

# The Divorce Process & How You Will Survive It



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## Chapter 1:

# Do I Even Want To Separate or Divorce?

Separation or divorce is one of life's most difficult decisions, especially when you have children. You may wonder whether it's best to end the marriage or to stay together for the sake of the children.

Perhaps there has been a betrayal or other hurtful act and you aren't sure whether you can forgive your spouse. Maybe you have grown apart and no longer have much in common. For some clients, it comes as a complete shock that their spouse wants to end the marriage or common law relationship.

Sue Cook is the owner and operator of Family TLC Family Therapy and Life Coaching Group. She recommends a 4-stage approach to honestly and objectively assess your marriage.

1. Ask yourself: Do I take my spouse for granted? Do I look for the good in my spouse? How do I support my spouse?
2. Examine the communication between you and your spouse.
3. Set some goals for the relationship.
4. Evaluate your progress by monitoring your relationship on an ongoing basis.

“Many people think they have a great memory and that they can see things objectively. In truth, most people have a poor memory for facts, and are better at remembering the subjective things that reinforce our beliefs,” wrote Cook in a blog post about deciding to separate or stay together.

“If we believe the marriage is bad and we are unhappy, then we can easily remember the evidence that supports that. So write things down and keep a record. Use a checklist and track both the positives and the negatives.”

Read the whole blog post at <http://www.familytlc.ca/how-do-i-decide-to-split-or-stay/>

At Galbraith Family Law Professional Corporation, it is not our role to help you make the decision to end your marriage or common law relationship. We urge you to work with a therapist or seek guidance from your family, friends or other trusted people. Our role is to support you through the process should you decide to separate or divorce. We will help you resolve the legal, financial and emotional issues that arise during the separation process so that you can get on with your new life.



## Chapter 2:

# How Much Will This Cost?

### Legal Fees

Most people who contemplate separation or divorce are concerned about the associated costs. We are deeply concerned about this as well. In fact, our reputation is built on helping people minimize their legal costs while resolving issues in a timely, efficient manner. Although each case is different, the choices made have a significant effect on the cost of your separation or divorce.

### Typical Fees for Separation Agreements

When it is time to move on from a marriage and get a fresh start, a separation agreement should be obtained. A separation agreement is a document where matters related to the children, support and property are resolved.

If you have children, you must prove to the judge that you have resolved child support issues by agreement or order before a final divorce will be granted. For this reason, it is desirable to have a separation agreement in place.

You can reach the terms to be included in a separation agreement through your own negotiations, through mediation or through Collaborative Team Practice. If you cannot reach an agreement, you may have to go to court. Though necessary in some cases, court is considered a last resort. It's expensive, time consuming and the results are difficult to predict.

The least expensive option is an uncontested separation agreement, where you have agreed to the terms on your own or with the help of a mediator. The cost ranges from \$1,500 to \$2,500. If you cannot reach an agreement on your own, the collaborative process is usually the most cost-effective option.

The legal fees in most collaborative cases range from \$2,000 to \$6,000 for each party depending on the number of meetings needed to reach an agreement.

Most court cases range from \$10,000 to \$30,000, but the amount can be much higher as the costs are more difficult to control. For example, if we go to trial, the cost can be very high.

### **Divorces**

Attaining your divorce is the last step in the process, and it will give you closure, freedom and open the door to new opportunities. The cost of an uncontested divorce is \$1,450 as long as one of you lives within Simcoe County. This cost includes your filing fees at court (about \$500), our staff and lawyer time, and HST. It's a small fee to pay to attain closure and to open up new beginnings.

### **Retainers**

Retainers are deposits toward future legal fees. This form of payment is common practice among lawyers because it helps clients avoid liabilities they may find difficult to pay later.

**Standard retainer payments are:**

- Collaborative cases - \$2,000
- Simple uncontested separation agreements - \$2,000
- Court proceedings - \$5,000

A monthly statement from us highlights services received and costs to that point. Each month, you are asked to replenish your retainer.

