

Falling in Hate

How to have a Really Nasty Divorce

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¹ For more on the subject, you are encouraged to read the following two books, written by your authors: "**Game Theory and the Transformation of Family Law**: Change the Rules-Change the Game. A New Bargaining Model for Attorneys and Mediators to Optimize Outcomes for Divorcing Parties." Unhooked Books. Scottsdale, AZ 2015 and "**Winning Strategies in Divorce**: The Art and Science of Using Game Theory Principles and Skills in Negotiation and Mediation." The latter is an online book only. See www.unhookedmedia.com.

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Preface

In the 1960's, the culture was changing, not only generally, but also within many professions. Psychology included. The older ideas, especially of psychoanalysis, were challenged, and a good deal of experimentation with new approaches occurred, such as T-Groups, Rage Reduction and Encounter Groups. Many of these experiments failed, but some proved successful and very helpful to people. One such approach is called Paradoxical Therapy. In this approach, the symptom is assigned as a way of understanding the problem, and by assigning the symptom, it was found that many people overcame the problem. Many forms of desensitization rely on this. As another example, tell someone to laugh, and they find it difficult to do; tell someone to have a panic attack in a closed space (i.e., suffering from claustrophobia), and they also find it difficult to do.

Much of the time, effort and money in the family law system relative to divorce is spent on high conflict cases. These are cases that we refer to as messy or "nasty divorces." Our goal in this booklet is to use the paradoxical approach, by deliberately focusing on how to have a really nasty divorce in order to learn and hopefully overcome the temptation to be involved in one. The illusion that the patterns of behavior in a nasty divorce will somehow be rewarded can be addictive, and like any addiction, understanding the triggers and futility of this behavior is essential to breaking bad habits. In this sense, your authors hope that this little booklet will be helpful.

Introduction

Have you ever spoken with someone who had an amicable divorce and continued to have a friendly relationship with their ex-spouse², especially if they have children? They communicate and cooperate with one another, are flexible with their schedule with the children, cover for one another when things come up and even sit next to each other at the children's events. Is there anything more boring than listening to them? They followed someone's ridiculous advice to "move on" with their lives. How often do

² By using the term "ex" and "Ex's" throughout, this is a short cut for "spouse" or "former spouse." The terms are interchangeable.

they think about one another? How often do they cooperate regarding the children? The boring answer: only when something comes up with the children or a support payment is late.

Compare that to a really juicy story from someone who has had a really nasty divorce. What drama! Those Ex's think about each other almost all day every day. They always have something to talk about; stories to tell. They "love" to talk about their nasty divorce. In fact, if they are particularly "talented," they can go on like that for the rest of their lives. Ex's really committed to a nasty divorce sometimes increase the drama exponentially by marrying someone who also had a really nasty divorce. They never run out of things to talk about, and what joy they find in the ex-spouse being the bad one and the current spouse being the good one. This is real bonding.

Ex's who have an amicable divorce rarely have anything to do with the other ex after the children are grown. They might be at weddings together, run into each other at events for grandchildren or pass coming and going to see the grown children, but they do not talk regularly anymore. They probably spend almost no time thinking about each other. In a nasty divorce, Ex's remain actively involved with one another for the rest of their lives, if only thinking about each other and trying to get the upper hand with grandchildren or still competing to become the favorite parent or grandparent. In an amicable divorce, children turning 18 years old is the end of the ex-spousal relationship. In a nasty divorce, Ex's fulfill their promise "...till death do us part." They have "fallen in hate."³ Unlike "love," which has the drawback of diminishing passion with time, "hate" has the enormous "advantage" of increasing passion over time.

Right here and now, we have to explain something. We do not in this booklet want to struggle with finding clever ways to avoid using gender specific pronouns. We can use the gender neutral "ex," and will when we can, but chose not to repeat "he or she" and "him or her" over and over and not to avoid pronouns altogether, which makes sentences awkward and often twice as long. Please do us a favor, and wherever you see a "he" or "she" or "him" or "her," think of "he/she" and "him/her." We picked "he" and "she" randomly. There is no gender bias intended or involved, so if you suspect that there is when you read something, check yourself for improper inferences.

³ Forgive the title of our booklet, but your authors could not resist the temptation of playing off the term, "falling in love."

If you and your ex have already managed to establish a dramatic nasty divorce, this booklet might not be for you, although you might discover some strategies and techniques to really ramp it up. If you have an amicable divorce or just mild occasional conflict, you will discover tried and true strategies in this booklet to increase the nastiness in your divorce. Think about it; if falling in hate with your ex was so bad, why do so many people do it? At any time they could just stop, and start being nice, or at least respectful to one another and start acting sensible, but they don't, do they? Falling in hate is like a good drug; you just cannot get enough of it and you just cannot quit. So, let's get on with it.

A reasonable person might ask "Why should I work at having a nasty divorce?" You know in your heart of hearts that you really want a nasty divorce, but lawyers, psychologists, social workers, mediators and even judges have been telling you to do the opposite and be amicable. They tell you that a nasty divorce is frustrating and painful for you and really damages your children. They make you attend classes that try to convince you that you should move on, leave those marital conflicts behind and be friendly, or at least amicable, with one another and communicate and cooperate. You learn, if not for yourselves, "Do it for the children." They quote research and give filmed testimonies of children "caught in the middle of a War Zone." You are completely overwhelmed by what they tell you that you "should do," instead of what you think you really want to do.

Think about it. This advice would be like the CEO of General Motors trying to convince you to live near your job, walk and ride bicycles and don't own a car. Professionals connected to the family law legal system make very little money on amicable divorces. The nasty ones are their bread and butter. If everyone took their advice and prodding, they would be out of jobs. How many books do you think have been written for people who have an amicable divorce?

If you guessed zero, you are right or very close to right. Not only the professionals would be out of jobs, but also all those authors would have no readers buying their books. Many of those authors are the very professionals involved in divorces. They get to double down and make money on the divorcing spouses on the front end and then make money on the back end publishing about those spouses, redacting their names of course.

There are books that you should buy; the books written by Ex's who have already mastered the nasty divorce and want to tell you about it. You

might be able to get some good ideas. A book about a man who was falsely accused of domestic violence, for example, can tell you what to expect if you make fictitious allegations and help you avoid the pitfalls of doing so.

The one argument that professionals make that really touches the hearts of parents is that, by engaging in a nasty divorce, the parents are harming the children. That can be a downside to the nasty divorce, and it is true that a nasty divorce can harm children. But what those professionals do not tell you is that there is an upside for children and that not all children are harmed. How can this be true?

First, let's talk about **resilience**. Here is one example. In one long term study, children in amicable divorces have about a 10% rate of having problems with mental health and delinquency, but children in nasty divorces have about a 25% rate. Granted, that is more than double, but that also means that 75% are doing okay or at least almost okay. In fact, books have been written about how resilient many children are because many of them seem to recover from a nasty divorce and do fairly well in their lives. Take another example. Children from amicable divorces have a divorce rate themselves, when adults, of about 35%, but children from nasty divorces have divorce rates closer to 60%. Again, that is nearly double, but also that means that 40% of those children maintain intact marriages, and even if you have an amicable divorce, your children are still at a 35% risk of having divorces anyway.

A little basic mathematics tells us that a nasty divorce versus an amicable divorce only negatively affects 25% of the children; one in four, with regard to their chances of a successful marriage. We should also not assume that a higher divorce rate is a negative. Those children might have learned from "masters," meaning their parents, and go on to have the "joy" of a nasty divorce themselves. Instead of one healthy boring marriage, they might have two or three exciting marriages and divorces with lots of drama.

