

# SURVIVING DIVORCE IN CALIFORNIA

Building A New Life After A Successful Divorce



## Divorce

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**Written by:**

Steven J. Brown, Esq.

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By Steven J. Brown, Esq.

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# CLIENT TESTIMONIALS

*“I was referred to Mr. Brown from a friend of my sisters who had a great experience when Mr. Brown handled her divorce. I too was going through a really bad divorce and was really scared. Mr. Brown was Amazing. I could go on for hours about how professional and caring he was. He always made sure that I understood everything that was happening, he was very honest and very patient with me through the whole process. He worked very hard and I was very happy with the outcome. I highly recommend him.”*

**-A Former Client**

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*“Over the course of his representation of me and my kids, Mr. Brown has gone above and beyond what I would have expected. He was always available when I telephoned his office with a question or several. If I didn’t speak with him when I called, I would get a call back that same day or the next. He handled all of my legal issues competently and timely, all without doing unnecessary work on my case. I highly recommend Mr. Brown for all of your divorce, custody and family law needs. THANK YOU Mr. Brown. I appreciate ALL that you have done for me and my kids.”*

**- A Former Client**

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*“What A Great Experience. Mr. Brown Is The Best! He Truly Cares About You And Your Case, He Represented Me In A Family Law Case As Well As A Personal Injury Case. I Have Worked With A Few Other Attorneys In Chino Hills ( Which I Will Not Name ) And All I Can Say Is There Is No Comparison I Am So Forever Thankful I Found Mr. Brown. Truly What A Blessing He Is. I Would Highly Refer Him To Everyone. Just Know That He Always Has Your Back. He’s Just Great!”*

**- A Former Client**

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# TABLE OF CONTENTS

Attorney Introduction ..... 7

How Do Men And Women View Divorce Differently? .....8

The Disadvantages of “Divorce Only \$299” Places ..... 10

Top Misconceptions People Have About The Divorce  
Process .....11

The Qualities Of A Good Divorce Lawyer ..... 14

How Does Mediation Differ From The Court Process?..... 15

Plan Ahead When Contemplating A Divorce..... 17

Preventing Custody Battles In A Divorce ..... 18

Some Tips For Getting Through A Divorce Without  
Destroying Your Life..... 19

The Calculation Of Alimony Or Spousal Support.....22

The Calculation Of Child Support.....24

The Challenging Aspects Of A Divorce Case For An  
Attorney ..... 27

## ATTORNEY INTRODUCTION

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Attorney Steven J. Brown specializes in all matters of family law and personal injury. A devoted family man, he knows firsthand how precious children are in relationships. His sincere desire is to help the family as a whole, and he emotionally invests himself in the well-being of every client he represents. Steven



makes it his mission to personally work diligently on your case to insure the best possible results for the circumstances presented.

He assists his clients in reviewing divorce options beyond litigation, including collaborative divorce and mediation solutions. Divorce can be a difficult and stressful process. Attorney Brown's unique blend of compassion, integrity and assertiveness combine to create an effective family law, and personal injury attorney who has gained the respect of clients, lawyers, and judges. His approach is to obtain the best possible results for his clients.



## HOW DO MEN AND WOMEN VIEW DIVORCE DIFFERENTLY?

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From the outset, women are typically much more emotional about the divorce process and the initial breakup than men, although I've seen it both ways.

Generally speaking, men are from Mars, women are from Venus; that's what they say anyway. The men



tend to try to understand the process and they don't really talk a lot about it; they just want it over with quickly. Typically, it's amicable on the men's side and the women are the ones who want a pound of flesh.

That said, I would imagine that the ratio of my representing women and men is probably very close to 50-50. I don't specialize in representing father's rights, whereas, for some attorneys, that's all they do. I represent men and women; I don't have a preference.

### **The Most Common Reasons People Want a Divorce**

There's a myriad of reasons, but infidelity is a big factor. One of the first few questions I typically ask is whether

they have small children and whether they're a product of this relationship, and if they are, I ask the parents if they've been to counseling. More often than not, by the time they get to me, there's so much water under the bridge, that they're done.

In doing family law for almost 16 years, I would say that maybe five or ten potential clients have gone the route of counseling and have actually saved their marriage; the rest just go through the divorce. I try to give my clients what they want; I'll be the last one to encourage a couple to get divorced, but if there's so much bad blood between the spouses that they're done with the relationship by the time they get to me, and they just want out, I'll help.



California is a no-fault divorce state, so you don't need a valid reason for a divorce. It doesn't matter if you don't like the way the person looks or dresses or the way they cook you breakfast, lunch, or dinner; if one party wants out, the courts can grant a divorce.

