



# GOING FROM WE TO ME:

A FINANCIAL GUIDE TO DIVORCE

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With gratitude to my best friend, lover, reader and fact-checker, whose patience while this book was being created helped make it possible. Thank you for being living proof that there is life and love after divorce.

To Seth Greene, of [www.UltimateMarketingMagician.com](http://www.UltimateMarketingMagician.com), who planted the idea that I could write a book, and helped bring it to reality.

And to my clients, who provide the inspiration and the models for this book.

# DISCLAIMER

While great care was taken to prepare this book, it is not a substitute for legal, financial, medical or other professional advice based on your specific circumstances. Consult with an experienced Family Law Attorney, Mediator, Accountant, Certified Financial Planner® (CFP®), and Certified Divorce Financial Analyst™ (CDFA™) about your specific case. While the author of this book is a Certified Financial Planner® and a Certified Divorce Financial Analyst™, in this book she is not dispensing financial advice based on your own situation, or legal advice either directly or indirectly. The intent of this book is to help you move through your divorce and avoid becoming a financial victim of your decisions and those of your spouse. Under no circumstances will Adrienne Rothstein Grace or any of her representatives be liable for any special or consequential damages that result from the use of, or the inability to use, the information or strategies communicated through these materials, or any services provided prior to or following the receipt of these materials, even if advised of the possibility of such damages. You alone are responsible and accountable for your decisions, actions and results in life. By your use of these materials, you agree not to attempt to hold Adrienne Rothstein Grace liable for any such decisions, actions, or results, at any time, under any circumstances.



# MARRIAGE IS ABOUT LOVE; DIVORCE IS ABOUT MONEY.

## **Divorce.**

It's one of the most difficult things anyone can go through.

It's a time of great pain...and great uncertainty.

Your life won't be the same.

How will you get through this?

Will you be okay financially?

It's the goal of this book to help you answer these questions the best you can. This book is meant to be a practical guide, with steps you can take now to prepare for your divorce, get through it in the most positive and informed way possible, and achieve a reasonable and fair settlement that you can live with, both now and in the future.

Divorces are often about the past, filled with fear, anger and guilt: Who did or failed to do what to whom? Who made the most or the least money? Who spent it, how and on what? Promises are unfulfilled, expectations remain unmet, plans you may have taken for granted for the rest of your life are not going to happen. Distress, betrayal, shock, loss, anger, grief- all are normal and natural feelings at this time. Your daily life and routines change. This all shocks your world, and upsets your reasoning. The emotional impact of this situation often makes for really bad decision making.

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Money issues are at the top of many couples' problem list. A study titled "Examining the Relationship Between Financial Issues and Divorce" (1) examined what couples argue about - and found that for men, arguments about money were the primary predictor of divorce. For women, it was arguments about both money and sex. Is this true for you?

Now, perhaps more than at any other time in your life, you need to think clearly about money and your financial future. Decisions you make now will affect the quality of your lifestyle and that of your children. Research consistently estimates that income in a divorcing household drops by as much as 30%, on average. More than half of custodial parents don't receive payment of child support, in full or on time, as promised. This impact can last a lifetime.

Divorce also hurts the wealthy. Complex and hard-to-value assets, like closely held businesses, commercial properties, professional practices, etc. make it very challenging for the non-financial spouse to get fair value in a settlement.

## A WORD ABOUT GUILT

In the ending of any marriage, there is enough fault and blame to go around. If you were the one who had an affair, or did something else to damage the relationship, your first instinct is often to give up your financial interest in the settlement. Please don't. Your divorce settlement is not the best way to expiate the 'sins' committed during your relationship. Don't let your emotions get in the way of securing the financial future for you and your children. If you feel you were the injured party, keep in mind that a divorce is not an effective way to exact retribution either. Therapy can help you deal with these issues. Secure your finances, and then deal with the rest.

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This book will help you focus on the future, and will help you to answer the question: *"How can I be sure that I will be financially secure after my divorce?"*

I strongly recommend, and therefore will assume in this book, that you have retained - or plan to retain - the services of an attorney to help you through this process. Whether you plan to Mediate, Collaborate or Litigate, a family law attorney's assistance is invaluable to help ensure that you are fully informed and that your rights are fully protected. Your divorce settlement will shape your financial future. Consult an expert. The attorney who helped you to purchase your last home may not have the specialized skills to take you through this complex and critical journey. Divorce is expensive- consider the cost as an investment in your future. Choose your team wisely; this is not the time to automatically go to the lowest-cost provider.

