

# F\*\*\* It. Get A Divorce



*The guide for optimists*

**Steven Kane**

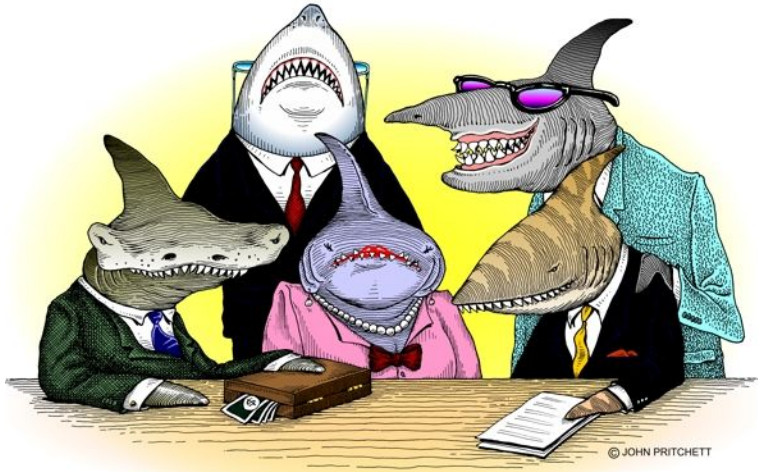
# Mind



*Facts are simple and facts are straight.  
Facts are lazy and facts are late.  
Facts all come with points of view.  
Facts don't do what I want them to.*

—Talking Heads  
*Crosseyed and Painless*

# Lawyers



*You can't get what you want  
'til you know what you want*  
—Joe Jackson

Lawyers *suck*. Get one.



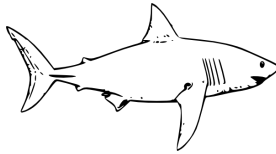
Do you shudder at the thought of dealing with lawyers? That's understandable. Attorneys speak in jargon, so talking to them can be tough. They're highly educated specialists, so they can come off as arrogant. And they're expensive. And the legal system feels like a Rubik's Cube. So it's completely natural to be apprehensive. Still:

**If you're in a bad relationship, don't let attorney anxiety keep you there.**

Ending a longterm relationship is almost always a legal affair, so you need legal advice. It's that simple. Dealing with lawyers can stink, but the *worst* breakup experience lasts a year or so. Often less. Staying in an unhappy couple? *That lasts forever.*

Or maybe it's tempting to think, *I can deal with this. Divorces are fairly routine things. I'm no genius but I'm smart enough. And I've got Google.* Just like we can all fix our own cars and do the dentistry work on our kids? You're not a legal professional. You're in a highly emotional place. So don't negotiate your own deal. And if you somehow do end up bartering with your ex, make it clear such talks aren't final, everything's open to revision after an attorney can be consulted.

*Then consult one.*



And a quick word re: mediators.

They're awesome. Just don't depend on them.

The attraction of mediation is it's cheaper, faster and friendlier. While lawyers can be expensive, slow and antagonistic.

All true.

But the reason I say people shouldn't depend on mediators is exactly that: Mediators *aren't* advocates. They don't represent anyone. They're in the middle, taking no sides, which keeps things amicable and speedy, until later you realize: *The mediator didn't consider anyone's best interests.* If they're staying neutral, they can't. Their job is, get a deal done quickly—any deal that's legal. If someone says yes to a bad idea, ok. If an issue should be ironed out but the law says it can be ignored, ok.

Mediators may be good people and genuinely care about you, but they don't know you and they're not paid to wonder if things are good for you. They're not advocates, they're facilitators. If the parties agree to an awful idea or don't consider its ramifications, well whatever, mark and move, next question.

Which doesn't mean mediators can't provide great help. Good ones can create an amicable, get-things-done environment, hashing out minimums, avoiding spats. Just, never agree that deal is final. Require any final agreement to be reviewed by attorneys. If your ex chooses not to, that's their (dumb) choice. But you? *Talk to a lawyer.*

A lawyer is an expert advocate. *Your* expert advocate. With one job—representing your interests. Your deal is critical *now*, and also often impactful far into your future. No decent lawyer will let you agree to anything without first explaining what they think and why. And *how* they represent you is up to you. Maybe you say, get everything, give nothing, scorch the Earth. Maybe you say, get my fair share but no fights, keep us friends.

A close friend used a mediator for her divorce. He was smart and kind. Both my friend and her ex liked him. They finished quickly and inexpensively. The Judge signed the deal and presto chango: Divorced! Everyone was happy.

For a few months anyway.

