

Six (Of Many) Top Divorce Myths

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People decide to seek a [divorce](#) for any number of reasons. However, some people choose NOT to seek a divorce because they have been scared into thinking that things will turn out a certain way which will not be to their benefit. They come to this conclusion after talking to people they know who are not lawyers, but who either have gone through a divorce themselves or know someone who did. Often, the conclusions people reach from hearing these anecdotes are wrong, but those wrong conclusions hold them back from changing their lives.

Here are several of the most common misconceptions about divorce (all of which are actual statements I have heard from clients), and the real deal about what to expect if you decide to seek a divorce:

1. ***“He/she will get everything I own and I will be left living in a tiny one-room apartment that smells funny, in a sketchy part of town, eating cold Spaghetti-Os from a can and clipping coupons, while the other person lives in a big house, drives a big car and spends all the money earned during the marriage.”***

This is not true! New Jersey law calls for the equitable distribution of assets (things you own jointly) in a divorce. While “equitable” does not always mean 50/50, it means fair. There is no hard and fast rule for how things will be divided. While your friend/coworker/manicurist might have had a bad outcome in their divorce – or thinks they did – every case turns out differently

2. ***“I will get half of his/her income for the rest of his/her life, on top of half of everything we own.”***

Wrong. While there is no hard and fast rule regarding alimony, there is case law which sets out specific factors to be considered. While equitable distribution is the guiding principle for the division of assets, alimony is calculated differently. A lot of factors go into determining a reasonable alimony figure, including whether the person getting alimony has worked, how recently they worked, why they stopped working, and what they earned when they were working. The paying spouse’s income and expenses are also factored in. In the end, a figure will be reached based on careful examination of both people’s needs.

3. ***“I will never see my kids, my spouse will poison them against me and they will hate me.”***

Unless there is a Court Order preventing you from seeing your children for some valid reason, most people get parenting time with their children. Some people cannot agree on how much, and then a judge has to decide. But many can come to an agreement because their experienced and reasonable attorney will remind them that kids are not to be used as pawns

in the divorce, and will work with the other person's attorney to come up with a plan that is best for the children, and allows BOTH parents time with the kids. If the other person does not abide by the agreement, there are legal avenues that can be pursued on your behalf to enforce agreed-upon parenting time without interference from the other person.

4. ***"Because the other person was a big jerk and walked out on me, I will get more money."***

In New Jersey, marital fault (namely, something mean the other person did to you) does not necessarily get you more money, even if you file on the grounds of mental cruelty, adultery, etc. It might make you feel better to call the other person out for being mean, but it has no impact on equitable distribution when decided by the Court. It's like they said in "The Godfather": "It's not personal, it's just business." A divorce is the dissolution of a business, namely the Husband-Wife Company (or Wife-Wife Company, or Husband-Husband Company), and is approached that way under the law. Emotional vindication has to come from someplace else, in the end; sorry. (There is one exception to this: if the other person caused you some sort of injury, then you may be able to file a civil suit against them at the same time you file your complaint for divorce. However, that is a separate topic, and one which should be discussed with a family law attorney.)

5. ***"The other person cannot get 'their' divorce unless I agree."***

This is wrong, too. In New Jersey, you can obtain a divorce, even if the other person refuses to respond to the Complaint for Divorce when it is served on them. If your spouse serves you with a complaint for divorce the clock is ticking once you are served, and the process will move forward, with or without you; holding your breath until you turn blue does not stop the clock.

6. ***"We agree on a lot of things; can't we just do this ourselves?"***

This is about as good an idea as trying to remove your own infected appendix. While you and your spouse might seem to agree on many issues, keep in mind that one or both of you no longer wants to be married to the other person, which can change people's attitudes. While things might seem amicable, it is always a good idea, when entering into a contract – and a Property Settlement Agreement IS a legally binding contract – to consult with an attorney experienced in this area to be sure that your present and future interests are adequately protected. While your cousin the real estate lawyer might be a wonderful person, if he/she is not an experienced family law practitioner, he/she might not know about newer developments in family law which may affect you.

A divorce is a complicated process, but you can come through it in better shape, financially and personally, than you might have been led to believe. The first step is to stop listening to horror stories friends, family and the media have reported. The next step, however, is being certain that you have an experienced, knowledgeable, intelligent, creative family law practitioner working on your behalf, one who knows the law and can advocate zealously for you to protect your rights and interests.