### **I Want to Spend as Little as Possible on My Divorce**

There are a number of ways you can keep the costs down during a divorce, even when things are hotly contested.

The Family Law Pathways Centre recently provided five great tips for families that want to keep divorce costs low:

1. The way to become more organized is to get information first.
2. The sooner couples get on the same page together, the better. The longer couples stay on the same page, the more they will save.
3. Make every effort to communicate well yourselves or seek a neutral professional to help improve your communication.
4. Making joint decisions always involves compromises. If you cannot or do not want to make compromises then the process of decision-making will cost you and your family extra time and money.
5. If you do not take this organized approach, then you are both wasting your own chances of saving you and your family time and money.

Learn more by reading their blog: <http://www.familylawpathways.com/tips-families-reduce-costs-information-first/>

### Getting Started

To learn about your options, rights and obligations, you can schedule a meeting with one of our lawyers. The cost of this initial meeting is a reduced rate of \$295 and it lasts about an hour. Do not be shy during this meeting. We are happy to answer any questions you have, including questions about fees.





## Chapter 3:

# Where Do I Start (Legally)?

### 1. Make the Decision, Set a Date

Aside from the personal benefits of setting an official date of separation, there are actually a lot of legal benefits too.

“First, the date of separation is the date used in Ontario to determine property settlement for separating married couples,” reports The Family Law Pathways Centre.

“Property is valued on the date of separation for the purpose of calculating net family property and equalization. Lawyers call the date of separation the “Valuation Date” or “V-Day”. This is always a single date, and must be agreed between couples, or decided by a court.”

### 2. Book a Consultation

The first call to our office is often the hardest step. As you dial, you might be asking yourself: Do I really want to go through with this? Will this lawyer really care about what I need? Can I trust him or her? You’ll be pleasantly surprised to find that a real person answers the phone – one that truly cares about your needs. When you meet your lawyer, you will discover that our whole staff is drawn to family law because we truly love helping people through a difficult time. We are here to help.

### 3. Pre-meeting Preparation

Several factors require consideration when separating from your spouse, such as custody, access, child support, spousal support, division of property and equalization of assets. Before attending your first meeting, review our website so you have some understanding of the issues. We encourage you to start thinking about creative ways of resolving the issues that will be acceptable to both you and your spouse, but try to remain open to other perspectives and solutions. Don’t become entrenched in your solution. We can help you find a solution that works for your family. At the initial consultation phase, the most important decision is how



you will resolve the outstanding issues. You will discuss the various process choices with your lawyer. Here is a link to our website:

<http://www.galbraithfamilylaw.com/>

#### **4. The Consultation**

Please arrive early for your initial consultation to complete some paperwork. Your lawyer will listen to your story and answer your questions. We want to ensure you know exactly what is involved in the process, and what your legal rights and obligations are before you make any decisions.

As the meeting progresses, you will be asked to describe what you want from life and from your agreement. You might not have all the answers, but it helps if you prepare some thoughts in advance. Also prepare an initial list of assets and your thoughts about a schedule for the children. It is helpful to bring a chronological overview of the important events in your marriage so we understand more about your situation.

Our main goal during the consultation is to answer pressing questions and give you a basic understanding of what is ahead. You and your lawyer will develop a roadmap of the next steps toward the resolution of the legal issues. When you are ready to proceed, you will be asked to sign a retainer agreement, which is a contract between you and us regarding the payment of legal fees. If you aren't comfortable retaining us immediately, that's okay. We will keep your information on file and you can come back when you are ready. You are under no obligation to retain us immediately.

#### **5. Narrow the Issues**

Some clients are able to resolve all of the outstanding issues without our assistance. If you are able to do so, we will offer our advice on the resolution you have reached and then create a separation agreement that outlines the terms of agreement using proper legal language. Some have a few issues to resolve and others need our help to resolve everything. Whatever you need, we are ready to help.