Now think a little more about the upside of a nasty divorce for children. They get to live in a family that has a lot of drama and is interesting, rather than the dull friendly divorce. The children get to play key roles in the drama. They get to take messages back and forth between their parents and get to complain behind their parents' backs. Not only do they get to complain without consequences, but also they often get rewards: tell a really bad story about mom to dad and get a special gift or an extra hug, a sympathetic parent and sometimes even "fun outings" to police stations.

They get to slack off in school, and everyone is sympathetic and blames the divorce for being the child being lazy. They get their own attorney, a *Guardian ad litem*, who will listen sympathetically to them, and if they are really lucky, they have visiting social workers or psychologists who really want to hear their version of things. Sometimes they even get to take over their family. All they have to do is refuse to go see one of their parents. It does not really matter if that is justified or not. The pinnacle of the nasty divorce, although few children are lucky enough to reach that goal, is that they get to talk with a judge.

Children from amicable divorces get none of this. If they complain behind their parents' backs, particularly if they added a few facts to increase the excitement and drama, they end up being found out and often punished for lying. They often do not even get to know what is going on between their parents, other than they talk with one another fairly regularly and seem happy to be in the same room at the same time. If they try to take over the family by refusing to go to the other house, they quickly find themselves in the car, told to stop complaining and on their way. If their grades start dropping a little, they find themselves with stricter rules about studying and homework. If later in their lives they are asked about what their family life was like, all they can say is that it was "good." Think about how many interesting stories a child of a nasty divorce can tell and how much love and sympathy they will get for having a terrible childhood. And don't forget, they now will always have a good excuse for doing things that they want to do but shouldn't. They can blame their parents. Remember the "Officer Krupke" song in *West Side Story*?

Second, let's talk about the **nasty divorce** and how easy it is to get there. The purpose of this booklet is to provide divorcing spouses, or divorced spouses who have not mastered the techniques of creating a nasty divorce, with proven strategies and techniques to reach that ultimate condition: The Really Nasty Divorce.

There is an organization to this booklet. We start with techniques and strategies that are not only powerful but also easy to master and move to increasingly complicated, advanced if you will, techniques and strategies. Even mastering a few of the easy techniques will create "gratifying" results. Not everyone has the ability to reach the heights of a really nasty divorce, especially if you elect another course of action.

Know that you are not alone in this endeavor. Many have come before you and blazed the path, but even more importantly, you will find colluders to help.⁴ The traditional legal system, as it addresses the issue of divorce, helps out a great deal. Individually, divorce lawyers, mediators and judges are very fine people, but taken as a group, they find themselves working in a system in which the most likely outcome is a fight over disputes, resulting in a nasty divorce.

First, the family law legal system has no clear intention, other than to get spouses to a Final Hearing when the judge declares them no longer married. Second, the family law legal system applies vague and ambiguous standards that are wide open for interpretation. A property division is intended to be “equitable,” whatever that means. Does it mean reasonably fair to both people? We all know that “fair” has substantially different meanings to different people. Is it fair to honor an agreement spouses made at the beginning of the marriage or to not honor the agreement because of what happened toward the end? Reaching “equitable” outcomes is ripe for starting and escalating disputes with the ex. Decisions about children are measured against the “best interests of the child” standard. This makes getting into a dispute a piece of cake. One parent simply asserts that his position is in the child’s best interests and the other parent does the same. Who is to know what is in children’s best interests? It could be anything. Living closer to a school is surely in the child’s best interests, isn’t it? How about cooking more nutritious meals or going more places on weekends? The list is endless, leaving it wide open for major disputes. Each parent could develop a long sophisticated list of why their position is in the child’s best interests, creating an argument that would leave Oliver Wendell Holmes speechless. In brief, you will have a lot of unintended help from the legal system in your quest to achieve a truly nasty divorce.

Third, let’s talk about getting help from **counselors, family and friends**. Mental health professionals are “great” in this context. They can help you diagnose your ex with some really nasty labels, such as Narcissistic Personality Disorder or Dependent Personality Disorder. What a great thing to throw out to your ex, “My therapist says that you are a dependent personality, and that is why you keep causing fights.” Later, when you start litigating, the counselor can even make a great witness. Be careful though,

⁴ The “help” facilitated by the players in the family law legal system, while damaging to the parties, is not purposeful or intentional. However, as explained to some extent in this booklet, and in more detail in the two Waldron-Koritzinsky books, there are serious defects in the family law system itself, which inadvertently promotes family dysfunction and facilitates the nasty divorce.

and when seeing the counselor, do not reflect objectively on yourself or be too honest about your own problems. Remember, the things that you tell the counselor might end up in court. Your counselor could even end up as a witness on behalf of your ex. Learn to play the innocent victim; that always suckers a counselor.

Another source of help can be extended families and even friends. If they only hear your side of things, they will start falling in hate with your ex along with you and might even give you some juicy ideas. Nothing stirs up a lot of sympathy like a “bad divorce” from an “emotionally abusive” ex. And don’t forget to call your ex “controlling.” Since almost everyone considers their spouse as controlling, you will get a lot of nods and understanding. You can literally build an army of colluders sympathetic to your side. When you date again, you have a lot to talk about. What are you going to talk about if you have a friendly divorce? Your date might be even jealous of you and your ex getting along so well and be on edge that you might reconcile. If you have a nasty divorce, your new date will start thinking of herself as your savior; the person who can restore your faith in marriage. Isn’t that a great start?

Good luck with your journey and someday when your blood is really boiling, when you just want to spit in your Ex’s face, you can thank us for bringing this excitement into your life and giving you a sense of purpose and meaning.⁵ I understand that you will be in anguish, but just think how much anguish you are creating for your ex.

⁵ Better yet, no “thank you” is necessary!

Chapter One: Make Every Issue a Zero-sum Game

Perhaps the easiest strategy to learn is also the most powerful for laying a foundation for a nasty divorce. You likely know about Zero Sum Games, and if you do, please be patient while we explain it to those who do not know about it.

There is a branch of mathematics that studies how people make choices under various circumstances. This is Game Theory. Game theorists have their own jargon as they name different types of games, rules and payoffs. People behave differently depending on the type of game played. One of the distinctions is between a Zero Sum Game and a Non-zero Sum Game. In a Zero Sum Game, the payoff has an absolute limit. If we put 100 \$1 bills on a table and ask you to divide them, the limit is \$100. Any dollar one person gets is a dollar the other person loses.

A Non-zero Sum Game has no absolute limit, and therefore people playing a Non-zero Sum Game can both win, both lose or win and lose in any proportion. In Non-zero Sum Games, both players do best to enhance the value of the outcome for both of them, and thus a Non-zero Sum Game promotes communication and cooperation. If the game is that we put \$100 on a table and tell you that you are to spend that money going out to dinner together, you are in a Non-zero Sum Game. The same amount of money is involved, but by communicating and cooperating, you can both win a nice dinner experience.

In a Zero Sum Game, because the two players are competing for a limited sum, competition and dirty tricks, such as deceit, are the better strategies. Not only is there objective competition in which both players are trying to enhance the value of his share of the pie, such competition triggers the evolutionary Demand to Prevail. We all like to win and hate to lose, even if we are playing a silly game with friends. The desire to win and not to lose can even make us irrational. Consider the 100 \$1 bills experiment. Let's spice it up a bit. We tell the other person that she proposes a split of the \$100 and that you can accept the offer, and you both get that amount, or reject the offer and neither of you gets any money at all. What do you have to say to that? We get it; you will likely say no. She then proposes that she gets \$99 and you get \$1. What do you have to say to that? Of course, you would tell her to go fly a kite in both cases. But the second rejection is irrational. Why? Because \$1 is better than no money. You gave up "winning" \$1 because you were losing on the fairness scale. It was worth a dollar to

make sure that she does not get the \$99. She was so unfair, and you really were able to hurt her back. See how “exciting” a Zero Sum Game can be. She will be thinking about you for a long time to come, and maybe even be upset with herself for making such a stupid mistake. Compare that to the “boring” outcome if she proposes a 50/50 split of the money. You will likely accept, you both will smile and walk away and never think about each other again. You get the money, but how boring!