## THE DISADVANTAGES OF “DIVORCE ONLY \$299” PLACES

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The old saying, you get what you pay for, comes to mind; many people will hire a paralegal to do their paperwork, and over the years I've had clients after they did that, and signed and submitted it, so that should tell you something. The paralegals are not trained; they are not well-versed on the law; and they don't know what is required for the judgment documentation. If you're going to try to go the cheap way, sometimes it works and sometimes it doesn't, and all you can do is hope that you're on the side of the fence that works.



### **Does Each Person in a Divorce Need their Own Separate Attorney?**

It is not wise to use one attorney to negotiate the divorce unless it is a true mediation session, in which the mediator, as a matter of law, is not representing either party, and can be equally truthful and provide the same information to both parties when questions are asked during the mediation process. One thing I tell every client

is, "If your spouse has an attorney, don't walk in the court without an attorney, otherwise the outcome could be very grim for you."

## TOP MISCONCEPTIONS PEOPLE HAVE ABOUT THE DIVORCE PROCESS

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One of the biggest misconceptions many people seem to have is that once you start the divorce process, there is no way to stop it; they ask me if they should decide to reconcile, to which my response is always, "of course." They're masters of their own destiny, and if at any time they decide they don't want to continue with the divorce, they can send me a letter and I'll put a note in the file and do nothing further on the case until I hear from them. I do that just to protect ourselves.



Another misconception is that once the couple files, they can't talk to one another, whereas I strongly encourage all my clients to try to keep an open dialogue with their soon-to-be ex-spouse. The more items that they can resolve on their own without attorney intervention, the cheaper it

will be to complete the divorce. It is better for them to try to reach as many agreements as many as possible, although whether that happens will depend on how contentious the divorce is; some parties are unable to talk without fighting, but for those who can, I encourage them to try.

The more issues and conflict the parties can resolve on their own, the better off everyone will be in the long run, because they are making the decisions. As long as they're comfortable with that, it's better. Although some clients need to run everything by the attorney and that's fine, too. A lot of it depends on the dynamic of the relationship.

Sometimes I have women clients who have been completely beaten down verbally; they've been abused verbally, been condescended towards by their husbands and they have no self-esteem



and can't make a decision on their own. In that scenario, attorneys are available to talk to them and help them out. Absent that type of a situation, though, the parties are better off trying to resolve the issues amongst themselves and their attorneys if they can, rather than have a judge

who spent two-and-a-half minutes on your file make the decision for you.

### **What Are No-Contact Orders?**

No-contact orders arise when one of the parties has gotten a domestic violence restraining order against the other party. The no-contact orders prevent one party or the other from contacting the other party to harass, molest, stalk and engaging in any type of behavior that is harassing in nature. No-contact orders are granted when there's a problem with one of the parties harassing the other party.



Judges don't hand these things out like candy; there has to be a very good reason or reasons for it; the person making the claims and signing it is actually testifying under oath and under penalty of perjury that this person is disrupting your life.

# THE QUALITIES OF A GOOD DIVORCE LAWYER

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To find a good divorce lawyer who is worthy of hiring, you need to interview a few attorneys and figure out which ones you can have a good dialogue with. Many of the problems I've heard over the years have to do with attorneys



being hard to reach and hard to communicate with; they're always talking to his paralegal or someone else. I don't run my office like that; while I do have a paralegal and an office manager, I return calls and talk with my clients. If they want to talk to me about something, I typically return my phone calls within 24 hours of getting them, if not sooner. Typically, the only delay comes when I'm in court.

A good divorce attorney worthy of hiring is someone who is responsive to your needs, answers your questions and provides you with the legal work that needs to be done in your case. I emphasize the legal work that needs to be done in your case and not just work that can be done but is not necessary. Many attorneys out there do a lot of unnecessary work and just try to make attorney's fees. I'm

not that attorney; I'm straightforward and I like to get things done quickly.

## HOW DOES MEDIATION DIFFER FROM THE COURT PROCESS?

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In the mediation process, typically, both parties and both attorneys meet at a third party mediator's office, where typically they are placed across the table from each other with the trained mediator, typically a retired judge or highly experienced family law attorney, who gets paid a certain hourly rate for his time, serving as a kind of referee. The parties will go issue by issue with this mediator; real property, custody, visitation, child support, spousal support, and with the mediator's assistance the parties will try to come to some form of an amicable resolution.



This differs greatly from the court process, where you show up for a hearing on the court calendar for custody visitation, child support, spousal support, division of real property. With the mediation process, the parties have control over what's going to happen with their matter, but



when the matter goes before a judge, that judge will make a call on everything, even though there's no guarantee that judge will be fully versed regarding what is going on between the parties or understand the nature and extent of the dispute between the parties.