## **6. Disclosure**

To ensure your agreement is legally binding, we need to confirm full disclosure between you and your spouse. By this we mean you must exchange documentary proof of all assets and debts you owned or jointly-owned on both the date of marriage and date of separation. We also need to exchange proof of income, which includes tax returns for the last three years and a recent pay stub. The legal document we use to summarize the disclosure is called a Financial Statement. To keep your costs to a minimum, our law clerks will work with you to accumulate the proper disclosure and completion of the Financial Statement. Sometimes clients waive the necessity of disclosure but we recommend you don't do this. Your separation agreement may not be legally binding if there has not been complete disclosure exchanged. It is a pain to complete but a necessary step.



## **7. Negotiation**

Negotiations can take various forms. We have articles on our website about each method outlining the pros and cons of each.

To summarize, your choices are:

a) **Kitchen Table:** You and your spouse negotiate around the kitchen table on your own. Once resolved, meet with your lawyer to review, advise and create a separation agreement.

b) **Mediation:** You and your spouse work with a neutral person who assists the discussion of the issues but cannot offer legal advice or make the decisions. Once resolved, you will meet with your lawyer for advice and then your lawyer will create a separation agreement.

c) **Collaborative Process:** You and your spouse work together with specially trained lawyers and other professionals to create a win-win resolution of the issues without going to court. In fact, if one of you decides to go to court, you both have to get new lawyers and start over. Once resolved, your lawyers will create a separation agreement. We strongly believe this is the best process in most cases. There is strong incentive by both parties to resolve issues because of the cost of having to start over with new lawyers if one side decides to go to court.

d) **Cooperative Process:** Your lawyer will send emails or letters to the other lawyer attempting to negotiate a settlement. Sometimes, four-way meetings are conducted to negotiate agreements. Failing agreement, you often end up in court or arbitration. If resolved by negotiations, your lawyer will create a separation agreement.

e) **Arbitration:** This process is similar to court except the parties and their lawyers chose and pay someone to decide the case. The arbitrator has similar powers as a judge. An advantage is you can customize the process.

f) **Court:** The court process is slow and costly and the results are uncertain. You are giving the decision-making powers to the judges. This is a last resort. We do our best to keep your case out of the court system. In some cases, court is necessary. We have years of experience representing clients in family court and will strongly advocate on your behalf should court be necessary.

## **8. Separation Agreement**

Once you and your spouse have agreed to the terms, the details are drawn up in a separation agreement. This is a legally binding document, but it does not get filed at court unless you or your spouse does not live up to the terms of the agreement.

A separation agreement can be changed if both of you decide the original document no longer meets your needs. In some cases, a judge may impose a change to the agreement if appropriate. For example, a change in circumstances may result in changes to the arrangements regarding the children.

Of course, both parties must agree to the changes or undergo further negotiations to arrive at a mutually agreeable solution. The new terms are then drawn up in an amending agreement. Usually, agreements regarding the division of property and equalization payments are never changed. Changes regarding custody, access and child support may be necessary as the children grow older. If circumstances change and the agreement allows for it, spousal support can also be changed.

## **9. Divorce**

Divorce is the final step in the process. Once approved by the court, the Divorce Order formally ends the legal marriage. Obtaining the Divorce Order is a relatively simple process. It is usually ordered after a one-year separation. One person completes the documentation requesting the divorce and the other person is served with a copy. They don't need to do anything but accept service. Eventually, documentation is filed at court and it is sent for the judge's approval. Divorces take about five to eight months to process after the one-year separation period.

Our law firm focuses on supporting clients through the divorce process. We can help you through this transition in a cost-effective, efficient manner, minimizing the cost and pain.

## Chapter 4:

# Where Do I Start (Personally)?

The decision to divorce is not an easy one. It comes with a flood of emotions that can sometimes feel endless. It will always be difficult, but a few simple steps can help make the process manageable.