You can see where we are going with this. By changing every issue in a divorce to a Zero Sum Game, competition, dirty tricks and a powerful desire to prevail are all introduced, greatly enhancing the chances for a nasty divorce. Here is where the legal system is a great “help,” because the legal system focuses on legal outcomes, most of which involve Zero Sum Games.

Take physical custody, for example. Under pleasant euphemisms like “developing a Parenting Plan,” the schedule is the focus, which has little to do with having a plan for parenting. Children are “awarded” to one or the other parent, or more popular, the children are awarded to both parents on some sort of schedule. One parent gets certain days, and the other parent gets other days. See how easy this was. You just have to go along with the lawyers and voila, you have a Zero Sum Game. There are only so many days in a week, and so any day you get with the children is a day the other parent loses.

Married parents don’t think of parenting as a Zero Sum Game. They don’t count how much time they get to have with their children, and they are not upset that the other parent is spending more time with the children. When you are married, parenting is a Non Zero Sum Game. By counting days (or overnights), you can turn parenting into a Zero Sum Game, compete with the other parent for time with the children and likely go to great lengths to win. The real “bonus” is that the legal system set the game up for you as a Zero Sum Game; you just had to play it.

Once you get the idea how to play the Zero Sum Game, here’s what you can do. You might try demanding to have the children every day, or almost every day, just to get the ball rolling. You know going in that there will be some compromise, but it is easier to start giving in from having it all, compared to starting with just some of the days. Of course, if you take a position that you should have almost all of the days, you have to give some

reasons, and here is your chance to really turn the heat up on your ex. Try a few of the following:

“He was never involved before; I did everything. That is what the children are used to.”

“She is way too lenient. If she has time with the children, they will end up in the prison system.”

“She cares more about her job and her boyfriend than she does for the kids.”

“If I have the kids, he will still be able to go to bars and drink every night.”

“If he loved the children, he would never have had those affairs.”

“I think she could be a great mom except for those mental health problems.”

“When the children come back from time with her, they are filthy, with stained underwear and food stuck in their teeth. She never cleans them.”

“The children say that they want to live with me.”

If you have been married for a while, you won't have any trouble coming up with your own lines. In fact, you can start some of the same arguments that you were having when you were married. The nice thing about that is that you know exactly how it will go, what he will say, how you will respond and so on. Novel disputes require more creativity.

Beware of spoilers. If someone tells you that the schedule is just a template for where the children will be and sleep, but both parents can be involved every day, run. They are trying to convince you that parenting is a Non Zero Sum Game. If you buy that, gone are your chances of having a really nasty dispute.⁶ You are in danger of ending up with one of those boring amicable arrangements. Worse yet, you might be expected by the other parent and the children to be available every day for child-related activities. One of the major advantages of a custody schedule, when enhanced by a “nasty divorce,” is that you have predictable days when you have no responsibilities for the children and you can do whatever you please. You know that he is not going to ask you to watch them on his time. He will

⁶ Hopefully you will see the gallows humor in all this.

ask his parents, a friend, a neighbor – anyone but you. So you can just go out and party hardy and meet someone new. Exciting isn't it.

Money is just as easy as child issues. Got a retirement account? You want it all because you earned it. Want the house? You came up with most of the down payment with money you had prior to the marriage or earned during the marriage- or both. The marital estate has a limited value, and therefore you have an easy Zero Sum Game. Just come up with reasonable arguments as to why you should get the lion's share. In Zero Sum Games, there are no "Win Win" solutions; there is only "win-lose." When the mediator tries to convince you that there are Win Win solutions, you must imagine her winking because you and she know that any dollar that your spouse gets is a dollar you lose. Remember what Vince Lombardi said, "Show me a good loser, and I'll show you a loser." Don't be a loser!

There are money spoilers too who will try to convince you that you are not just dividing a limited marital estate, you are coming up with a plan for your and your Ex's financial futures. This obvious ploy to reframe the Zero Sum Game of dividing an estate into a Non-zero Sum Game might appeal to your better instincts, creating the illusion that you can both be better off in the future if you do things a certain way. Resist that temptation. That is not how life works. I am reminded of an advertisement for a program that teaches negotiation strategies: "You do not get what you deserve; you get what you negotiate." People after my own heart. Remember, every dollar that your spouse gets is a dollar that you lose.

And, there is no reason to stop turning issues into Zero-sum Games when the divorce is final. This is a strategy that can be effective for a lifetime. When your ex asks to have an extra day for a vacation, on one of your weekend days to boot, remind him that he gets 183 days each year, one more than you, and so if you give him one more, you want two back. That will get a good dispute going, or he will just keep his vacation limited to his days, but even then, he will walk away burning. When your ex asks you to pay a little extra for the orthodontist because he is short money at the time, remind him that you are both supposed to pay exactly one-half, but that you would be willing to loan him money at 18% interest. See how easy it is to turn Non-Zero Sum Games into Zero Sum Games!

A Special Application of the Zero Sum Game

We hesitate to introduce this special application of the Zero Sum Game because we know very few people that are not already adept at playing the game this way. This is the **“I’m Right” Game**. This is a Zero Sum Game because there is only so much “right” to go around, and when I say “I’m right,” I am claiming it all. The other person is only left with “You’re wrong.” Because no one likes to lose, your ex will inevitably stake his claim and declare, “No, I’m right,” thereby giving you the spoils of “You’re wrong.” Once initial claims are made, you are off to the races. The rules of the competition are very simple: you prove that you are right and your ex is wrong, while your ex tries to prove that you are wrong and she is right.

What makes this game really special is that no one ever proves that the other person is wrong, which usually is the only way to prove you are right. It is a game can go on forever over just one little incident. The game also usually has a good deal of passion because both parties “know” that they are right, so they cannot just give in and say, “Okay, your right.” Well, actually you can say that, but only if you have mastered the sarcastic voice, usually requiring a sarcastic look at the same time. The sarcastic voice doubles the power because she knows that you are not really saying that she is right and are still thinking she is wrong, but also you have added a little spice to your position. You can make her look like she is not only wrong, but also that she is either too stupid or too stubborn to admit it. The argument might stop, but she will be sizzling for weeks.

There are skills that can be an improvement in the Game. For example, vague statements that can neither be proved nor disproved can really open up the floodgates of nastiness. Picture the following:

Ex #1: “I told you I needed the nice pants back that I bought, and they were not in the backpack.”

Ex #2: “Yes they were. I personally put them in there because of the way you get if I don’t do as you say.”

Ex #1: “I emptied the backpack, and they weren’t there. Richie said that they are hanging in the closet at your house.”

Ex #2: “There you go again, believing a 6-year old. He wasn’t even in the room when I put the pants in the backpack. I put them under his folder so that they would not get wrinkled. You can thank me now for being so thoughtful. You probably didn’t even look under the folder.”

Ex #1: "It is the same old story. I buy the nice clothes; I let him wear them to your house and boom, they just disappear."

So far, our Ex's are doing a pretty good job of proving "I'm right" and "You're wrong," but now comes the zinger:

Ex #1: "How come you can never take responsibility for yourself?"

What can Ex #2 say to that? Ex #2 knows that no matter what he says, Ex #1 is already loading her gun with, "And you always get defensive when it is pointed out."

Trapped. Game over. The glory of victory and the agony of defeat.

Another technique is the "**I'm Not the Only One**" Game. Picture the following:

Ex #1: "You are so controlling. You were controlling with me during the marriage, and now you are being controlling with the children. You should hear what they say when they come to my house."

