



*"We help you be heard and understood, manage conflict, and find paths to a positive future."*

*-Armand & Robbin D'Alo*

## Divorce, mediation and tax issues to reduce the pain and stress in your separation.

- When couples separate, there is the stress of how they will live/support two households on possibly only one income.
- Mother (typically) has the added stress of needing to work & still take care of the child(ren). She has the question of whether her ex will provide financial & emotion support for the children.
- Stay-at-home mother getting back into the workforce is stressful.
  
- Stress can be reduced through planning.
  - Example: ex-wife received “family support” for four years.
  - Support was to be changed to child support only/amount reduced.
  - Ex-wife never made ES payments causing large tax liability in April.
  - The ex-wife was supposed to get a job.
  - After four years, no job & lots of excuses that she would have to work around their 12-year-old daughter’s diabetes.
  - Difficult situation for the ex-wife -- deal with reality.
  - With planning, there wouldn’t be the current panic of losing support.
  
- Stress over tax issues can be reduced by knowing the rules. There are complicated issues regarding the tax treatment of alimony, child support, “family support” and if support changes dramatically during specific years.
- Speak with a tax advisor that is knowledgeable about divorce issues.
- Attorneys understand the law but aren’t trained in tax laws.
- Make sure you understand the advice the advisor gives.
  - Example: Attorney told ex-husband to split the investment account with his ex-wife. He sold all the assets and gave her half the money. However, he was left with half the money & 100% of the tax debt.
  - Either the attorney misspoke, not understanding the tax implications of these instructions, or the client didn’t understand instructions he was given.
  
- Divorce is basically a lawsuit and involves lots of paperwork.
- “Petitioner” will serve the other spouse with a petition & a summons. An additional form is needed to let the court know that there are children.
- “Respondent” spouse will then respond.

- The earliest that the couple can be divorced is six months & one day after the Respondent is served.
- Disclosure forms must be completed. For privacy, these are not filed with the court.

### **MEDIATION PROCESS:**

- Data gathering -- tax returns, current income/expenses, and account statements.
- This information is entered into a software program.
- “Dissomaster” / “FamilyLawSoft” -- calculates alimony and child support & generates financial disclosures.
- Meeting to find missing/misstated items. The first analysis is never perfect.
- Reminder to the couple: “do not to get married” to the initial numbers.
  
- Division of the assets. Separate / community property / if co-mingled, separate may become community property
- Example: Inheritance (separate property) put into community property asset. The couple didn’t agree on who owned the \$80,000.
- Husband said it was his separate property. Wife claimed it was community property.
- Husband’s attorney said it was community property since it was impossible to trace the separate assets.
- Litigated this issue & spent most of the money on attorneys.
  
- “Memorandum of Understanding” (MOU) -- non-binding agreement. Non-attorney can draft.
- Courts can accept MOU if specific / contains applicable code sections.
- “Marital Settlement Agreement” (MSA). This is a binding agreement. Attorneys drafted – can convert MOU into MSA.
  
- Parenting Plan submitted to the court. Court wants to see that they have discussed issues and have set up a plan.
- The plan should include time-sharing, holidays, discipline, and future significant others of the couple.
- Each case is different.
- Once couple we worked with was adamant their daughter to be raised a Catholic. Another couple was adamant about no religious training.
  
- Time-sharing planning can be restrictive and unworkable.
- After trying to work their plan, some realize how unworkable it is.
- What is the best thing for the children?
- Courts don’t care or follow-up to see if they are adhering to this strict plan. Here’s a good article about this issue.

<https://womenwithworth.wordpress.com/2015/10/17/what-happened-after-my-ex-husband-and-i-threw-away-our-custody-agreement/>

- One major stress is financial. Divorce can be very expensive.
  - Do-It-Yourself (Pro Per) Divorce
  - The couple doesn't understand the complexity/rules of family law.
  - Disregard court notices.
  - If they fail to respond, the case could get dismissed.
  - When this happens, they have to start all over with the statutory time period (six months) and must repay filing fees to the court.
- Hire Attorney or Mediator.
  - The mediator can give legal information but not legal advice, even if they are an attorney.
  - Mediators are neutral in the process.
- Some attorneys -- litigation bias to automatically go down the road of litigation.
  - In our opinion, in litigation, attorneys are the only winners
  - Example: Each spouse hires an Attorney They are told not to talk to each other, only to their respective attorneys.
  - It's an expensive game of "telephone."
  - Both Attorneys requests documents for analysis.
  - The couple is spending their hard earned money to pay for attorneys.
  - Some attorneys stir up the couple's emotions, adding to the stress/pain/cost.
  - Our bias, if they can talk to each other, use mediation with consulting (mediation friendly) attorneys.
  - Limited scope engagement.
  - Be careful when hiring an attorney.
  - Example: Husband was served with paperwork used in a litigated divorce.
  - Wife said she hired a mediation-friendly attorney, but her case was transferred to someone else in the office.
  - Almost a disaster – not what they wanted.