It's better to try to resolve things rather than stand in front of a judge and have them decide who the child will live with a majority of the time, or whether it will be a 50-50 time share! Who better to make decisions with regard to where the kids will live than the parents? It's the last thing you want a complete stranger deciding.

### **When is Mediation Better Than Going to Court and Vice Versa?**

Mediation is better when the parties are calm and more adult-like in trying to come to a fair resolution.

Sometimes, there are very contentious cases in which the two parties can be locked



in a room for three days and never agree on anything. Those are the types of cases where you file your paperwork and let the judge decide or you try to resolve it out in the hallway with the other attorney.

Typically, the judges require the parties to meet and confer before the hearing, but when the parties can't agree on anything and all the issues in the dissolution process are highly contentious, that's when you just put it on and let the judge decide. The judge will take testimony, and ask questions and allow the parties' attorneys to put on their respective cases, but the judge will make a decision. Some people simply can't resolve a case without judicial intervention.

## PLAN AHEAD WHEN CONTEMPLATING A DIVORCE

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That's a good idea; often, individuals come in and the parties haven't been intimate for six or eight months or a year or longer and they've talked through some of the issues regarding divorce, such as who will get the house or will we sell it and other questions, but they don't know how to proceed. You can't really answer that question because there are so many different variables involved; every case turns on its own set of facts.



By the time they get to hiring attorneys, many people have already sold the house and they're just trying to work on a test in visitation plan. You're still trying to divide up some of the marital assets, retirement plans, savings accounts, those types of things. It's always a good idea to try to plan ahead and try to figure out what is the best course of conduct for each person in the divorce.

## PREVENTING CUSTODY BATTLES IN A DIVORCE

Custody battles can be prevented if both parents are truly looking out for the best interest of their children; it's important for the kids to be involved with mom and dad, and it does no one any good unless both parents understand this.



The best way to deal with those types of issues is with interview technique; I always ask my clients how much time they want with the kids and I ask them if the other parent is a good one. The answers give me a good opportunity to understand where they are and get them to understand they need both parents. Custody battles can be prevented, but it's all about you initially consult your

client and counsel your client about what the law is in the jurisdiction that you're practicing in.

### **Does the Mother Automatically Get Full Custody?**

In California, the only time the mother will automatically get full custody is if the father is incarcerated; other than that, both parents are entitled to a 50-50 time share unless one party or the other proves they can't handle it because of work commitments, time constraints, other issues going on in their life. So, no; the mother does not automatically get full custody unless the other parent is incarcerated.

## **SOME TIPS FOR GETTING THROUGH A DIVORCE WITHOUT DESTROYING YOUR LIFE**

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Number one, if someone is hurting emotionally, they need to get in to counseling, either for individual therapy or therapy with their kids. Or maybe their kids need therapy; it really depends on the dynamics of what went on just prior to the parties splitting up. They need to try to carry on their lives as normally as possible after the separation and while they're going through this process. They need to concentrate on the kids and try to make it so that the

children's lives are as unaffected as possible moving forward.

### **What Happens if One Spouse Wants to Move Out of State After A Divorce or During It?**

After the divorce, typically, either during or after, the real linchpin on that is whether or not there are kids. If there are kids and mom wants to move out of state with the children, dad typically won't



like that. In those situations, if dad is a substantial part of the children's lives, there will be a big court hearing with an expert involved to analyze what's in the best interest of the children from the standpoint of the relationship with the non-moving party and will happen to that relationship.

Should the other spouse be permitted to move out of the jurisdiction, it's a long process called a move-away. In California, unless one of the parents gives the okay to move and take the kids, there will be a court hearing, where a judge will make the call if it's contested.

## How Can One Avoid Things From Getting Ugly in a Divorce?

My job in counseling clients is to try to be the calming factor in what they're going through; to put them at ease and let them know I have the case under control. When things get ugly, typically, it's basically because you've got an out of control client who is doing things that could potentially be against the law, like violating automatic temporary restraining orders, or selling property, canceling insurance, or emptying bank accounts.



Those are the types of things that make divorces ugly. The feuding between the respective sides is also a factor, whether it be their family members or their brothers and sisters. The expression, "Blood is thicker than water" is sometimes true and sometimes not; it depends on how reasonable or unreasonable these people are when going through the process. The people who make divorces ugly are the same ones who have to stand in front of a judge and have them make the decision on who the kids will live

with, or how much time they'll get to spend with each parent.

## THE CALCULATION OF ALIMONY OR SPOUSAL SUPPORT

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In California, you have to look at how long the parties were married, and the wages of each spouse; if both parties are earning roughly the same amount, spousal support may not be awarded because it's based on the differentiation



between the earnings of each party. In California, if it's a temporary situation in which one spouse is the primary breadwinner and kicks the other out of the house and refuses to give them more money, the spouse who was thrown out should hire an attorney, get into court ASAP and file a request for order regarding a spousal support and child support along the same lines.