Ex #2: "I am not controlling with the children. I only look controlling to you because you are so lenient. You let the children do whatever they want. They don't even have chores. I bet they complain about my house, but I am just teaching them how to behave and pitch in and help."

Ex #1: "First of all, you have no idea what I do with the children at my house. Secondly, I'm not the only one who thinks that it is all about control for you."

Ex #2: "Right, like who?"

Boy, Ex #2 took the bait and stepped right into the trap. It does not really matter who Ex #1 lists, just as long as Ex #2 thought those people liked him. Try this one:

Ex #1: "My whole family warned me not to marry you because you were so controlling."

As you can see, there are a wide variety of opportunities to play the "I'm Right" or the "I'm Not the Only One" Zero Sum Games. Each Game assumes that there is just one right; which makes it a Zero Sum Game. In a Non Zero Sum Game, there is no limit to "right." Both people can be right,

but then you get boring ends like, “Let’s just agree to disagree.” People who say that do not really believe it; they know that they are right and that the other person is wrong and so does the other person if she goes along with it.

A fairly effective set of these games can be found in the memory category. It is easy to start one of those games because your ex will be at a disadvantage from the beginning. Pick something that happened a little while back and make a declaration. For example:

Ex #1: “I was afraid to say anything about it, but my therapist tells me I have to be more assertive. Two weeks ago, you brought the children back really late, and I had to cancel an outing with them. The children were very upset about that. Could you be more on time or at least call and let me know if you are running behind?”

Ex #2 will inevitably deny being late, but because it was two weeks ago, he might not remember very well, so he starts the game with some doubt. Ex #2 is at a distinct disadvantage because his arguments will be weak, and you can really pounce on him because if he really was late, he is going to think that you have a right to be upset. He just cannot remember.

By introducing the memory problem, your ex starts with a weak position, because she cannot really remember for sure what happened or what did not happen.

CHAPTER LESSON: The lesson of this Chapter is to turn every interaction and every issue into a Zero Sum Game, making winning and losing the only options. Special applications include the “I’m right,” the “I’m not the only one,” and the “You might not remember but . . .” versions. This strategy alone will get your nasty divorce off to a great start. You will be well on your way to falling into hate with your ex.

Chapter Two: Always Play Simultaneous Choice Games

Here we introduce another principle from Game Theory: Simultaneous Choice Games versus Sequential Choice Games. In a Simultaneous Choice Game, each player, that is you and your spouse, makes a choice, not knowing the choice of the other spouse. Picture “rock-paper-scissors.” There are nine possibilities in rock-paper-scissors, and in only three, do the players both have the same object, and therefore no conflict. That means in six, double the neutral three, there is conflict and someone gets bopped. The odds for conflict in Simultaneous Choice Games are much higher. In a Sequential Choice Game, one player makes a choice, so the other player knows the choice of the other person before choosing. Picture chess or checkers; before making a choice, the player gets more information from the other player’s last move.

Sequential Choice Games are a disaster. What usually happens is that in taking turns with choices, the spouses gain more and more information, and there is what is called a “Convergence of Expectations” on an ideal choice for both of them. What kind of outcome is that? Let us give you an example: He says he is up for a movie; she says she wants to watch some sports; he says maybe we can find a movie that has sports in it; she says that she likes the idea of watching tennis; he proposes they watch “Battle of the Sexes,” a tennis movie. They are both happy as clams. There is no dispute; no conflict; not even a little disagreement and they both get what they want. Boring!

In a Simultaneous Choice Game, because a player does not know the choice of the other player when she makes a choice, unless by some coincidence that they both made the same choice, they have a dispute. Lawyers often “help out” here. Lawyers will often ask their client what they want, whether it is about money or children, without knowing the position of the other spouse. Presumably, the other lawyer will ask that same question, and again except for rare coincidences, we have two different positions in a Simultaneous Choice Game, and both sides have something to fight for-- and to win or lose. Now they have a dispute that they can really sink their teeth into.

Now imagine the two spouses (mentioned above) coming home, where one says, “We are going to a movie tonight” and the other says, “No we are not; we are going to a tennis match.” Now they have something to “talk about; there will be a winner and a loser, or even better yet, he’ll go to a

movie and she'll go to the match, both alone. They will be burning angry at one another for "never giving in" and neither one will enjoy themselves. Nasty!

Artful sophisticated Ex's continue this process of Simultaneous Choice Games into the future. He does not ask questions that lead to mutual agreements, but rather takes positions that push his ex into the corner. For example, in an amicable relationship, the father reports to the mother that he would like to camp in the summer with the children, but the campsite only has two openings, both on her weekends. "Would one of those work for you to switch?" Where is the excitement in that?

Compare that to our "nasty divorce father." "I want to take the children camping and have told them that the only way we can go is if their mother lets us take one of her weekends. They were really excited." With a little bit of luck, she will have plans for that weekend that she cannot change. The children will be really angry with her. A particularly successful application of this principle relates to vacations. Every year, she waits until he announces his vacation plans, and then she tells the children what she was planning, obviously better than what their father is planning, and tells the children that they cannot go now.

The "lesson" here is to take advantage of every opportunity to play a Simultaneous Choice Game and hope that the coincidence of both choosing the same thing is rare. If you do, by some strange coincidence, make the same choice, it might even be worth cheating a little and changing your choice to be different, just to get some excitement going. In playing this Game, the key is always to fight for your position and never look for solutions that work for both of you.

For the advanced practitioner of the nasty divorce, there is one more technique that can be added to the Simultaneous Choice strategy that greatly enhances the effects: the Tit-for-Tat technique. When you and your ex make different choices, and remember it could be about anything; someone is going to have to give in. For example, you can play a Simultaneous Choice Game about a particular weekend. Ignore the Court Order with regard to whose weekend it is, and in fact, pick one of the ex's weekends to get things going. Let her know that you have an opportunity to do something special with the children on her weekend so can she let you have them. If she says she already has plans and cannot switch, pretend to be mad as you say, "You tell the kids that they can't go then," and hang up.

The next time she asks for some flexibility from you, like to switch one of your weekends, that is when you have her. Tell her “no” because she would not let you have the weekend that you wanted. You have just started a negative Tit-for-Tat that can go on for the rest of your lives. Every time there is a request, you or your ex say “no” because every time you or your ex have made a request in the past, the other ex said “no.” See how easy it is to have all this fun!

Opportunities to do this with money after the divorce is final are few and far between. The Simultaneous Choice Game with money during the divorce is fairly easy, but once property has changed hands and support orders are made, there is little need for flexibility, and therefore, for making choices. By being alert to the benefits of the Simultaneous Choice Game, however, Ex’s can recognize when one comes up. For example, enrolling children in extracurricular activities that both Ex’s have to pay for is a great opportunity to play the Simultaneous Choice Game. If he chooses dance classes, you can choose soccer because it is much less expensive. You can even get the kids involved by talking them into liking your choice and not your Ex’s choice. With modest effort, you can get the kids to team up you against the other parent and feel like you really love them and the other parent does not, because you want to get the children what they want.

The art to this strategy is to portray yourself as cooperative and willing to compromise and point out to anyone that you can that your ex will not cooperate and you are the one always giving in. Portray him as controlling in the marriage, and that he is still trying to control you. Tell people that with your ex, it is “her way or the highway.” This is a particularly effective strategy if you end up back in litigation over financial issues, custodial decisions or proposed changes in child custody.

Professionals in the legal system can be “schizophrenic.” Lawyers make a living off of conflicted spouses and like to argue cases, and therefore unconsciously, may not object to conflict or litigation. Much of their law school training was about how to engage in legal conflict and argue cases. At the same time, lawyers also value Ex’s that communicate and cooperate, hold them up as the model of the good divorce and preach communication and cooperation to their clients. Many attorneys view clients that engage in the nasty divorce nasty or even disgusting. Yet, they would have to get side-jobs if they did not have any of those clients or cases.