Under their agreement, the ex-husband paid child support, partially funded as a percentage of his bonus pay (and partially funded as a fixed monthly amount.) But the deal only let her know once a year how much that bonus amount would be, at the time he handed over her percentage. She didn't mind because he only got paid his bonus once a year, and he'd had the same job forever and loved it, so she felt she knew roughly what to expect.

Then he got a new job. But he didn't tell her how much he was getting paid. Their deal didn't require him to. She pressed him

but he'd only say his salary hadn't changed and a bonus hadn't been decided and could be zero. She asked for documentation but he refused, which was entirely his right. So now child support was maybe less than she thought she'd agreed to, maybe a lot less. But other than once a year, she couldn't know and even then it was just his word. He had no obligation to provide any documentation, ever.

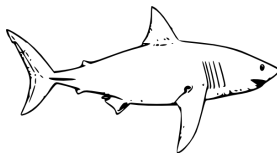
It got ugly and painful, for months.

Finally, she got a lawyer. Who advised they had the legal right to contact his new company and request employment information. The lawyer also recommended they send the ex-husband a lawyer letter, explaining that if necessary the lawyer would haul him into court to explain himself to a Judge. Off went the letters. Which made the situation even more bitter. And my friend spent \$1,000. And would have spent much more if they went to court.

But the company quickly disclosed the ex-husband's employment terms. And rather than gamble on the sympathies of a Judge, the ex-husband signed a new deal, guaranteeing transparency and certainty about child support.

And there in a nutshell is the problem with mediation. No one did anything wrong during mediation. They got a legal divorce agreement. No one violated it. But during negotiation, no one professionally looked out for anybody. A deal got done quickly but poorly, avoiding conflict today but lighting a fuse.

Lawyers have only one job: Protecting your ass. While it may cost you a bit, it will be money well spent.



So. Now that I've extolled the *virtues* of divorce lawyers, let me point out the by-far *worst* thing about them:

*A divorce lawyer always has a conflict of interest with her client: The messier the divorce, the more money she makes.*

You want the best possible deal, quickly, cheaply and with minimal hurt. But the slower and more difficult your divorce is, the more fees your attorney collects.

YUCK.

*But so what.* If you listen well and speak up, that conflict can be managed, minimized, even nullified. So no matter what, my message is the same: At some point in your breakup, get a lawyer. To educate yourself and—at *minimum*—review your deal before you sign anything. Again: If you're ending a relationship with legal issues (kids, co-owned assets, whatever) *you need legal counsel.*

Before I said: *Lawyers suck. Get one.* Now I'll add:

**And manage her.**

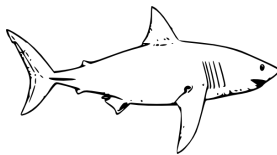
Before you even meet a lawyer, embrace a simple idea: *You* are the decider. Be a good listener and always consider your lawyer's view, but in the end decide for yourself what's best. And don't look back, don't second guess, just keep on to the next issue.

Say what you think even when you're confused. Or nervous. Which you will be. A lot. We all are. But so what. News flash: Sometimes you'll be wrong. So what. You'll do fine. No one can make decisions about your life better than you. And remember: Even Ted Williams, maybe the best hitter ever in baseball, only hit .406. Which means he *didn't* get a hit 6 times out of 10.

**And never be afraid to talk fees.**

It's your money. You have every right—and obligation—to try to spend it responsibly. Make sure your lawyer knows you're budget sensitive and what your limits may be. (And I don't care how wealthy you think you are—you're budget sensitive.) Or just say, *I know everything is subject to change, but ballpark guess, how much should I budget to work with you and get my deal done?*

If they balk, walk. Any decent lawyer will be comfortable talking about how much things may end up costing, and why. They'll understand you have limits and if they think there's a problem, they'll say so. And if you're not OK with *that*, politely walk away and find another lawyer. *The world is full of them.*



If you don't like pressure and lawyers just plain make you feel intimidated, congratulations, that's normal. Just never forget:

**You don't have to do anything because a lawyer says so.**

You may want to. You may not. Take whatever time you want to make up your mind. And change your mind. Again and again. Everything's always your call, for one simple reason:

**You're the boss. The lawyer is your employee. Not the other way around.**

They're there to advise you, educate you, give you the benefit of their knowledge and experience, maybe even comfort and console you, but regardless, *they work for you*. And they know it, and they're good with it, because it's just the truth.

And if you *don't* take charge, you'll create a vacuum, and the attorney may fill it, assert control if for no other reason than if no one does, the deal won't get done. But then you get what the attorney thinks best, not you.