If there are kids and the wife is not being supported by the husband who supported her and the children for a period of years whether it's 2 years to 10 years or 15 years, the wife needs to get into court. Once they have a hearing, the

court in California uses software to calculate spousal support, and the child support will be calculated based on how much time the non-custodial parent gets with the children. It's all put into software, which spits out a number.

### **Division Of Assets And Marital Property In A Divorce**

In California, the process is relatively straightforward; whatever was accumulated by the parties during the course of the marriage is presumed to be community property, including joint bank accounts, automobiles, real property that was acquired during the course of the marriage, and those items are typically divided equally. If one party wants to keep the house and the other wants to keep the savings account, they'll figure out the equity in the house, and divide everything accordingly. California is a very equal state, in that they ensure a 50-50 split of all marital assets and liabilities.





## What if a Spouse Alimony or Child Support Money isn't Being Used for the "Right Things?"

Typically, men pay the child support or alimony. The problem is, the payer spouse needs to realize that once they separate and live in separate dwellings, the amount needed to sustain two households is roughly twice as much as sustaining one, or close to it. Men lose control over what the wives spend the child support monies on and sometimes they don't like it. In California, it doesn't matter; the payer spouse has no say whatsoever in what the spousal support and child support is used for.

## THE CALCULATION OF CHILD SUPPORT

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Child support is calculated the same way with a couple of differences, such as how much time the non-custodial parent spends with the children. If it's less than 50% of the time, it will have a substantial impact upon how much the non-



## CHILD SUPPORT

custodial parent will have to pay in child support. Again, California uses software to calculate it; the attorneys plug in the numbers and come up with a child support

guideline amount depending on the earnings of each parent and the percentage of time the non-custodial parent spends with the children. Other factors, such as the daycare needed, with each parent expected to pay half of that.

### **How Long Must One Pay for Child Support?**

Both parents generally have a legal obligation to financially support the children, from the time they're born until the time they turn 18 and have graduated from high school, so the cut-off is



usually either high school graduation or when the child turns 18, whichever comes first. In some cases, a child may have special needs, which means they need extra medical or other care, and the parents could end up supporting those children forever.

### **The Modification of Child Support**

Child support can be modified at any time, provided the child hasn't reached the age of 18 and/or graduated from high school. In California, it's not the child's fault their parents are divorced or the parents are no longer together. The policy of the law is that if the parents are doing better

financially than when they first divorced, they can go back to court to get the child support increased to match the higher income. Likewise, if the payer parent becomes disabled and his income is cut in half, he becomes injured or ill or somehow becomes disabled, that, too, is a reason for the payer parent to go back into court and get a reduction in child support, so that he is not having to pay more than what his income would permit him to pay.



### **Does Multiple Children Double the Amount of Child Support?**

The amount is not doubled. In California, the amount of child support is proportionate to the chronology of the ages of the children. For example, if the parents have three children, the oldest child will get less than the next child and the next child will get less than the last child. It's not an even calculation where, if you have three children and the child support amount is \$1500, \$500 is apportioned per child. There's always more child support attributed to the youngest child than the older children.

## THE CHALLENGING ASPECTS OF A DIVORCE CASE FOR AN ATTORNEY

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It all depends on which stage of the process you get a client; if they just caught their significant other in bed with someone else the day before they'll be distraught and angry; their emotions will be all over the place; the most challenging aspect then is to keep their emotions intact and keep them on course with their issues, as opposed to becoming distracted with things that don't matter. Sometimes, they don't know what matters and what doesn't, so you have to sit here and guide the discussion, listening to them carefully and guiding the discussion to where you need to go so that you can help them out whether it's worth a house, a real property, automobiles, bank accounts, furniture, furnishings, those types of things.



### **The Potential Timeframe of Resolution For A Divorce**

The sky's the limit; it depends on the types of issues that have to be worked through, such as waiting for a piece of

property to sell or waiting for a business valuation to be completed, or the length of time it takes for specific experts or professionals to value something so the attorneys and the parties can talk about it. In California, you won't be divorced for sure until at least six months from the date of filing, because the state has a six-month cooling off period and attorneys have no control over it.

Therefore, it will take a minimum of six months, assuming the parties can come to an agreement and get those agreements filed and approved by the court. Sometimes, the court will post-date the divorce decree. When I do uncontested divorces, we get all the paperwork done and we'll get the divorce decree back in the mail before that date has come, and the parties just need to know they cannot get remarried until the date on the paperwork saying their divorce is final.



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