Lawyers are able to maintain this schizophrenic dilemma because conflicted spouses and Ex's rarely take the advice to communicate and cooperate. Can you imagine a lawyer telling her client to be amicable, to communicate and cooperate in a mature manner, and her client says, "Okay," and the case walks out the door? Can you imagine a lawyer telling a client that she is really going to create a lot of conflict, and while it will be expensive, the lawyer promises to really rake the ex through the coals? As long as the lawyer preaches communication and cooperation, and as long as the client agrees but blames the ex for not communicating or cooperating and ignores the advice, both can pretend that they are not living in the schizophrenic world in which they find themselves. Neither spouse is happy, but happiness is not the goal. Satisfaction is the goal. If happiness was the goal, they would have a boring amicable divorce. Maybe their new spouses would like everyone, and they could even go on vacations together.

CHAPTER LESSON: Stay alert to opportunities to make simultaneous choices that conflict with your ex. Be careful to avoid making sequential choices because you and your ex might happen on Win-Win solutions.

Chapter Three: Own Your Children

In modern times, this sounds crass and even inhuman. We do not like thinking about our children simply as property. However, for hundreds or thousands of years, children were the property of their parents. Only in the late 19th century did some countries begin to treat children as a special class of citizens that deserved protection. This started with child labor laws and then child protection laws against abuse and neglect, and finally divorce laws that shifted from awarding custody⁷ based on property ownership first to "the tender years doctrine" and then later to the "best interests of the child" standard. However, we still act like we own our children. We feel responsible to train them and have the right to use incentives and punishment to do so. Children have few legal rights, and we make all of the decisions about their care and training.

The state steps in, but only if we go too far. We can hit our children, but only if we spank them; not if we slug them in the face. We can leave our 12-year old home along for a couple of hours, but not for two weeks. We can keep a child out of school for a day or two, but not for a month or two. We

⁷ Originally, the word "custody" meant to have the legal right to hold or at least use property.

can decide not to take a child to the doctor if they have the flu but we better go to the doctor if the child has leukemia. You see, we can do what we want with our children, but only if we do not go too far. Our neighbor cannot borrow our children without permission. We still sort of own our children. The same thing is true of other objects that we own. We own our car, but if we go too far, the state can take our car away from us, or at least our ability to drive the car.

In amicable divorces, parents do not think of themselves as owning the children but in nasty divorces, parents do. If a person wants to have a nasty divorce, then that includes swallowing this bitter pill and owning the child. Get used to saying things like, "It is my time, so you have to give him to me" and "You cannot go to school and have lunch with Sarah; it is my time. Do it on your own time."

As you will see, divorce courts have introduced a little trick; custody is no longer awarded to one parent who then owns the child. Custodial time is awarded to both parents in some proportion; now the parents own time with the child. But that is the same as owning the child for some of the time. With this little play on words, divorce courts and the professionals in the legal system can pretend that they are treating children as human beings, not property. It makes everyone feel good, even though the courts are still awarding children as though they were property. We all do this all of the time. School personnel call it "time out" now instead of putting a child in a corner wearing a dunce cap. "Time out" feels better than a "dunce" sign and a silly hat, even though the child is still being shamed in front of peers. This is the art of being politically correct: saying things that sound good and make us feel better, but has little or no meaning.

A key to this strategy is in the language, but also in the attitude. The language part is easy; get used to using "my" and "mine." Always refer to the children as "my child," "my son," "my daughter" and "my children." For example, "I don't want my daughter dressed like that going to school. Do you just let my daughter wear whatever she wants or did you choose that?" You see how easy this is? However, for "my" to have the desired effect on your ex, it must be heartfelt. Here is where attitude comes in - you must actually feel that the children are yours. If you think "our" but say "my," your ex can read between the lines and is unlikely to get upset. It is only when you really believe that they are yours, and not his, that he will feel like you kidnapped his children. He will throw out some feeble, "They are ours,

not yours” or “They’re my children too,” but the damage will have been done.

The inexperienced student of the nasty divorce might ask “Why?” Why should I think of myself as owning my child during my custodial time? Control! With ownership comes control. No one can use your car without your permission. Your neighbor cannot borrow your lawnmower without first asking. Your ex can do nothing on “your time” with the child without your permission. With control comes power, and in this case, power over your ex. Take advantage of that power when you have it. When he complains that you are keeping the children up too late on school nights, tell him that he can do what he wants on his time and you can do what you want on yours. You can even do some dangerous things, again as long as you do not go too far. You do not want the state to step in. You can have your children meet boyfriends, for example, as long as you keep the door closed at night. That will really rankle your ex, but there is little he can do about it. Your child can ride a 4-wheeler as long as it is the right size. They can ride bikes to school as long as you told them to walk across the busy streets. If your ex thinks the children are not safe when with you, but cannot do anything to protect them, you have the makings of a really nasty divorce.

There are other effective uses of this power of ownership. You can cut communication off between their other parent and the children. You have to be a little careful because if you go too far, the state might step in when your ex files a petition with the court demanding at least telephone contact. Most courts will grant telephone contact, but even this can work to your advantage. The court is not likely to order telephone contact at any time. What the court is likely to do is order telephone calls on certain days and at certain times. When that happens, just smile to yourself because the court just has given you even more control. Now you can really do some damage to your ex. For example, assume that the court has ordered a telephone call has to be allowed at 7:00 p.m. on Tuesdays. Start a game of monopoly with the children, especially with some cookies on the side, at 6:30 p.m. and make it a really fun family time. When the call comes in, the children will whine that they do not want to talk. You can answer the call and tell your ex that the children do not want to talk, even when he insists that they do. When your ex says that you have to put them on, tell your children that their mom demands that they talk. The calls will be short, trust me, and very unsatisfying to both the children and their other parent.

CHAPTER LESSON: Remember, power comes from control, and control comes from ownership. Own your children.

Chapter Four: Be Angry and Blame Others; It's Better than Being Sad

We hesitate to include this strategy in the booklet because very likely the reader will already have learned this in the marriage. Let's face it; all relationships end. Some end after the first date because you did not like him or he did not like you or both. That is a little sad because you would not have been on the date if you did not have a little hope, and that hope is lost. Some relationships end after dating for a while for a variety of reasons. That is a bigger sad, but still not too bad. Some end right before a marriage, maybe because you found out she was cheating or maybe you cheated. That is even sadder. Some end after a marriage, maybe by a week or maybe by ten years. That is a really big sad. But the saddest of all is when the relationship ends by death, unless you are the one who died.

So why do we all wish we could have the marriage that ends with death in old age? We had to pass up all those chances to have a fling with someone beautiful or handsome. We could not make unilateral decisions about where to go on vacation, what to spend money on or even what to eat and when to eat it - all to end up really sad. Why? Why did we make all of those sacrifices only to end up really sad?

Do you see where we are going? This is where anger comes in. We do not have to feel sad if we can, instead, work up a good anger. You already know this because many times in your life you have gotten really angry rather than feel sad. When you were angry at your parents when you were in your teens, you were really just sad: sad that your childhood was ending; sad to discover that your parents are just imperfect people, not what they seemed like when you were 9 years old; sad that you cannot just do what you want to do in life; and so on. When you found out that your spouse would not play his role in what you thought of as a perfect marriage, you did not get sad - you got angry. Oh, sure, beneath the surface you were sad that he turned out to be a human being with his own needs and interests and sometimes those conflicted with yours, but who wants to be sad when you can get angry and try to make him do what you want.

