



Creating Your Future after Divorce - Working through Anxiety to Possibility

By Mary S. Pence

What is the role of a divorce lawyer? What can you realistically expect a family law attorney to do for you if you come to realize that there may be a divorce in your future?

Many potential clients are looking for a gladiator – someone who will take up arms for them; who will “win” the best possible financial settlement for them. Other potential clients are looking for an attorney on whom they can depend to take care of them.

I’d like you to consider a different way of thinking about how you can work with your divorce lawyer and what you can accomplish in your divorce process.

The following outlines the process for working with your divorce lawyer to achieve a resolution that best positions you for the future:

The First Meeting. We introduce ourselves, and then our meeting begins. The first thing I want to know about is your situation, your fears and your most important goals. As you tell me your story, I can see that your sense of personal integrity and wholeness has been compromised.

Perhaps you have had the “rug pulled out from under you” by learning that your husband is gay, or has been unfaithful for years. Perhaps you are feeling frightened or vulnerable because the family finances are in shambles. Or maybe you have come to the realization, after many years of marriage, that the relationship is an abusive one and that you do not want to continue in the cycle of abuse any longer.

Every client who comes through the door looking for help has their own unique story.

My first task is to ask the right questions and to listen carefully to your story. I will ask you about background facts: the length of your marriage, information about children and prior marriages if any, employment history and income, assets and debts.

Next, I need to understand how you have experienced your relationship. If there has been fighting in the marriage, what kind of fighting and how does it impact you? Are there substance abuse issues? When did the marriage become bad or has it always been bad? Which of you is initiating the discussions of separation and divorce?

Then comes a critical question: “What are your goals at this time?” I want to know every goal that you can come up with – from the most pressing and of the highest priority to the ones that are less central but that still matter to you. Initially, some clients are only able to identify goals for the divorce itself – to be financially secure or to “get” custody of the children. But with patience and support, many are able to extend the scope of their viewpoint and think about the next stage of their life.



With a thorough understanding of your goals (which often continue to evolve over time), I can now talk with you about your process choices. The options range from the “kitchen table” model where the parties have a sufficient degree of maturity, trust and respect to essentially work out much of their agreement themselves, to the court-based model, also known as litigation, in which a third party – the judge – dictates the terms of the divorce decree. In between are the more commonly used processes of mediation, Collaborative practice, and attorney negotiation. My experience has been that when the process selected is consistent with the client’s goals and values, then the client is more likely to be satisfied with the outcome at the end of the matter.

After a discussion of any questions that you have about the substantive law of divorce, we’re then ready to develop a very specific set of “next steps.” These can involve everything from how to have your next conversation with your spouse to how to begin to gather the financial documents and other information you need. So you leave my office after that first meeting with at least a tentative plan about what to do—and not do—next.

The Ongoing Representation. In the subsequent months, you and I will work closely together to assess and revise your goals, and to identify the “building blocks” that need to be put in place to achieve those goals. Some of the building blocks will be financial – involving obtaining a share of the assets and/or support. Some will relate to your children – developing a parenting plan that supports the children’s relationship with both parents and that fosters a positive co-parenting relationship between mom and dad. Some relate to employment. Some are very personal, such as recovering from trauma or developing new interpersonal skills or becoming more personally empowered. We will combine your unique situation and hopes for the future with my 28 years of experience in helping you to achieve a resolution that best positions you for the future.

Vivian:

The Problem. One of my clients, whom I’ll call Vivian, had put her heart and soul into her marriage and her family. She had two boys of elementary school age, a nice home, and what she thought was a good marriage. Then, seemingly out of the blue, her husband told her that he wasn’t happy, that he hadn’t been happy for quite awhile, and that he wanted a divorce. Vivian told me that she felt like she’d been “written out of her job.” She also felt that she couldn’t trust her own judgment and perceptions. She wasn’t able to eat or sleep, and lost so much weight that her shoe size went down.

The Plan. As I guided Vivian through thinking about the future and about what her vision of that future might be, she began talking about her job as a nurse. She said that she had wanted at one time to be trained as a psychiatric nurse, but had stopped her education when she got married. Now she wondered if she might resume working towards that goal. Through consultation, Vivian had created the first glimmerings of an “opportunity” out of the crisis she found herself in.



