

DIVORCE WITH SANITY

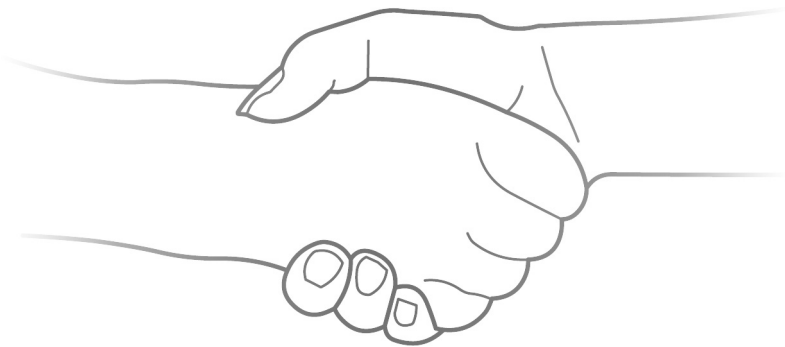
A practical guide to divorce with
dignity, self-respect, and cooperation.



RICHARD S. RABBIN
Family Law Attorney

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Family Law Attorney

Published by Richard S Rabbin
Thousand Oaks, California, USA
rsrabbin@sbcglobal.net
<http://www.richardsrabbin.com>

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This book is intended as a reference guide only. The information presented here is designed to help you make informed decisions about separation and divorce. It is not intended as a substitute for services provided by a lawyer or legal representative.

I am dedicating this book to Dr. Leonard Diamond, Phd., who passed away after helping me revise this manuscript but before it could be published. His help in revising this manuscript was invaluable and very much appreciated. Leonard was a psychologist who was very well known for the work he did with families and children in divorce. This manuscript has been in the works for many years, and several years ago Leonard wanted to dedicate this book as follows: To all of our children whom we dearly love: Courtney, Dusty, Jennifer, Juliet, Katie, Keith, Shannon. In honor of Leonard, I include this dedication.

I would also like to acknowledge and thank the many clients who have hired me to help them with their family law cases. Without these people and the experiences we have had together, this book could not have come into being. I have been fortunate to represent many fine people who were having a tough time in their lives. Many of these clients have taught me about human nature and the wonderful world of relationships. Some continue to be my friends. I also would like to acknowledge the attorneys I have dealt with and judges before whom I have appeared. Despite the reputation of the profession in some circles, I can assure you that there are many lawyers who really do have their clients' best interests at heart and work very hard to resolve cases out of court. Judges who sit in Family Law Courts have a tough job and most all of them that I have appeared before have done their very best to come to a fair result for the litigants in their courtrooms.

I would also like to thank my sister Gina Rabbin and my brother Robert Rabbin for helping me in the publishing of this book, and my wife Sally Pittman-Rabbin for her time spent editing the manuscript. I am also very grateful to Jane Green and her marvelous guidance in the publication of my first book.

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Introduction

Although statistical studies will differ from one geographical area to another area, most current researchers in the field of marriage can agree that at least one-half (and frequently more) of all of the marriages in the United States are doomed to end in divorce. The process of divorce is always a significant emotional trauma which impacts all of the direct participants, including children, as well as peripheral participants such as family members and friends. In fact, it also very definitely impacts long-term family friends who are now faced with the terrible prospect of having to choose sides, especially if the divorcing couple is bitter and hostile.

This book is written for those who are in the throes of dissolving their marriages or for those who are beginning to think that this might be their best option to pursue. The data on which this book is based arises from the first-hand, in-depth, real-world experiences of the author. I have worked in the field of divorce and child custody for over thirty years, as has Dr. Leonard Diamond who has added his psychological view points to this book. His participation has added this depth and, as such, you will note that many times I use the word “we” instead of “I”, due to this input. We have witnessed and experienced the intense upset, the confusion, the agitation, the trauma and the pain of divorce. In addition to the horror of the relationship breaking down, the divorcing individuals are also faced with a vague and unstructured legal system in which they must operate. The language of the law and the logic of the law will certainly seem foreign and confusing. The complex courtroom procedures and the negotiations that are always necessary may often be experienced as highly agitating, hostile, adversarial and very slow moving.

The initial goal in this writing is to offer clarity to the whole process, to assist the reader in making better-educated decisions, and see this divorce as a tool for enhanced personal growth and expansion. I offer ways to make this process easier for you to navigate through. The next goal is to prepare you for the complexities and vagaries of the

legal and psychological issues so that there will be no major surprises. You will also learn the relationship between the legal process and your emotional reactions which will help you to move through the system more expediently.

Next to parenting, marriage is most definitely the single most important relationship that one faces in our society. Marriage may take place hastily as a reaction to a bio-chemical process over which we have no control. It may also take place after long periods of decision-making, testing each other and emotional trials by fire. People handle the process utilized in the establishment of relationships very differently. However, the one point that we can all agree upon is that at the time that those important vows are spoken, each of us usually believes wholeheartedly that this relationship is like no other, that it was made in Heaven and that it will truly continue until “death do us part.” There is unconditional love and caring, unconditional trust and giving. Almost every person who has ever described their marriage has said that without question, they wholeheartedly believed that this relationship was destined to last forever. If this is the case, why then do we often spend so little time examining and comparing our definitions of what goes into a successful relationship before we marry?