This is a booklet about a nasty divorce, so we will skip all of the other "sads" and just focus on the sad of a divorce. When we marry, we have a template in our heads, some of which is conscious and some of which is unconscious, of what a happy marriage would be for us. We all hope that our spouse, the other person in the marriage, is not a real human being, but

rather an actor or actress who will play their part in our template; we want them to be a bit player in the movie in which we are the star. In our “love is blind” phase, the other person looked like they might be willing to do that. However, after we get married, we find out that the other person also has a template of what a good marriage would be like for them in which we are the bit player and they are the star. It might take a while to see that because we often are willing to be that bit player for a while, thinking that if we do, our spouse will continue to play their part for us, but that can only go on for so long. Then we find ourselves with a real human being, and our templates do not match; at least not perfectly. This is ultimately just sad. We wanted something, our version of a good marriage, and we didn’t get it. Not getting what you want makes people sad.

But hope springs eternal, and we do not give up. If we are just sad, we might give up and accept the reality that much of our marriage is good or okay but some of it is rotten. However, most of us know that if we get angry instead, we have motivation to fight on. We leave that first phase of “love is blind” and enter the second phase: control. We embark on a campaign to change our spouse into the person that fits our template. This is the phase of a relationship when the game is afoot, as Sherlock Holmes might have put it. Most of us try healthy approaches at first. We tell our spouse that what they do or say hurts our feelings. We tell him what we need to be happy in the marriage. Some of this might work, but some of it inevitably does not. We get more controlling and angrier. We try different tactics. We try playing the innocent victim or we try to bully our spouse into doing what we want. All the while, our perceptions of our spouse become increasingly negative because they never quite get it right. And here we hit the fulcrum point in the marriage. We head for reestablishing a healthy relationship or we keep progressing down the path that John Gottman informs us includes contempt for our partner and apathy about the marriage and ultimately a divorce. Sometimes we do very odd things down that dark alley, like have affairs, drink more and get driving offenses and even say really nasty things to each other. We have learned that anger is more palatable a feeling than sad. The way we keep the anger level up is we blame our spouse for the failure of the marriage to live up to its potential. That is, we blame our spouse for refusing to play her role in our movie and not letting us be the star, getting what we think is a happy ending.

Then spouses enter a phase in which they must decide whether to go on and just accept the limitations or find someone else who might be willing to be the bit actress in their movie. You might get a divorce first, and then

go find someone else, or you might jump the gun and find someone else first and then get divorced. Of course, your spouse has the same options. Usually, one person gives up before the other one does, and if that spouse finds someone else before getting the divorce, you really have a jump start to a nasty divorce. But whatever you do, don't thank him for getting the nasty divorce going. He has got to feel the guilt and be sad about disappointing himself. Of course, because feeling anger is better than feeling guilt or sad, he will inevitably blame you for his having the affair. Sometimes the creativity of blaming the other spouse for an affair is striking. Ironically, you get to blame him for having the affair at the same time. You see, anger and blame are better than feeling sad. A drawback to feeling sad is that people get over it and get on with their lives, whereas you can stay angry and blaming for the rest of your life.

If you are reading this booklet, then you are probably not one of those lucky ones to be happy in a long-term marriage, so you do not need to know how those "lucky ones" did it. That is the subject for another booklet entirely, and is irrelevant to our goal of having a nasty divorce. The key to remember about having a happy marriage is that it is essentially boring.

You see, if you got a divorce, you probably have mastered feeling anger and blame rather than sadness. To have a nasty divorce, you just have to keep applying this strategy. You see, your ex is now refusing to play her role in your template of what a great divorce should be like. Nothing has changed. No doubt, she will probably also have a template for what the good divorce will be like for her and want you to play your bit part in that movie, which of course you will not do. As a result, you are on your way to a truly nasty divorce. Just remember that if you start to feel sad that your divorce is so problematic, or sad for your children who have such a messed up family, remind yourself that it is not your fault; it is your ex's fault. You tried.

CHAPTER LESSON: The lesson of this chapter is to avoid feeling sad and to keep the focus on trying to get your ex to play the appropriate role in the divorce. Of course, he may refuse to do it, so you need to stay angry and blaming. Who is going to be nice to someone who is ruining your life?

Chapter Five: Look Out for Yourself and Be Selfish. If You Don't Who Will

Key to taking a divorce to the expert level of a nasty divorce is that you have to be selfish. Remember that the whole legal system is based on selfishness. A criminal selfishly tries to get out of being punished, or at least to get the least punishment possible, while the district attorney wants to win, and may be selfishly trying to build a reputation because she wants to go into politics or become a judge and/or wants a high conviction rate. A property dispute involves two people selfishly trying to get their way. As a side note, in property disputes, you really see the Zero Sum Game in play, based on who is “right” in the action. Lawyers are trained and paid to get their clients what they want independent of whether that hurts the other party or not. The theory is that if each side behaves perfectly selfishly, the judge, who is theoretically neutral, can see the whole picture and make a wise choice.

Ironically, the whole system falls apart if people start behaving altruistically. If a lawyer started focusing on what was good for the other party, the lawyer’s client would rightly feel betrayed. In fact, if all people were altruistic, we might not need attorneys or judges at all. If Adam Smith were alive, he would say that the “invisible hand” of two parties to a legal action, being as selfish as possible, is what makes the whole system work.

The lesson here is that for the legal system to work, each spouse in a divorce, or each ex in a post-judgment dispute, should behave as selfishly as possible.

Some lawyers “help” with this. If a client begins to show signs of kindness, fairness or empathic concern for the other spouse, some lawyers will caution their clients to be careful because “the other side” will take advantage of this soft spot. These same lawyers might also say: you have to have faith in the “system,” that if you and your spouse are selfish, the neutral judge can make a good (meaning the “right”) decision.

There is a weak link in this strategy: the children. Many parents actually love their children and do not want to put their children through a nasty divorce in which both of their parents are behaving selfishly. Let me assure you that you will not avoid a nasty divorce with this kind of thinking. You will just have a nasty divorce in which your spouse prevailed, and you lost. Ask your lawyer to tell you about past clients that gave in too much.

You are looking for balance, but the path to achieving balance is by playing your part and being completely selfish.

We hope we have convinced you of the “benefits” of being selfish, but there is a problem. In a nasty divorce, there are some professionals that can hurt your cause. Many jurisdictions have Guardians *ad litem*, who might advocate for the children’s wishes or who might have the task of advocating for the concept of the “best interests of the child.” There might be social workers conducting a custody study or psychologists performing a custody evaluation. If they see you as selfish, you might lose ground in the legal dispute. Therefore, you have to develop clever ways of appearing to be altruistic and reasonable, even though you are actually being selfish. Instead of saying that you want a certain custody arrangement because you do not want to pay child support, you say that the children need two loving parents and you want to be an active part of their lives. You want to appear that you are doing it for the children, even though you are actually doing it for the money. Keep in mind that your ex is doing the same thing, telling the social worker or Guardian *ad litem* that she wants a different schedule because it would be better for the children, when she really wants you to pay a lot of child support or wants to be in charge of the parenting and not have to deal with your being involved much.

Another way around this problem is to appear to be the one willing to compromise, although you have to be careful and never actually compromise. This sounds tricky, but really is not. You just say things like, “I would compromise if she was willing to compromise too,” (i.e., she is rigid) or “I would be willing to give in on this, but the children say that they want the schedule to be fair and would be upset if I gave in” (i.e., he is unfair) or “If I didn’t think that the children also needed my influence, if I thought that they would be fine if they just lived with her, I wouldn’t fight so hard for this” (i.e., she is not a good mom). You want to appear to be reasonable while not actually being flexible, and if you can include some blame for your ex, as in these examples, you can be very convincing. It boils down to seeing yourself, or at least portraying yourself, as “good” and your ex as “bad,” all the while, of course, being completely selfish.

To be on the safe side, build a case even if you are not currently in litigation. Professionals in the legal system, including lawyers and mental health professionals like social workers and psychologists, do not give a lot of weight to what battling spouses say about one another. It is therefore good

to have a written record and also to have other people who will support your case, especially, if you can manage it, your children.