Also, if you don't take charge you risk getting rolled by your ex. Your attorney may cave on things because that's the signal your detachment sends: *I don't really care, just get it done.*

Why risk any of that when the solution is simple:

### **Speak up.**

One of my oldest friends had an amazing career in Hollywood. For years he was a successful talent agent, representing big stars and directors. I was so impressed. Nothing in his education or background suggested that path so obviously he was a natural born genius at negotiation. So I asked him: *Teach me to be a great negotiator?* He just chuckled. *Easy, he said, Just tell people what you want.*

Meaning, almost no one does. Everyone's too nervous. Or thinks they have to be crafty or sophisticated. But great negotiators know: You stand a much better chance of getting what you want *if you just say clearly what you want.*

Ridiculously common sense? A consistent surprise in my life is discovering how few people do this. Most people go through life reluctant to articulate what they want in relationships, in work, in whatever—hoping, I guess, that other people read minds.

Breaking up is no time to pray for clairvoyance. *Speak up.*

I know, that's not easy for everyone. If being assertive isn't your natural disposition, or just speaking up can be a struggle, then maybe start off with a little work with a Divorce Coach. By now we've all heard of Life Coaches, professionals who don't just listen to our heart and soul baring like a therapist, but also actively talk back at us, offering advice or practical techniques for dealing with issues. Divorce Coaches are just Life Coaches with a very specific focus: Helping people prepare for and live through the challenges of a legal relationship breakup. Good ones are awesome—deeply sensitive, empathic and knowledgeable. And

helping people identify what's important to them, and teaching how and when to speak up, is essentially their number job with any client.



When your deal's done, it's forever. A continuing, meaningful part of your life. But only for you, your ex and kids. The Judge and lawyers forget you instantly.

***Own your deal as it happens, not just when it's done.***

What *you* think, what *you* want, what *you* decide must reign supreme every step of the way. Lead from the front or from behind, but *lead*. If you screw up, whatever. You screw up. Perfection is the enemy of the good. Aim for the good. Fix mistakes when you can. Or just live with 'em. Don't think if you let something play out you'll still get more or less the same deal. News flash: your attorney barely knows you. And sometimes their work make them bleary-eyed: You're just another case. So sometimes they're on autopilot. Not because they're unethical, because they're *human*. You and I would be the same. So pay attention all the time, not just the end. Details can be tedious, weird and annoying. So what. *It's your life*. And your attorney's bleary-eyed-ness can be a huge help. Their addled brains are terrific libraries of how things usually work in real life. Always ask, *Have you seen this before?* The answer is often yes. Then ask, *How does it usually get resolved? Is the typical outcome so typical I may as well just go there and save time and trouble?*

But just because sometimes lawyers fall into autopilot doesn't mean you should.



Concerned your lack of knowledge will hurt you?

***Don't worry about how little you know.***

Welcome to Club Normal. Just never hesitate to say, *I don't understand, please explain that again*. If after hearing the explanation you're still not clear, ask again. And again. Until you are clear. (More ridiculously common sense almost no one uses.)

Ask tons of questions—especially ones you think are dumb. They're not. And if a question *is* dumb, who cares. It's your life we're talking about. Ask whatever you like, as often as you like.



Simple, huh?

*Heck, no*. This is scary. You're not a lawyer, you're not a business mogul who manages them routinely, maybe you've never handled anything like this before. And it's happening at the worst time—you're a mess.

But that's the point. It's because you're a mess that I recommend you *talk to a lawyer*. To start, at least a little, some process for sorting out your thoughts, examining your options, getting *out* of the mess.

Even if you haven't made up your mind to break up, talk to a lawyer. The first meeting's often free. Just ask. No lawyer will allow a free initial consultation to go on for hours, but they'll give a solid 30 or 60 minutes, focused on you. And if you honestly describe your situation then ask them to speculate a little, they'll caveat a few million times but they will spitball how things might play out, the process, outcome and fees.

If that feels daunting, get help. Invite a trusted pal to be your wingman, to bolster you. To come to lawyer's offices, if you want. (Though, to preserve confidentiality, you may want to have your wingman wait in the lawyer's waiting room.) It's your call. And remember: Lawyers are humans. Serious, expert professionals, but always, humans. Not some alien race or mutant species, *sharkus-homo-sapiens*. Visualize your lawyer as your hair stylist. A hair stylist is an important advisor and employee—entrusted

with your very *self*, your image and confidence, your personal brand. Do you choose a hair stylist carefully? Totally. Do you ask their advice? Constantly. Do you follow it? Usually, but not always. Do you let them have final say? Of course not. You're in charge of you.



One last thing:

### **It's OK to change lawyers.**

I've worked with many lawyers, in many situations. Not all were brilliant, effective or even honest. Yes, I, self-proclaimed Mr. Expert, lecturing you, screwed up royally, several times. Alas, I too am human. But when I realized I had the wrong lawyer, I fired them. If you screw up, fire yours. There's no need for some melodramatic scene. A simple, polite email will do.