**1. Take Care:** If you've ever flown on an airplane, you've heard the flight attendant say something like, "If the oxygen masks drop from the ceiling, first put yours on before helping others." This is good advice for anyone who is separating. Separation is as emotionally difficult as a death in the family. It's important to look after yourself. Eat properly. Get exercise.

**2. Find Support:** Spend time with your extended family and friends. Go to church. Meditate or pray. Visit a counselor or therapist. Find a way to understand and come to terms with your feelings. We recommend you read a book by Abigail Trafford called "Crazy Time". It's an excellent resource and will help you understand the emotions you are going through.

**3. Safety:** Most spouses are upset during separation, but few are violent. If you are worried that your spouse may become violent, immediately create a safety plan. Ensure that you have easy access to transportation to quickly get away. Place a suitcase of clothes and necessities for you and your children in your car or somewhere easily accessible. Have a plan as to where you will go or whom you can call for help. If you have access to a cellular phone, keep it with you at all times. Ensure you have access to credit and money. In most cases, a rapid exit is not necessary, but it's better to be safe than sorry.

**4. Joint Accounts:** If you are worried that your spouse will use your joint funds or increase debt on joint credit cards or lines of credit, contact the bank and freeze these accounts as soon as possible. Do it in writing and keep a copy of your letter. Note that some joint

accounts require both account holders' signatures to make changes. Ask your bank about your account status. Also, remember that by freezing the account, you'll be limiting your access to the funds as well.

**5. Collect Documents:** We need proof of all assets and debts on the date of separation and date of marriage (if available). Begin collecting bank statements, RRSP statements, pay stubs, tax returns, Notices of Assessment, credit card statements and any other documentation regarding your financial affairs. Keep the documents in a safe place.

**6. Children:** Start thinking about how much time the children will spend with each of you. Discuss your ideas with one of our lawyers before you discuss it with your spouse. We can share our insight after helping hundreds of families in the same situation.

If you and your spouse are on good terms, we recommend you attempt to negotiate an agreement regarding the children before one of you moves out. You will then be able to tell the children together about the separation and explain in detail when they will see each of you. This gives your children a sense of security about their future. It is a good idea to get some input on how to tell the children from a therapist such as Sue Cook or her associates at [www.FamilyTLC.com](http://www.FamilyTLC.com).

**7. Household Contents:** Make a list of everything in the house, including furniture, vehicles and personal items. Create a video of your home contents. Create a separate list of gifts that were given to you or to your spouse by a third party. If that third party gift was to you, it's yours and outside of the equalization process. If it was a gift to both of you, then the value of the item should be divided in half. If you brought something into the marriage, it is yours to keep. Everything else should be divided equally.

If you and your spouse are on speaking terms, discuss your proposal regarding the division of the household contents. If you have questions, ask one of our lawyers at the initial consultation or follow-up appointment. They can help you approach this often thorny issue and provide a different perspective.

**8. Don't Fight and Don't Seek Revenge:** Separation is an emotional time. Tempers often flare. Be careful. Don't get into an argument that could lead to physical harm. Nobody wants a criminal record. If you have children, it is especially important not to argue in their presence as it can sometimes cause long-term psychological and emotional trauma. If the separation is due to an affair, resist the urge to tell the children. This has also been proven to cause psychological distress, even in adult children. Do not use your children for emotional support.



**9. Seek Employment:** If you are not working and you are able to do so, you need to start making plans for your future. One of our lawyers can speak to you about the possibility of getting spousal support (a monthly payment of money for you) from your spouse, but you must still try to become economically self-sufficient if possible. Consider whether you need to go back to school, seek employment or start your own business. You need a plan. Share your ideas with one of our lawyers and they will give you feedback.



## Chapter 5:

# What's the Fastest Way to Get a Divorce?

Collaborative Team Practice (CTP) is an innovative new way of resolving separation and divorce issues without going to court.

In CTP, a team of professionals works with you and your spouse to find the best possible outcome for your entire family while allowing you to stay in control of the process and the outcome. It's private, cost-effective, efficient, dignified and provides long-lasting solutions.