Let's start with creating a written record. The digital era has made this much easier than it used to be. Start with emails. Write and send emails to your ex that support what will later be allegations. For example, after a transition of the children from one parent to the other, write an email saying something like, "I do not know why you are so nasty to me like you were when you were picking up the children but the children saw that, and the look on their faces was appalling. Can't you keep your thoughts to yourself?" If your ex writes back, "All I did was ask if they had eaten," write back, "It wasn't what you said, it was how you said it." What can they say to that? Later, when in litigation, you can accuse your ex of behaving very badly at transitions and show the emails as proof. You might have to cherry-pick emails that support your case and not show ones that do not. Text messages can accomplish the same thing. Don't forget to take screen shots of any juicy text messages from your ex. Even fairly innocent messages can be interpreted in ways to help you. An "I'm running behind and will be late," can become proof that your ex is irresponsible or disrespectful of you. Professionals give written materials a great deal of weight, even though they have been to conferences where they have been told that digital materials, such as emails and text messages, are easily forged and easily cherry-picked.

Another tried and true method of getting a good written record is to have your children write something. For example, sit down with your child and tell her that you understand that going back and forth between two houses is difficult. Explain that you would like to know more about their feelings to see if there is anything you can do to help. Then assure her that her mom probably feels the same way, so ask the child to write their mom a letter telling her what is difficult about going to her house. Then ask what is difficult about coming to your house but do not write that down. This gives you a chance to be the "good guy" with the child and possibly get a really useful document for future litigation. The letter, which was never sent by the way, is proof that your child does not like going to her mom's house.

Getting witnesses is just as easy. You just have to be sure to tell stories to friends and relatives, and later when you are in litigation or a custody study, you just ask them if they will write letters on your behalf and/or can you give their names to the investigating Guardian *ad litem*. Having your children as witnesses is much more complicated. First, they play

powerful roles in litigation. A juicy story about your ex from a child to a lawyer or social worker will dramatically help line the professional up on your side. That is, unless it is obvious that you coached the child. If it appears that you coached the child, you are doomed. You have to be clever. For example, you do not want to say to your child, “Your mother is dangerous.” Unless the child has seen her mother be dangerous, she is going to disbelieve you, and worse yet, she can later report that you said that to her. Instead, you might want to try something like telling her that, “If anything happens at your mom’s house, you know that you can call me.” This just sounds like a loving parent, but think about the emotions that you can stir up in your child. She is bound to be scared of that “something happens” at her mom’s, something that you can build on over time. Then later when asked, she can say that she is scared at her mom’s house. Bingo – you get points.

You might at this point be saying to yourself, “Who would ever do that to their children?” It sounds awful and it is. However, plenty of people in nasty divorces do these very things. We are not pulling these ideas out of thin air. It might be easy to be selfish with your ex, but to have a truly nasty divorce, you also have to be selfish with your friends, family and even your children.

If you had to do this (meaning be selfish) on your own, it might be difficult, but most people have the “able assistance” of an attorney. By training and experience, many attorneys are adept at making their client look good and the other client look bad. However, many, perhaps even most, family law attorneys are decent people and will not play this game. They often promote coming up with reasonable settlements that are at least normal if not actually good for both of the clients. However, if you have the misfortune of ending up with one of these, you may need to get another attorney if you really want a nasty divorce. Find one who will selfishly fight for your right to be selfish.

CHAPTER LESSON: The lesson here is that for the legal system to work, each spouse in a divorce, or ex in a post-judgment dispute, should behave as selfishly as possible. Remember the adage: nice guys finish last.

Chapter Six: Always Start Big and then Drill Down to the Details

Starting big and drilling down to the details is a technique that is not as obvious in its effect as those in earlier chapters. The techniques and strategies in the first five chapters make intuitive sense as likely to precipitate a nasty divorce. They seem practical and pragmatic and hopefully effective. The technique in this chapter, although powerful and one might even say necessary, is not as obvious in its effect. However, consider this. The only way to get started on a nasty divorce is to have a dispute, and the best way to secure a dispute, is by starting on the big issues.

Let's illustrate this with an example. When deciding on a holiday schedule, go right from the beginning with the position that the holidays should be alternated. This sounds fair, but will inevitably start a dispute. For example, assume that the mother's extended family lives in the area and has a long tradition of having Thanksgiving dinner. If you have alternating holidays, she and her family will miss out on having the children there one-half of the time. Had you gone one by one through the holidays, you might have missed this chance for a dispute. In our example, the children are with you on Thanksgiving, instead of with their mom and her family because your family does not live in the area. You cook a chicken because a turkey would be too big. Then you watch a little football while the children play in their rooms. Had you addressed holidays one by one with the goal of having good holidays, she might have gotten every Thanksgiving, and you might have gotten something that you want. At the end of that kind of bargaining, no one might even be paying attention to whether the holidays were split equally. By starting big, with the entire holiday schedule and proposing that it be alternated, you have created a dispute and probably ruined some holidays for your ex.

We remind the reader that we are borrowing from the earlier technique of making everything a Zero Sum Game. Having good holidays is not a Zero Sum Game, but you can make it one by wanting the schedule to be equal. By starting with "big," you assure yourself of a dispute.

Not sure how to do this with a financial settlement? Practice these words, "I want half!" Half of the retirement accounts, half of the value of the house, half of the income, half of your Ex's business, half of everything! This might sound like bad advice if you think that you deserve more than half or

have a higher income. It is bad financial advice, no doubt. However, it is not about the money. Remember that the goal is to have a really nasty divorce, not a good financial plan.

Nasty divorces cost money. Just think of the lawyer bills alone, never mind court costs, the costs of having a Guardian *ad litem* for your children, mediators, mental health professionals and the other divorce industry workers. In fact, in a really nasty divorce, you might be able to spend down the family estate to zero. True, you end up with nothing, but so does your ex, and your ex has the rest of his life to think about it and blame you for his having nothing.

By demanding one-half of everything, even if you are the higher earner and even if you have some legitimate claims to more than 50% of some assets, you set the stage for numerous disputes during the divorce process. He might have wanted fewer assets and more cash or income in order to pursue financial goals, and zap, that hope is gone. Think of all of the resentments that will build up if you leave both of you in a financial mess.

There are obvious risks with this strategy. However, you might be able to buffer the risks to you if you have a backup. It will help enormously, for example, if your parents are wealthy, and if you can turn them against your ex. They will buffer the outcome for you, and all of you can watch you and your ex go at it, leading to financial ruin. They might even be willing to bankroll the process, even spending money they had hoped would be their retirement. Getting parents on your side is usually a piece of cake.

CHAPTER LESSON: By starting big, whether it is regarding the children or financial issues, and then drilling down to the details, you are bound to end up with a bad plan. Bad plans make for drama and really negative feelings. Remember, the goal is to have disputes; not get a good plan. This sets the emotional stage for the nasty divorce.

Chapter Seven: Establish the Accuse-Defend Dynamic, Make Fictitious Allegations and Facilitate Alienation

Accuse- Defend Dynamic

An advanced technique to achieving a nasty divorce is the establishment of an accuse-defend dynamic, naturally, with your being the accuser. An accuse-defend dynamic is just what it sounds like. One person accuses the other person of something, and the other person finds himself in the double bind of either not responding, risking people believing the accusation, or defending, which also makes people believe the accusation, because the accused is being so defensive. Sounds simple, doesn't it? It will likely work, but It is not simple.