Marriage creates a legal and psychological bond which initially feels like it cannot be broken. However, even though it feels strong and unbreakable, we know that marriage is actually a very fragile relationship. The marriage bond is forever severed by divorce after the relationship has come to a grinding halt. Establishing the bond initially may be very difficult and often painful. Severing the bond through divorce is equally painful if not more and it dramatically changes our lives once again and forever. If one is willing to thoroughly examine the complexities of the marital relationship as well as the reasons for dissolving it, it can become an easier and more understandable process for all concerned. This can also lead to a more fulfilling and satisfying future where similar past errors are never repeated. This is the opportunity for personal emotional growth. The procedures which will be introduced and discussed in this book will enable the divorcing individual to become emotionally healthier, more competent with the

process and more fulfilled as a person.

The experience of going through a divorce can best be likened to a grief experience over a death in the family. It is no wonder that at the beginning of the divorce, we are always so fragile emotionally. Unfortunately, it is at this time that we are forced to make extremely important choices which will inevitably affect our futures. The first and most important choice is to find an appropriately trained, understanding, insightful and competent attorney who will actively help to guide you through the legal system. This system is composed of a unique set of rules, behaviors and actions which often do not seem fair and which frequently demand that you enter into a win-lose situation. You are forced to participate in this adversarial fight against someone you have shared a bed with, eaten with, raised children with, celebrated holidays with, and cared about for many years. Unfamiliar and complex fears enter the consciousness. These fears center on the areas of rejection, abandonment, lack of self-esteem, financial issues and other very important concerns.

We cannot count on receiving any substantial assistance from Judges or from the legal system. Because the dockets are so full and the courtrooms are so crowded and the judges have so many family issues over which they must officiate, they urge the mediators and attorneys to attempt settlements and make agreements. Attorneys are trained to offer the best legal advice they can and to represent their clients to the best of their abilities. The mediators or conciliators in the legal system also urge us to make compromises, but, at the same time, they place obstacles in our way because we are not familiar with the legal issues and the procedures necessary. Therefore, the question still remains as to how we can get some clear perspective on the issues and how we can allow the emotional-psychological experience to mesh and resolve with the legal experience. This process is another of the goals inherent in this writing. The author wishes to separate out the issues to be examined, make them more understandable, and present a more complete and less complex process which will assist in decision-making. The emotional issues must also be addressed correctly in order to experience a significant comfort level once the

decisions have been made. As an example of how information helps the process, let us look at a potentially explosive circumstance that happens regularly. Recently, while in court, a man was heard to complain bitterly to his attorney that his wife's attorney was making him do so much work and research with regard to their financial situation. He was very angered because he was being honest and up front and he felt that his wife and her attorney were accusing him of hiding money. He was calling the other attorney many names and then allowing his anger to slide over to his spouse. The feelings began to escalate for this man into an almost debilitating emotional experience. He was turning red and smoke was coming out of his ears. His attorney, seeing what was happening, took the time in a very calm and supportive manner, to make him understand. He said, "She's not after you. Of course she wants you to supply copies of all of the checkbook ledgers. She's not saying that you are a bad guy. She is doing her job for her client just as thoroughly as I would do. Her thoroughness is good for us all and for the case, because when we supply all the data they want, we will be able to understand the issues and we will all agree on the same set of numbers. This is the kind of work that has to be done. It's just good lawyering." This type of explanation and insight is most helpful when it feels like the world is crashing down around you.

Often, there are children involved. Many adults take the position that they should stay together and pretend that all is well, 'for the sake of the children'. What they do not know is that the children are usually very aware, insightful and sophisticated as to their own needs and the needs and motives of their parents. When we shut the children out of the situation and give them no information or poor and distorted information, they suffer a great deal. In addition, this then allows the adults to use the children as leverage or as 'pawns' against each other. Children become more like the tools of divorce than the real people that they are. It is imperative that we learn to address these issues and pay attention to the needs of the children.

In this book there are numerous case histories to illustrate both good and bad approaches. It is worthwhile to study how people have

dealt with divorce in the past, where they have made the most errors and how they could have made their divorce easier on themselves and on all concerned. These examples will cover both specifically unique situations as well as the very ordinary and mundane situations (if, in fact, that does exist in the area of divorce). We will look over the shoulder of the family law process as it tries to divide up property, establish guidelines for family, spousal, and child support as well as issues of custody and visitation. In this way, you will be able to see some of the successful ways to operate as well as many of the pitfalls. We will look at different approaches you might take to examine your own marriage and divorce and still maintain a healthy, productive, ongoing working relationship with your ex-spouse. In addition, the very important areas of physical and mental spousal abuse will be exposed and studied. These information-filled case histories will enable you to see healthier avenues of approach and better emotional outlooks to the problems which you will inevitably face. You will also be given a general overview of divorce law, practical suggestions on choosing an appropriate and competent attorney and how to deal with your problems if you cannot afford an attorney. The new and developing area of Collaborative Law will be discussed so that you can be informed as to the possibility of having your own attorney but work closely in a non-adversarial way with your spouse and his/her attorney. You will be instructed as to the role of the psychologist and mediators so that you can select competent mental health professionals as well. Since the divorce laws carry so many inherent difficulties, which we have studied, we can take the liberty in this book of offering a somewhat different and absolutely more humane system designed specifically to make it easier on divorcing couples. These thoughts will be offered to you as well as a chapter on the process of mediation.

I hope that this book will be read carefully for it will serve to benefit your life and your struggle. You will be presented with new and different attitudes and ideas since it is our desire that the process of divorce not take such an emotional toll. It is the ideal that spouses, children, family and friends, will suffer as little irreversible damage as possible. It really is possible to have an “easier divorce”.