### **Here is how CTP Works:**

1. In a CTP negotiation, both parties' lawyers facilitate constructive communication. They provide legal advice outlining the range of outcomes at court and ensure a legally binding agreement is produced.
2. Before negotiations begin, both parties and their lawyers must sign a Participation Agreement that commits everyone to reaching a settlement without going to court. This ensures that all of the professionals and the parties are committed to resolving the issues effectively. The agreement also requires both parties to provide full and honest disclosure of all financial and relevant information.
3. If you or your spouse decides to withdraw or one of the professionals discovers withheld information, the case is terminated. No other lawyer from the same firm can represent the client. This provides a very strong incentive for both parties to negotiate in good faith. It also creates an atmosphere free of the threat of going to court. The professionals won't threaten it because then they would be out of a job.

4. Each party works with a family coach to navigate the emotional journey of separation and to develop communication and post-separation strategies. A family coach will also help develop a parenting plan. A family coach is trained to assist with the needs of children going through a divorce. A family coach is significantly less expensive than working with a lawyer to negotiate parenting issues.

5. A financial specialist is jointly retained to assist the parties in collecting relevant financial information and to explore settlement options. Again, working with the financial specialist is more cost-effective than two lawyers working out these issues for each party.

6. At first, this process may sound more expensive. In reality, it is much more cost-effective than the court process or negotiations between two lawyers. Why? When working through financial issues, you will be sharing the cost of one financial specialist rather than paying for individual lawyers to do the same work. Likewise, you will share the cost of the family coach instead of both retaining experts. The family coach will help you keep the emotional issues from sabotaging or prolonging the negotiations, saving you hundreds or even thousands of dollars in legal fees.

7. If you get stuck in the negotiations, you can resolve the issue by arbitration and continue with the negotiation process. Your team has many ways to help you overcome impasse.

CTP just makes sense. You get the help you need rather than spending your time, money and energy on fighting. In other words, you are getting a team of experts working to find the best solution for the whole family rather than each of you assembling a band of warriors focused on waging war against your spouse.

In addition to saving you money, CTP will result in a better settlement: a win-win solution.

As a result, you and your spouse may be able to preserve your relationship with one another, creating a healthier emotional environment for everyone's sake. If you have children, you'll need to work together for years. Hard to believe, but it's true.

At Galbraith Family Law Professional Corporation, we feel the collaborative process is an excellent way of resolving issues between separating couples. We believe it is a much better alternative to court and strongly encourage you to consider using this option. Please don't hesitate to ask any of the lawyers at Galbraith Family Law about the process and how it can help you.



## Chapter 6:

# Do I REALLY Need a Lawyer?

“Lawyers make things worse and they cost a lot of money!”

We’ve heard it many times. The truth is that some lawyers do make things worse. They make a mountain out of a molehill. They take advantage of their client’s negative feelings, distort the issues and blow them out of proportion. They can turn a resolvable issue into a huge court battle. In the end, nobody wins, except the lawyers.

But there is a new breed of lawyers that see themselves as problem solvers: Collaborative Team Practice lawyers. They want to help people find win-win solutions so they can get on with their lives. They help their clients to see past the negative emotions and focus on the big picture. They help their clients understand their choices and work with them to find a solution that is fair to everyone involved – one that will be long-lasting and cost-effective.

Lawyers are not much different than mechanics. There are some that will create work for themselves and others that will treat you the way you would like to be treated. The funny thing is that when a car breaks down, most people will go to their mechanic for help. When a marriage breaks down, many people try to fix it themselves because they believe “Lawyers will only make it worse.”

Ask yourself this: Which will have a greater impact on me: a car breakdown or a marriage breakdown? Maybe you should get help with your separation and try to fix the car yourself.

The lesson? Shop around. Find a lawyer who cares. Our lawyers really want to help you resolve your legal problems in an efficient and cost-effective manner and create a resolution that will last for years to come so that you can drive off into the sunset... assuming you can fix your car that is!