## DOMESTIC VIOLENCE

One in four relationships carries some form of abuse. Domestic abuse recognizes no economic or educational boundaries. Abuse- physical, emotional, mental, or financial- can be found in homes large and small, regardless of wealth, education, neighborhood, or ethnicity. Abuse victims are everywhere. It takes strength and courage to stand up for yourself and your children and say "no more." If you are in this situation, please put this book down and pick up the phone. Contact your local domestic violence shelter, or call the National Domestic Violence Hotline at 1-800799-SAFE (7233) for immediate help in your area. Help is available in English, Spanish, and 170 other languages through interpreters.

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Then come back and learn more about how to avoid becoming a financial victim of your divorce. To help guide you through all the information here, we've noted 'What you will learn in this chapter' at each beginning.

An Attorney can help you understand your rights under the law, and ensure that your interests are protected. A Mediator can help you and your spouse craft a divorce agreement to meet the needs of your family, out of court. A Marriage and Family Therapist can help you understand your emotions, help your children cope with these changes, and help everyone move on to the next phase of life. A Certified Divorce Financial Analyst™ can best help you evaluate and plan for the short and long-term financial consequences of your separation and divorce. Other specialists, depending upon your specific situation, may also be needed to help you get a fair and reasonable settlement that you and your family can live with. These people form your divorce team.

**You don't have to do this alone.**

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# CHAPTER 1

## WHAT IS DIVORCE?



# WHAT IS DIVORCE?

## **What you will learn:**

**The background of divorce; The impact of different state laws.**

Rosanna sighed deeply. She was exhausted after spending yet another night worrying about the future. Her marriage was long over, but how would she be able to get by without her husband? How would she pay the bills, put food on the table? He had always brought home a paycheck, while she stayed home and raised their children. ‘What shall I do?’, she thought for the thousandth time.

First of all, take a deep breath. I understand that this may not be where you thought your life and your marriage would go. You built your life as a partnership, and well, it hasn’t worked out. The reasons why are not the focus of this book- helping you to move forward in the best way possible is what we want to achieve.

As you start down this road, it’s good to know exactly what we are talking about. Dissolving your marriage can involve several steps: living separately, a legal separation, annulment, and a legal divorce. Each choice may meet the needs of some couples, at some time. Feel free to discuss each one with your team of advisors. In this book, we’ll deal primarily with the financial issues of a legal divorce.

Divorce is a legal action that ends a marriage before the death of either spouse and dissolves the bonds of matrimony between a husband and wife. A divorce decree establishes the new relationship between the former spouses, details their duties and obligations relating to property that they own (division of property), support responsibilities to each other (alimony/maintenance), and provisions for any children (child custody and support).

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How you arrive at these crucial agreements that can shape your future and that of your children. Helping you avoid becoming a financial victim of this process is the goal of this book.

In early civilizations, marrying and ending a marriage were considered private matters, to be handled within families and communities. Now, divorce laws vary considerably around the world, but most require the sanction of a court or other authority in a legal process. Divorce is recognized just about everywhere, with the exception of the Philippines and the Vatican City State.

In the United States, the laws of the state where you live govern your divorce, so they may be different where you live now, from where you were married. The only way that you can get a divorce is through the state, so under the due process clause of the Fourteenth Amendment to the U.S. Constitution, a state must make divorce available to everyone, and must acknowledge a divorce granted in another state. This is a particularly important issue for military divorces, and for samegender couples. This means that divorce law consists of 51 different sets of conditions—one for each state and one for the District of Columbia. To meet residency requirements, you must live in the state where you are filing for a specified period of time. For example, you must live in Nevada for six weeks, in Arizona for 90 days, and in New Jersey for one year, to be able to file for divorce there.

If someone who wants a divorce can't afford the court expenses, filing fees, and other costs, they may file free of charge. Most states offer Mediation as an alternative to court appearance; the Collaborative process is available, as well. We will discuss these alternatives in detail in Chapter 3.