CLIENT SUCCESS STORIES

I helped Vivian create an action plan that included extensive research on what programs were available to give her the credentials she sought, as well as the costs and the time frame required to complete each program. As Vivian located this information, she also began working with a financial specialist who had extensive experience working with clients going through the divorce process. Vivian and the financial expert developed several different scenarios showing her monthly expenses (including the educational costs) and different ways of meeting those expenses through a combination of her own earnings, support from her spouse, and the expenditure of other marital funds. The financial expert also developed schedules showing Vivian what her financial situation would be during her working years and in her retirement years, using differing combinations of increased salary resulting from her planned new credentials, spousal support, her share of the existing marital assets, and future savings. Vivian, who had never taken a particularly active role in the family's finances, found herself empowered by the ability to contribute her own goals and preferences to how the scenarios were shaped.

Using all of this material, Vivian and I developed three different options to present to her husband. Each option included a thorough break-down of all of the variables including educational costs, loss of salary during the educational period, support needed during the educational period, and increased salary subsequent to completion of the educational program.

The Results. Vivian's husband ultimately agreed to the proposal which enabled Vivian to pursue her educational goals on a full-time basis and to stop working during that period. He agreed to pay her tuition and an increased amount of spousal support for two years, and then a reduced amount of spousal support thereafter. Vivian applied to the program and was accepted. She reported that her sons were proud of the good grades she achieved in the program. After she was divorced, Vivian continued to work with the financial specialist to ensure that she was living within her budget and that she was putting aside the savings as had been planned. Perhaps most importantly of all, Vivian experienced herself as more competent and more accomplished than she had prior to her husband's announcement.

Jeremy:

The Problem. Another client, Jeremy, saw himself as having been a good husband and a good provider. He'd established a "side job" as a real estate manager in addition to his regular, full-time job, and was also the problem solver of the family, whether the problem involved a broken dish-washer, the decision as to what kind of computer to buy for his daughter, or working with one of his sons on a troublesome science fair project. Jeremy was bewildered when his wife asked him to move out of the house. He couldn't fathom how it had come to this. He didn't see what he could have done better or differently. He blamed himself for not having been able to make it all work somehow. Simply put, he felt defeated.



The Plan. Not initially but eventually, Jeremy identified a goal for himself of achieving clarity about what he was responsible for and what he had no control over. He began working with a therapist to achieve an understanding of how events in his family of origin had contributed to his choice of a spouse and to the way he played his role in their marriage. He was able to work towards a place of acceptance of the break up of the marriage and of an identification of what qualities he wanted to look for in a future relationship. He was able to achieve a more realistic view about how much he had the ability to make others happy, and he was able to place a greater value on his own happiness and satisfaction.

The Result. Through a series of four-way meetings, we developed an option wherein Jeremy took responsibility for the vast majority of the family debt, and where he paid his wife a higher level of support for three years to allow her to get back into the work force, and then a lower amount thereafter. Because of Jeremy's own personal growth, he and his wife were able to achieve a better co-parenting relationship than had been the case at the time they separated.

SUMMARY

I still hear from Vivian every Christmas. She successfully completed her Master's degree in Psychiatric Nursing and transitioned to a new job that gives her great satisfaction. She has a wonderful relationship with a man with whom she travels, goes dancing and takes cooking classes – but she's decided not to get married again. She has a rich life with good friends and family and even an amicable relationship with her ex-husband. And she has developed a new sense of herself and her strengths and her talents.

Jeremy is devoting most of his energy to solidifying his relationship with his children and maximizing his income so he can pay off the family debt. He hasn't started dating, but he is thinking about the possibility. He has put a lot of hard work into identifying what qualities he would want in a new partner. And he has achieved a newfound peacefulness with the turn of events in his marriage and the possibilities that the future holds for him.

Divorce can feel like a crises with no end in sight, However, with the right lawyer, approach and resources, you can get through the divorce and create a future that will help you to achieve your most important goals. ■

The family law team at Feldesman Tucker is dedicated to helping clients make sound decisions for their future.

Mary S. Pence, a partner of Feldesman Tucker, helps clients to develop and achieve a vision for their future after divorce. Mary has been repeatedly recognized as a top divorce lawyer in the D.C. metropolitan area by Super Lawyers, Washingtonian magazine, and Best Lawyers, and is a Fellow of the American Academy of Matrimonial Lawyers. To contact Mary, please call 202-466-8960 or email mpence@feldesmantucker.com