case.

Mediation is an option that far too many parents overlook.

The key is selecting a mediator who is focused on understanding your unique goals and values, educating you on basic law, and being aware of instances when you need outside legal advice. Nearly every mediator has some sort of “introductory” meeting where you can learn about his or her approach to mediation, ask whether he or she can refer you to an attorney for outside legal advice, and share your concerns about mediation, whatever they may be.

In my practice, I have heard many different types of concerns, and they all boil down to wanting assurance that I am neutral, protecting their mediation process, and will give my client opportunities along the way to see outside legal advice so they can feel secure moving forward. If you are concerned about any of these points, you are not alone. Ask your questions. Get answers. And then trust your gut about the best way to move forward for yourself and your family. Whatever decision you make will be the right one.



You're Not Alone

I know the future feels very uncertain right now. You want to create some structure. You want to create a path for moving forward. I hope that this e-book has helped you to do that.

I also hope that this has helped you to realize that the struggles – emotional, financial, and logistical – are struggles that many other people share. You, quite literally, are not alone in this process.

Clients often say, "I'm not sure if I should ask this; this is the first time I've gone through a divorce." But the bottom line is that all of your questions are fine – in fact, I welcome them because my goal is to reduce your stress and anxiety.

That's normal. So many people have never gone through a divorce before. But you know what? Each and every one of my clients has made it through, created a plan, and moved on to live a happy and fulfilling life.

I know that you may be reading this late at night, on your phone, while everyone else is asleep. Hoping that it will magically provide you the answers you need to put this whole thing on the right track. The good news is that you've done more than many people in your situation have done – you've taken the time to learn about the process, and that's a start.

When you're ready, give me a call. I can tell you about your options, answer your questions, and help you move through this difficult time as peacefully as possible.



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