## Chapter 7:

# Do I Need a Family Counselor?

Divorce is overwhelming. It is vital that you understand the emotional journey of divorce so that you can advocate and negotiate for yourself, your children and your future.

In the collaborative process, the family coach will help you understand the impact of your emotions and help develop ways of coping so you are ready to negotiate agreements that will serve you.

### **How Else Does a Family Coach Help?**

When you separate, you are influenced by many powerful emotions: blame, anger, depression, justification, shame, fear, loneliness and even hatred. These powerful emotions can overcome reason. Your family coach provides unconditional strength and support that is based on reality, not on emotions. Your family coach hears, accepts and understands you and helps put your feelings into words and unload the stress of separation.

Instead of feeding the pain, your family coach, a neutral professional, helps you get over the shock and work through your fears and hurt.

Your family coach will also assist you in identifying and prioritizing your core concerns. You will learn effective conflict resolution and communication skills. Instead of feeling disempowered and unable to advocate for yourself, you will learn how to speak up for yourself and your children so that you can look forward to a more peaceful and secure future.

Without a family coach, it can take you years to find acceptance and relief. Some never find it. But with the help of a family coach, you will come to a place of acceptance and even relief.



Some say “time heals everything” but who wants to wait? A family coach helps speed up the healing process.

Investing in a family coach will minimize the pain, shorten the negotiation process and help you minimize the costs of the legal process. You’ll be able to get on with your new life.



## Chapter 8:

# How Do I Deal With/Avoid Conflict?

When marriages fall apart, there is often a lot of name-calling and fighting. But that's not just limited to face-to-face yelling matches.

Your ex-spouse can also get to you electronically. Texts, emails, tweets and Facebook messages can hurt your feelings or burn your blood just as quickly as anything said in person.

So how do we rise above this? We recommend you read the article below. It's strong advice for those who divorce in the digital age.

### **Responding To Hostile Mail (B.I.F.F.)**

By Bill Eddy, LCSW, ESQ.

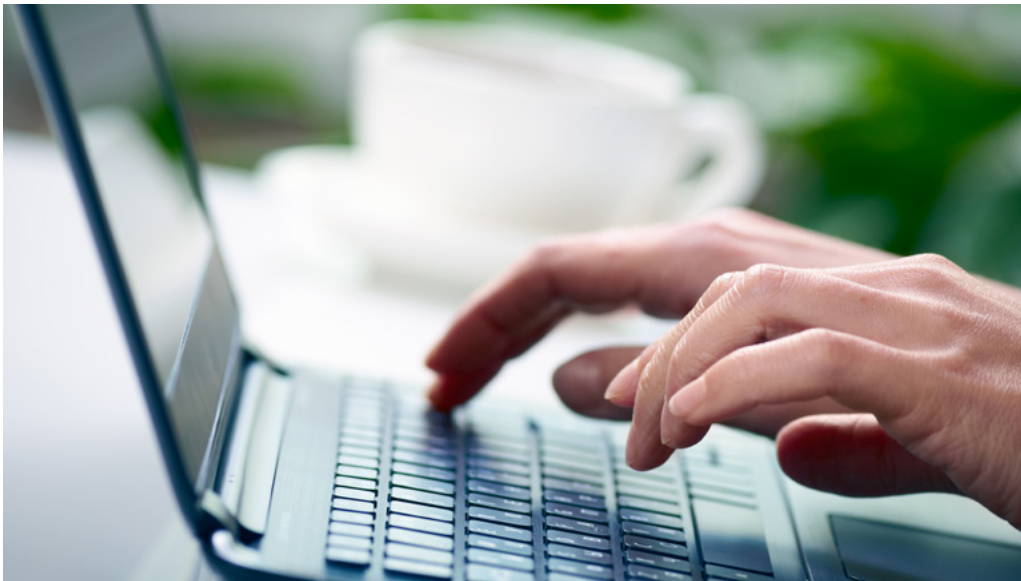
Hostile mail – especially email – has become much more common over the past decade. Most of this mail is just “venting,” and has little real significance. However, when people are involved in a formal conflict (a divorce, a workplace grievance, a homeowners' association complaint, etc.) there may be more frequent hostile mail. There may be more people involved and it may be exposed to others or in court. Therefore, how you respond to hostile mail may impact your relationships or the outcome of a case.

