

DIVORCE NEGOTIATION BASICS

Odds are that you have never been involved in a divorce negotiation. It's different from most other negotiations. When thinking about negotiation, you are likely thinking about bartering—such as when buying a car or visiting a market. While great when buying a car, bartering is usually ineffective (and can be counterproductive) in divorce. Here are some basic guidelines for divorce negotiation:

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| The Paradox. | Divorce usually does not end a relationship, but merely changes it. Your actions will help define that future relationship. You and your spouse chose this process to get to an agreement. To be successful in reaching your goal, your ideas must be acceptable to your spouse. You would likely never sign an agreement unless adequately addressed what was important to you; the same is so for your spouse. Your spouse will need to have what is important to him or her adequately addressed. If you have children, you will need to rely on your spouse to coordinate and work with you in the future. |
| The Hardest Parts. | If you can consistently do these things, you are well underway: (a) Listening to and considering your spouse's concerns. (b) Holding onto yourself – keeping reactivity at bay. (c) Learning about the situation and the different options. (d) Focusing on the future. (e) Giving everyone (yourself included) some slack. (f) Establishing new boundaries. (g) Accepting realistic solutions. |
| How to Speak. | In all interactions with your spouse, the "golden rule" applies. Whatever you can do -- and however you can speak – so your spouse feels (and is) genuinely respected and listened to will reduce the likelihood of your spouse feeling defensive. It will also break power struggles. That will help you get to your objective of reaching an agreement. Feeling a little stuck? Your lawyer and other professional team members are available to help. |
| What's To Be Expected. | Divorce is difficult. You can expect that you (and your spouse) will experience extreme emotions, including anger, shame, depression, elation, fear, excitability, nervousness, hopelessness, anxiety, and more. Try to remember that these emotions are normal in divorce and that they will normally pass. Most people find individual therapy invaluable during divorce. |
| Take the Long View. | No one likes ambivalence, but it can take some time to arrive at a good divorce agreement. Your divorce will probably involve more decisions and take longer than you imagined. And there will probably be times when things just don't seem to go as you expected or hoped. For a durable agreement, take the time and effort to do the necessary groundwork so you and your spouse can both make good decisions. A divorce agreement that is carefully considered is more likely to be more satisfactory and last longer. |
| The Law. | The lawyers will provide information about the law. While this information is important and ensures you have the needed understanding for informed decisions, remember that the law provides nothing more than value judgements so judges can make decisions for those who can't come to their own agreements. The law will probably be quite different if you top off your gas tank and drive to another state. Whose values are better? If your goal is to reach a good agreement, then your own values will likely be more important than the value judgements of local politicians. |
| Fairness. | Most people just want to know "what's fair." Unfortunately, there is no answer to the question, because fairness is a subjective concept – no two people (including lawyers and judges) have the same idea about what may be "fair." And, if you tell your spouse that all you want is what is "fair," it could come across to your spouse that you think they are unfair – and thereby create some unhelpful resistance. Instead of asking "what is fair?" perhaps ask "what is agreeable?" based on your and your spouse's own values. |

A Good Agreement.

Focus on reaching a good agreement. While you are the only person who can be the judge of what a good agreement might be for you, you may wish to consider these questions when thinking about an agreement:

- (a) Will you be able to look back at your divorce and honestly say that you reached your agreement knowing that you reached it with integrity and with actions consistent with how you would like to have behaved?
- (b) Does the agreement address all things that it needs to, considering all practicalities?
- (c) Is the agreement likely to preserve aspects of your relationship that need to be preserved? Will it have an impact with relationships with your children, or with friends/family?
- (d) Did you take the time to think through whether the agreement could have unintended consequences to yourself, your spouse, and others?
- (e) Does the agreement avoid planting seeds for future disagreements?
- (f) Have budgetary, tax and legal considerations been addressed in your agreement?