**APPROXIMATE Costs to Mediate:**

Initial 2-hour consultation: \$250.00 - \$500.00

Follow-up meeting: 4 hours at \$300.00/hour, or \$1,200.00

Preparation of Mediated Settlement Agreement: \$500.00

Preparation of additional documents, such as Parenting Plan, Child Support Worksheet, and/or Dissolution filings (if necessary): \$500.00

**APPROXIMATE TOTAL COST OF MEDIATION: \$500.00-\$2,500.00**

**APPROXIMATE Costs to Litigate:**

Initial Consultation: \$250.00-\$500.00/hour

Retainer: \$2,500.00-\$5,000.00

Filing Initial Pleadings (Summons and Initial Petition): \$1,200.00

Responding to Answer and/or Counter-Petition: \$1,000.00

Serving Discovery: \$500.00  
Responding to Discovery: \$750.00  
Preparing Financial Affidavit and Mandatory Disclosure Compliance: \$1,800.00  
Preparing Motions: \$750.00  
Preparing Motion for Attorneys' Fees: \$750.00  
Responding to Motions: \$750.00  
Hiring Experts: \$2,000.00  
Hearings/Court Appearances: \$4,500.00  
Mediation (Court-Ordered): \$1,200.00  
Co-Parenting Classes and Preparation of Parenting Plan: \$500.00  
Trial: \$7,500.00-\$10,000.00  
Appeal: \$5,000.00

**APPROXIMATE TOTAL COST OF LITIGATION: \$32,700.00+**

**NOTE: EACH CASE IS DIFFERENT. COSTS VARY DEPENDING ON COMPLEXITY OF THE CASE AND HOW MUCH WORK THE COUPLE DOES THEMSELVES.**

[http://www.huffingtonpost.com/diane-l-danois-jd/post\\_4201\\_b\\_2318483.html](http://www.huffingtonpost.com/diane-l-danois-jd/post_4201_b_2318483.html)

- Example: Saw a nasty divorce about 20 years ago.
- Shuttle diplomacy with a retired judge. Each had their “team” of attorneys.
- Divorce cost about \$500,000.
- Lots of hurt, even after 20 years. Son still messed up as an adult.

### **Enforcing Child Support**

- Child support order must be obeyed.
- Custodial parents may ask local Office of Child Support Services (OCSS) (also called the Department of Child Support Services (DCSS) in some states) for help.
- A delinquent parent may be subject to any, or all, of the following enforcement tools:
  - Wage Deductions: Child support is taken directly out wages.
  - Federal Income Tax Intercepts: Intercept tax refund to cover child support payments.
  - License Suspensions/Revocations: driver’s license(s) and/or professional license(s) may be revoked.
  - Passport Restrictions: prevented from renewing passport/leaving the country
  - Contempt of Court: fine or jail time (this takes an order from a judge).

### **Getting Help**

- Talk to an experienced family law attorney for help enforcing your child support order.
- If you can't afford an attorney, contact your local OCSS

<http://www.divorcenet.com/resources/child-support/enforcing-child-support/enforcing-child-support-options-dealing-non-payment>

## **F-A-C-C-T**

- Divorce doesn't have to be destructive.
- If they are talking, they are preserving their assets and not trying to destroy each other.
- There is still pain over the death of their relationship.