### **Do you need to respond?**

Much of hostile mail does not need a response. Letters from (ex-) spouses, angry neighbors, irritating co-workers, or attorneys do not usually have legal significance. The letter itself has no power, unless you give it power. Often, it is emotional venting aimed at relieving the writer's anxiety. If you respond with similar emotions and hostility, you will simply escalate things without satisfaction, and just get a new piece of hostile mail back. In most cases, you are better off not responding. However, some letters and emails develop power when copies are filed in a court or complaint process – or



simply get sent to other people. In these cases, it may be important to respond to inaccurate statements with accurate statements of fact. If you need to respond, I recommend a B.I.F.F. response: be Brief, Informative, Friendly and Firm.



## **BRIEF**

Keep your response brief. This will reduce the chances of a prolonged and angry back-and-forth. The more you write, the more material the other person has to criticize. Keeping it brief signals that you don't wish to get into a dialogue. Just make your response and end your letter. Don't take their statements personally and don't respond with a personal attack. Avoid focusing on comments about the person's character, such as saying he or she is rude, insensitive, or stupid. It just escalates the conflict and keeps it going. You don't have to defend yourself to someone with whom you disagree. If your friends still like you, you don't have to prove anything to those who don't.

## **INFORMATIVE**

The main reason to respond to hostile mail is to correct inaccurate statements that might be seen by others. “Just the facts” is a good idea. Focus on the accurate statements you want to make, not on the inaccurate statements the other person has made. For example: “Just to clear things up, I was out of town on February 12th, so I would not have been the person who was making loud noises that day.” Avoid negative comments. Avoid sarcasm. Avoid threats. Avoid personal remarks about the other’s intelligence, ethics, or moral behavior. If the other person has a “high conflict personality,” you will have no success in reducing the conflict with personal attacks. While most people can ignore personal attacks or might think harder about what you are saying, high conflict people feel they have no choice but to respond in anger – and keep the conflict going. Personal attacks rarely lead to insight or positive change.

## **FRIENDLY**

While you may be tempted to write in anger, you are more likely to achieve your goals by writing in a friendly manner. Consciously thinking about a friendly response will increase your chances of getting a friendly – or neutral – response in return. If your goal is to end the conflict, then being friendly has the greatest likelihood of success. Don’t give the other person a reason to get defensive and keep responding. This does not mean that you have to be overly friendly. Just make it sound a little relaxed and non-antagonistic. If appropriate, say you recognize their concerns. Brief comments that show your empathy and respect will generally calm the other person down, even if only for a short time.

## **FIRM**

In a non-threatening way, clearly tell the other person your information or position on an issue. (For example: “That’s all I’m going to say on this issue.”) Be careful not to make comments that invite more discussion, unless you are negotiating an issue or want to keep a dialogue going back and forth. Avoid comments that leave

an opening, such as: “I hope you will agree with me that...” This invites the other person to tell you “I don’t agree.”

Sound confident and don’t ask for more information, if you want to end the back-and-forth. A confident-sounding person is less likely to be challenged with further emails. If you get further emails, you can ignore them, if you have already sufficiently addressed the inaccurate information. If you need to respond again, keep it even briefer and do not emotionally engage. In fact, it often helps to just repeat the key information using the same words.

Example Joe’s email: “Jane, I can’t believe you are so stupid as to think that I’m going to let you take the children to your boss’ birthday party during my parenting time. Have you no memory of the last six conflicts we’ve had about my parenting time? Or are you having an affair with him? I always knew you would do anything to get ahead! In fact, I remember coming to your office party witnessing you making a total fool of yourself – including flirting with everyone from the CEO down to the mailroom kid! Are you high on something? Haven’t you gotten your finances together enough to support yourself yet, without flinging yourself at every Tom, Dick, and Harry?...”[And on and on and on.]

