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## **YOUR OPTIONS**

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## The Divorce process and how you will survive it

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# Chapter 1: Do I Even Want a Divorce?

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Closure. Freedom. Opportunity. New Beginnings.

These are just a few of the benefits you experience when you move forward and finalize your divorce. Frequently, clients tell us they feel like a dark cloud is hanging over their heads even after issues with their ex-spouses have been resolved.

Why? They continue to be married to their ex-spouse. They are not divorced. They have not attained closure.

Until you divorce, there is lingering legal and moral attachment to your spouse through marriage. Do you really want that attachment? Isn't it time to gain your freedom?

When you finally meet Mister. or Miss Right, do you really want to still be married to your ex-spouse? That can be a real "turn off" for potential new dates. Potential dates may wonder if you're really truly ready to move on or may feel strange about starting something with a married person.

Even if you are not looking for someone new in your life, attaining a divorce gives you a sense of finality and closure. It removes the dark cloud. It closes the door on the past relationship so that you can enjoy new opportunities in complete freedom.

Never the less, some people still wrestle with the decision. They ask if it's really over, or wonder if they've done enough to work things out. Which is very natural.

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 [great blog](#).

“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.”

Please feel free to read the whole blog at <http://www.familytlc.ca/how-do-i-decide-to-split-or-stay/>

# Chapter 2: How Much Will This Cost?

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## Legal Fees

Most people who contemplate separation or divorce are concerned about the cost of the process. 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 you make can 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 make a new start, a Separation Agreement should be obtained. The Separation Agreement is the document where issues 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 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 the Collaborative Process. If you cannot reach an agreement, you may have to go to court.

Simple uncontested separation agreements where you reach an agreement on your own or with the help of a mediator are the least expensive. They typically range in cost from \$1,500 to \$2,000. If you cannot reach an agreement on your own, the Collaborative Process is usually the most cost-effective option.

Most collaborative cases range from \$2,000 to \$6,000 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 \$1,350.00 so long as one of you lives within Simcoe County. This cost includes your filing fees at court (about \$500.00), 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 - \$1,500
- Court Proceedings - \$3,000

You will receive a monthly statement from us, so you are always aware of the services received and your 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 gave 5 really great tips for families that want to keep divorce costs low:

- TIP 1: The way to become more organised is to get information first.
- TIP 2: The sooner couples get on the same page together the better. And the longer couples stay on the same page, the more they will save.
- TIP 3: Either you have to make every effort to communicate well yourselves, or you will need to seek neutral professional help to improve your communication.
- TIP 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.
- TIP 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.

You can learn more by reading their blog at

<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 \$190 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?)

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## 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,” according to [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

Making 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.

## 3. Pre-meeting Preparation

There are a number of important things to consider 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. 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.

## 4. The Consultation

When you come to our office for your consultation, you will have to complete some paperwork, so come a little earlier. 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 information beforehand, like estimated income and property values. Bring an initial list of assets and your thoughts about a schedule for the children. Our main goal during the consultation is to answer pressing questions and give you a basic understanding of what is ahead. 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 do a Separation Agreement for you which details 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 ensure there is full disclosure exchanged between you and your spouse. By that we mean you have to exchange documentary proof of all assets and debts you owned or jointly-owned on the date of marriage and date of separation. We also need to exchange proof of your income (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.

### 7. Negotiation

Negotiations can take various forms. We have articles on this 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, you meet with your lawyer who will offer advice and then create a separation agreement.

**b) Mediation:** you and your spouse work with a neutral person who assists you to discuss 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.

**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. If not resolved, you will end up in court, which is not desirable.

**e) 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.

## 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.

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 on the basis of having been separated for one year. 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 5 to 8 months to process.

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)?

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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 a lot more 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 on yours 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.
2. Get exercise. Spend time with your extended family and friends. Go to church. Meditate or pray. Go to 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, you must put together a safety plan immediately. Ensure that you have easy access to transportation so that you can get away quickly. 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 who you can call for help. If you have access to a cellular phone, have 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 you spouse will use your joint funds or run up debt on joint credit cards or lines of credit, you need to 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). As a result, start collecting bank statements, RRSP statements, pay stubs, tax returns, Notices of Assessment, credit card statements and any other documentation you have regarding your financial affairs. Put these 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 from having helped hundreds of families in the same situation.

If you and your spouse are on reasonably 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.

7. **Household Contents:** Make a list of everything in the house, including furniture, vehicles and personal items. Create a video of your home contents. List separately any 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, talk about 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 sometimes-thorny issue and give you 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 someone getting physically hurt. 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 physically able to do so, then 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?

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Collaborative Team Practice 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 and dignified. And it 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 them to reaching a settlement without going to court. 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.
4. Each party works with a Family Coach to work through the emotional journey of separation and to develop communication and post-separation strategies. The Family Coach will also help develop a parenting plan.
5. A Financial Specialist is jointly retained to assist the parties in collecting relevant financial information and to explore settlement options.
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 each paying for your own 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 will 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. Hard to believe, but it's true.

At Galbraith Family Law, 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?

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

I’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 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?

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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.

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 your 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.

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

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

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