To help couples with this stressful time, we talk about the concept of F-A-C-C-T:

- F: Family re-formation. Even after the divorce, they are still a family. There's children, extended family & common friends/associates. Will there be so much pain & destruction that the couple can't be anywhere near each other? Or can they, as we call it, be able to "dance at their daughter's wedding."
  - A: Awareness. How did you get to the point? If they don't understand this, they will probably make the same mistakes & choices again.
  - C: Communication. Couples hate hearing this and will tell us "if we could communicate we wouldn't be getting a divorce." This type of communication is the respectful exchange of information. There's no eye-rolling or condescending speech.
  - C: Commitment. When a couple gets married they enter into a contract – the marriage contract. Divorce is basically a lawsuit over this contract. When they get divorced, there a new contract – the Marital Settlement Agreement. There needs to be a commitment that they will live up to their agreements.
  - T: Trust. This item goes along with Commitment. They must get to the point that they trust that their ex-spouse will live up to their agreements.
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- An example of a positive (Pro Per) divorce: ex-wife wanted to go back to school.
  - She needed financial assistance during the time she was in school.
  - People told her she could get more money from her ex-husband – didn't want this
  - Ex-husband ended up paying more money for a shorter time.
  - Today, she is a Physician's Assistant/remarried/happy.
  - Ex-husband is also remarried/happy.
  - They danced at their daughter's wedding.
  - They made it work!

Bottom line: Be informed about your specific situation. While it's an old expression, it's accurate in divorce -- Knowledge is power.

### **Think about the children!**

- Pain & Stress rarely eliminated.
- Try and be kind to each other.
- This can reduce the pain & stress that is just part of the process.



Pick up this e-book

<https://www.amazon.com/F-C-C-T-Understanding-separation-marriage-ebook/dp/B01MQTJMS6/>

F-A-C-C-T: Understanding the truth about separation and divorce. Your first steps to a better life after marriage. Kindle Edition  
by [Armand / Robbin D'Alo](#) (Author)

Additional Course Designed to Lead to an Amicable Divorce

Tax Checklist for Knotty Divorces

Self-Study – now - <http://www.cchcpelink.com/product/detail/?p=7762&s=85iz6kg>

Or attend the live class – Sept 19, 2017

<http://www.cchcpelink.com/product/detail/?p=11227&s=85iz6kg>

## RESOURCES:

**IRS/FTB (Support):** <https://www.irs.gov/taxtopics/tc452.html>

<https://www.law.cornell.edu/uscode/text/26/71>

<https://www.ftb.ca.gov/forms/misc/2429.pdf>

<http://www.journalofaccountancy.com/issues/2003/nov/courtsaysunallocatedsupportpaymentsarealimony.html>

**Process:** <http://www.legal-aid.com/wp-content/uploads/2014/08/fl107info.pdf>

**Costs:** [http://www.huffingtonpost.com/diane-l-danois-jd/post\\_4201\\_b\\_2318483.html](http://www.huffingtonpost.com/diane-l-danois-jd/post_4201_b_2318483.html)

**Parenting agreements:** <https://womenwithworth.wordpress.com/2015/10/17/what-happened-after-my-ex-husband-and-i-threw-away-our-custody-agreement/>

**Deadbeat parents:** <http://www.divorcenet.com/resources/child-support/enforcing-child-support/enforcing-child-support-options-dealing-non-payment>  
<https://www.acf.hhs.gov/css>

**Miscellaneous articles:** <https://oaktreemediation.com/>



## BIO:

Robbin D’Alo has been working with families since 1985. She works with her husband of almost 39 years. From the complexities of taxes and estates and everything in between, they have counseled people. For over a decade they have worked to achieve better outcomes for couples facing the turmoil of divorce. While divorce may be sometimes inevitable, protecting the “family” is critical.

Robbin is a Certified Divorce Financial Analyst (CDFA™), an Enrolled Agent (tax professional), and a Certified Legal Assistant (CLA) with membership in NALA (National Association of Legal Assistants – the Paralegal Association).

She holds a bachelor’s degree in Business Management from the University of Phoenix and has authored several articles for the Web on divorce and family law matters. Robbin has taught classes through CPE Link online and at California Society of Tax Consultants (CSTC). She is also a notary public for the State of California.

Robbin is trained in mediation through courses at the National Center for Conflict Resolution (NCRRC), with Forrest Mosten and through Pepperdine Law School’s program for mediating litigated cases. She is a trained educator with the Gottman Institute. Robbin & Armand produce and co-edit the blog/vlog at [oaktreemediation.com](http://oaktreemediation.com) and [oaktreadvisory.com](http://oaktreadvisory.com) and are currently producing a video series on divorce for YouTube.

She is the co-author of the new eBook “F-A-C-C-T: Understanding the truth about separation and divorce. Your first steps to a better life after marriage.”