Lawyers come in all colors, shapes, sizes, intelligences and capabilities. They have brilliant days and awful ones. *Talk to more than one.* Until you find one you just plain feel good about and feel comfortable talking to. As a person. Check references, of course. But if you don't feel good about a lawyer, move on. Don't work with someone you don't like. The world is full of lawyers.

Still, most lawyers I've worked with have been great. Saved my butt. Helped make me successful. And happy. How? By being lawyers. That is, by being knowledgeable and comfortable with the law and how the system works. By giving me honest advice even when I wasn't listening well. By keeping costs fair.

It's so understandable people are wary of lawyers. Attorneys are highly educated, richly rewarded experts with all sorts of privileges and can be tough and arrogant. They know the system much better than most people and unethical ones can work that to their own advantage. But whatever. It's silly risky—and can be *tragic*—to enter a legal dispute without legal counsel.

A breakup is a transit to a new life, new opportunities, hopefully exciting new worlds and people. Extricating yourself from a serious relationship inevitably comes with tough challenges and often demanding legal issues. *F\*\*\* it, get a lawyer.* Starting anew is too precious and important to trust to amateurs... like us.

# Exercise

## Part 1

Do the *The BIG 3*—a quick model for a simple master plan to manage your attorney (and your breakup.) Change your mind anytime, but in broad terms decide where you want to end up, and how to get there.



And forget nuances or specifics. This is *BIG* picture time:

### ***BIG 1: Generally, how should things be divided?***

Do you want to divide everything—assets, debts, kids—roughly 50/50? If yes, say so and don't pretend otherwise—that's a waste of time, money and good will.

If not, ok, but then what? Your ex can have 100%—you just want to be done? Or your ex can have zero and you're ready for the fight? Or divide some things 50/50 but not others? And how many of those others are scuffle-worthy? And how far from 50/50 do you think's right?

Whatever your positions, do you have good reasons for them? Reasons a *Judge* will agree with, even if your ex doesn't?

### ***BIG 2: What's the breakup budget?***

How much can you and your ex together spend on your breakup? It's likely you'll split the cost roughly equally. (Sorry, get used to it.) *So setting emotions aside, how much can you two really afford and not regret it when the heat cools?*

The heat cools quickly, probably faster than you expect. So are you going to waste, er, I mean, spend money on score settling?

Try not to let present emotions cause you to spend money you later may wish you still had. Is fighting worth an additional \$2,000? \$5,000? Do you want to spend \$5,000 to maybe get \$7,500? What's the emotional cost of the fight worth? If the argument is over something meaningful, maybe it is. But maybe not. Try to be honest with yourself.

In any case, are you at risk of being financially stressed when the breakup is done? Can you contain breakup costs now, so that doesn't happen? Do. Seriously, *do*. So few breakup fights feel worth it later, after time has passed.

### ***BIG 3: What's the breakup schedule?***

Is time a factor? Would a speedy breakup benefit you enough that you'd be willing to be less demanding?

Divorces can get done in a few months or a few years—at what point will you so want to be free of the stress that the fight seems counterproductive? How about now? Are you really OK if fighting drags things out?

And try to coordinate your breakup schedule with real life. Who moves out? When? When do you tell the kids? Are there any ticking clocks—any work, school, social or medical things—that may influence a breakup schedule?

## **Part 2**

Lawyer up.

Take a step into attorney world—don't worry, it's free, no obligations.

Get personal referrals for divorce lawyers. There's no better way to find one. Then call a few—not just one—and ask for a free, initial consultation. Almost all will do this. It's standard.

Then go meet them.

You don't need to make any commitments. Plan to walk out of meetings saying, *Thank you for your time, I have a lot to think over, I'll be back in touch.*

If for any reason whatsoever you don't like an attorney, just scratch them from your list. Go with your gut - if it doesn't feel right, it's not. And feel free to end a meeting abruptly, if you want to. Be polite of course, but just say, *I'm sorry, its me not you but I'm not comfortable, I think I should be on my way.* Most attorneys will be a little surprised, maybe, but they'll be polite back and that will be that. And if an attorney responds harshly, congratulations, you made the right call!

If cost is an issue, say so. More than once if needed. Ask the lawyer to rough guess how much your divorce will cost. They may squirm, or say (truthfully) that costs vary widely. But then you say, *I understand that but I'd still really appreciate at least an estimated range. Say, no more than X but no less than Y.* If an attorney has been in business any time at all they know what a typical client ends up spending. So you can ask for that: *What does your typical client with a profile like me end up spending?* If a lawyer refuses to talk plainly about cost, easy peasey, politely depart. And go meet another.

This process is free but the education is priceless.