All states now recognize no-fault divorce, since New York did so in 2010. Alaska, California and Nevada had begun this procedure as early as the 1960's. Before no-fault, you had to prove 'grounds' for the divorce. Cruelty, abandonment, adultery, nonsupport, alcoholism, drug addiction, insanity, criminal conviction, and voluntary separation were all traditional grounds for divorce. In 1933, New Mexico was the first state to also recognize 'incompatibility' as grounds. No-fault allows a couple to divorce without having to prove that your spouse did something wrong. Practically speaking, you can unilaterally decide that your marriage has irretrievably broken down, ('irreconcilable differences') and file for divorce. It still takes two to marry; it takes only one to divorce. The other spouse does not need to consent or agree- which introduces many pros and cons.

On the 'pro' side, couples do not need to remain locked in an abusive or unfulfilling relationship. Divorces can take place with less conflict than when 'fault' had to be proven. Divorce settlements can be based more on need, ability to pay, and contribution to the family finances, than on fault or wrongdoing.

On the 'con' side, no-fault removes control over saving the marriage. In a unilateral filing, one spouse files, and the other spouse cannot defend the marriage.

Indeed, 'marital misconduct' may not impact the judgement and division of property, depending on where you live. If your spouse was unfaithful and you were not, you will not automatically get a larger settlement. Most courts ignore 'bad behavior' (marital fault in legal terms) in granting settlement awards and instead use formulas as a basis for calculating child support and maintenance.

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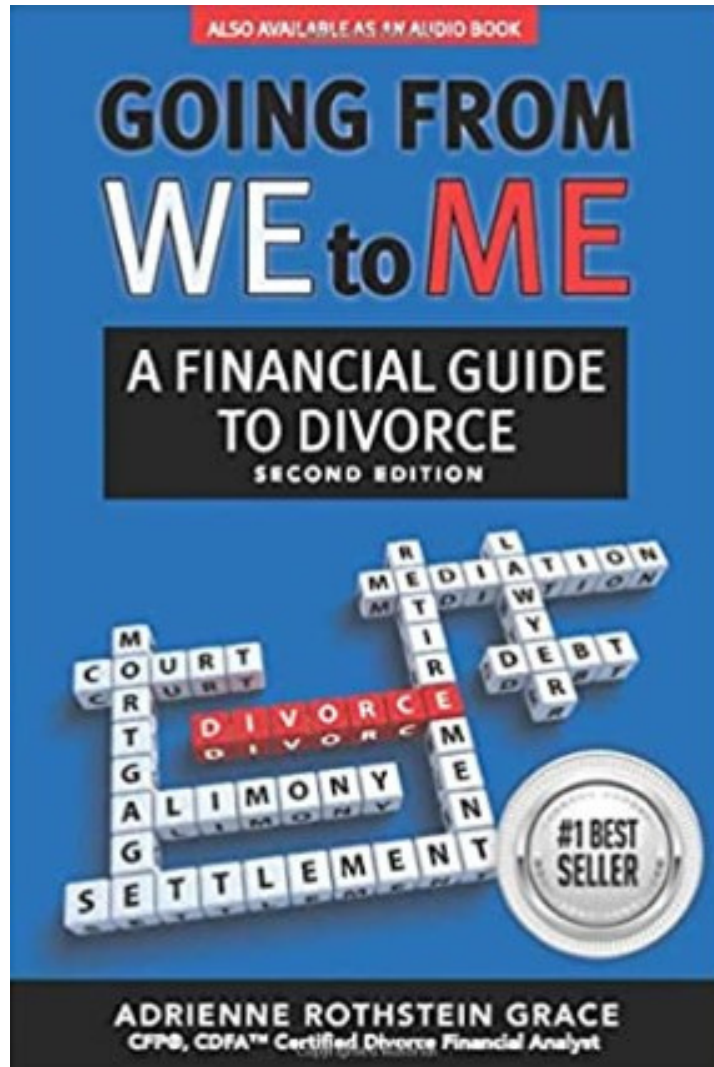
Historically, when a divorce was granted, the resolution was simple: The wife was awarded custody of the children, if any, and the husband was required to continue providing support for his ex-wife and children. Gender equality, the changing nature of the family, and the growing role of women in the workforce now impact these decisions. Depending on their circumstances, joint custody, or even sole custody of children can be granted to the father, and some women must pay alimony to their ex-husbands.

The best way to deal with these situations is simple. Simple, but not easy: Be prepared.

NB. He/she, his/her are used interchangeably in this book. When the text refers to husband, it could apply equally well to wife, and vice versa. These rules apply to same-gender couples, as well.

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