Jane: “Thank you for responding to my request to take the children to my office party. Just to clarify, the party will be from 3-5 on Friday at the office and there will be approximately 30 people there – including several other parents bringing school-age children. There will be no alcohol, as it is a family-oriented firm and there will be family-oriented activities. I think it will be a good experience for them to see me at my workplace. Since you do not agree, then of course I will respect that and withdraw my request, as I recognize it is your parenting time.” [And that is the end of her email.] Comment: Jane kept it brief, and did not engage in defending herself. Since this was just between them, she didn’t need to respond.

If he sent this email to friends, co-workers or family members (which high conflict people often do), then she would need to respond to the larger group with more information, such as the following:

Jane: “Dear friends and family: As you know, Joe and I had a difficult divorce. He has sent you a private email showing correspondence between us about a parenting schedule matter. I hope you will see this is a private matter and understand that you do not need to respond or get involved in any way. Almost everything he has said is in anger and not accurate in any way. If you have any questions for me personally, please feel free to contact me and I will clarify anything I can. I appreciate your friendship and support.” [And that’s it: B.I.F.F.]

### **Conclusion**

Whether you are at work, at home or elsewhere, a B.I.F.F. response can save you time and emotional anguish. The more people who handle hostile mail in such a manner, the less hostile mail there will be.



## Chapter 9:

# What Are My Options Following a Common Law Breakup?

There are a lot of misconceptions surrounding common law relationships. Some people believe it's the same as marriage, while others think it's a great way to commit to someone while keeping your assets separate. The fact is, the law around common law relationships is not black and white.

Simply put, to be considered common law, a couple simply lives together in a marriage-like relationship. In most cases, it's pretty easy to identify a common law relationship, but some situations are more difficult.

For example, it's possible to be considered common law even if you have two homes. In one case, a couple had a child together but they each had a home. They stayed together four to five nights per week, so it might have appeared to some that they were in a dating relationship.

To the court, they had presented themselves as a couple to the world. They socialized together, they did household chores for each other and they combined their finances. They appeared like a married couple to the judge, so the judge considered them to be common law even though they each had a home.

If there is ambiguity, the courts look at all of the circumstances of the relationship to determine whether it's marriage-like and therefore a common law relationship.

You are considered a common law couple at the moment you start living together, but you really don't have any legal rights until you have lived together for at least three years. Prior to the three-year anniversary, if you separate, you cannot seek spousal support unless you have a child together.

The three-year rule does not apply to the division of property. When it comes to property, if you have contributed to the acquisition of the property directly through payment of monies or indirectly by working together in a joint family venture, you may have a claim. Your claim may be to a sum of money or an interest in your partner's assets. Your interest is not automatically 50% of your partner's property. It all depends on the facts of your case. Our lawyers can suggest the likely range of outcomes.

The most common misconception is that eventually common law couples become married automatically or they will be treated as if they are married when they separate. This is not true. Living together as a common law couple is not the same as being married. You actually have to go through a marriage ceremony, whether it's a religious or civil ceremony, and you can't become married without such formality. As a result, a lot of common law couples separate and then think that they have the same rights and obligations as if they had been married, and that is just not so. Know the facts. Know your rights.





## Chapter 10:

# Final Remarks

We hope this e-book has been helpful to you. Separation and divorce is a difficult process. It is fraught with legal, emotional and financial issues.

At Galbraith Family Law Professional Corporation, we are strong advocates for our clients but we also take a practical approach. We work hard to protect your rights and interests but do so in a cost-effective and timely manner. We will help you close this chapter of your life so you can get on to the next one.

For more information or to book a consultation with one of our lawyers, please go to our website: [www.GalbraithFamilyLaw.com](http://www.GalbraithFamilyLaw.com).