The best accusations are those, of course, that are true, or at least very likely to be viewed as true by others. For example, let us assume that you made a mess of trying to run a budget, keep the checkbook in an orderly manner and pay bills on time. By agreement, your then spouse took over those tasks. Now that you are divorcing, you can accuse him of being controlling, and as an example, point out that he ran the checkbook and controlled the money. He wouldn't let you do any of that. Mental health professionals love this stuff. Let us assume that she was a better authority figure with the children than you, and she did much of the in-home enforcement. Now you can accuse her of being harsh and controlling with the children. Let us assume that she worked into the evening at home on her computer, trying to get ahead in her career, and you usually put the children to bed. Now you can say you took care of the children while she was doing something, but you do not know what, on her computer. You can throw in suspicions, as long as you do not claim them to be facts – facts can sometimes be disproven. For example, "I sometimes wondered if she had something going on with one of her coworkers. They seemed to be exchanging a lot of emails, and one time, she shut the computer off quickly when I walked in the room." You have accused her, but have not given any facts that can be disproven.

The above example brings up a very important point and an essential ingredient to a nasty divorce. In the above example, you might actually have been thinking that your ex and her colleague really had something going on, even though you had very little evidence and she denied it. In order to have ongoing conflict in a divorce, you, and hopefully she, have to develop and maintain negative beliefs about one another, even if there is

information that contradicts those beliefs. Key to building those negative beliefs is to believe your thoughts, even if you have very little evidence, even if your ex tells you your thought is untrue, and even if there is contradictory evidence. If you accuse her of having affairs behind your back and also really believe it, your accusation will be much more believable; and how can she prove that she was not?

Most people, especially, but not exclusively, men, have viewed pornography on the internet. Accuse him of viewing pornography on the internet and most of the people you talk to will say to themselves, "big deal." But call it "porn-addiction," or point out that the sites he visited seemed to be those with teenage girls, and now you have something, especially if you think it is true. We all know that money disappears, but you can use this fact of life cleverly in a divorce. All you have to claim is that you just do not know where the money went, but then add, "I always wondered if he was gambling" or "I saw a receipt one time and it looked like he bought expensive jewelry that I never received." He will not know where the money went either, and his denials that he gambles or was buying gifts for other women will really make him look guilty.

A secret to the accuse-defend dynamic is never to pause. Just when one accusation begins to lose its staying power, move on to the next accusation. This takes advantage of a human tendency to think that where there is smoke, there is fire. By staying on the offensive with accusations, and keeping her on the defensive, you create smoke, and because of that, people will think that there is fire: that there really is something wrong with your ex.

This is just like politics. Let us assume that two politicians start out with a value of 20 points each, meaning they are even in public reputation. The politician who accuses the other politician of something that cannot be proven one way or the other, especially if there is a fact underpinning the accusation, loses points. Let us say she loses 2 points for throwing mud. However, because people are inclined to believe that there might be something to the accusation, the accused loses 4 points; some of the mud sticks. If this happens over and over four or five times, the accused goes to zero and the accuser is still up at 10. People will think that you are a bitter divorcee who badmouths your ex, but they will think even less of him. The frustration for your ex will be intense: it is easy to prove something is true; it is very difficult to prove something is untrue.

Fictitious Allegations

A step up from making accusations based on at least some truth is to make purely fictitious allegations, which is a bit trickier. First, you must not get caught making provably fictitious allegations. If you are found to be making accusations that even once are proven to be fictitious, you lose all credibility. Remember the boy who cried wolf; he turned out to be lunch for the hungry wolf. There is some skill to this dynamic. Remember these three things: opportunity, physical evidence and witnesses. Let us take these one at a time.

Opportunity: If you accuse your ex of something that is completely fictitious, she must have had at least the opportunity to do it. If you accuse her of something and she was not even there, you are in trouble. Innocently ask your child what they did at mom's house and look for times when something could have happened. Bath time is always a good time because that time is ripe with opportunity to do any number of things to a child. So don't forget to ask the child, "Did mommy give you a bath?" Now here are some key ingredients to your questioning of the child. First, children want to answer yes/no questions with a "yes," even if that is not true. They are just inclined to say yes. Take advantage of this and ask a question like, "Is that red mark on your leg where mommy hit you?"

Here is little known fact about children and memory. We all have two types of memories: one is for actual experiences and the other is called source memory, which is the memory we have of how we had the experience. Our memory for experiences is fairly reliable, but our source memory is not so reliable. This is particularly true for children. In the above example, the child will now remember that mommy hit her, but she will not remember as well where that memory came from; she will not remember that you brought it up. Repetition helps solidify the memory of being hit, so a couple more sentences like, "I cannot believe that your mom hit you like that," help, and if you can get the child to report it to another person, all the better. Ask your girlfriend to come and listen and say to the child, "Tell Missy how you got the red mark on your leg." If your child says that her mother hit her, you are on your way. However, remember opportunity. Take one more step and ask your ex with a text if she gave your daughter a bath when she was there. If she responds that she did (remember, she is bound to be defensive), you have written proof that your ex had the opportunity to hit the child.

Physical Evidence: Physical evidence can work for you or against you. If there is physical evidence, you just have to connect the physical evidence to the accusation. If there really is a red mark on your daughter's leg, take a photograph. It does not matter at this stage if it is a rash or a bruise from falling down; just get the photograph. However, be careful not to make an accusation that requires some physical evidence when there is none. If there is no physical evidence when there should be, given the accusation, people will begin to doubt you or even think you are a liar.

Witnesses: Finally, understand the importance of witnesses. In one case, one of your authors had a case where a woman accused her ex not only of domestic violence with her but also that he beat up his next two girlfriends. It only took a couple of phone calls to the girlfriends to find out that this was not true. In our bath time example, what if your ex's mother was with her at bath time? When you text her about the bath, include, "Was it just you or was anyone else there?" Remember to tell people, like your extended family and friends, stories that they can later report as though they were there and witnessed. A simple, "she was drunk again when she brought the children" to two or three people will later result in their telling the court that your ex drinks and drives with the children in the car.

By paying attention to opportunity, physical evidence and witnesses, you have a good chance of successfully including fictitious allegations in the accuse-defend dynamic. If there really is a red mark, it might be time for a quick visit to the local police station. Police make great witnesses. As a reminder of how boring an amicable divorce is, if one parent saw a red mark, they would call the other parent up and ask about it, find out that it was a rash or that the child fell down on a stair, and the whole thing would be over. Not so in a nasty divorce.

Alienation

Alienation is the pinnacle of the accuse-defend dynamic. Not many people are able to achieve this goal, but if you can, there are a number of benefits. Children will only rarely be disloyal to a parent and refuse to see them. Even children who have been abused will often express a wish to be back with the abusing parent. Young children especially are loyal. Your best bet is to work with a 12 to 14-year old on this, because they are psychologically starting to break away from parents anyway and also striving to run their own lives.

There are two key ingredients to alienating a child from the other parent: one is to introduce doubt that the other parent loves the child; and two is to introduce fear of the other parent. There are a lot of ways to do the former. Try, “your father left us for his girlfriend” or “he just wants to have you so that he doesn’t have to pay child support.” You see, you are implying that the ex does not love the child. Fear is sometimes a little more challenging, unless the child has already witnessed events that might prompt some fear. You can use those experiences. For example, “Remember when your mom was yelling at me for being late? Did you see the knife?” If when you got pregnant there was a brief discussion of having an abortion, you can use that: “Your dad wanted an abortion, but I really wanted you.” This is a two-for, because not only does it raise doubts about the father loving the child, but also instills fear, because he was willing to kill the child to get rid of it.

If there are no experiences that you can use like the ones discussed above, you have to be a little creative. For example, when your child is leaving for his father’s house, give him a cell phone and tell him that, “If anything happens, you can call me, as I want you to feel safe there.” You just have to build on these two ingredients (doubt and fear) and reinforce resistance. All children will at times say, “I don’t feel like going,” which under most circumstances, is a very temporary and even half-hearted comment, but you can build on it. For example, tell the child that you will call the other parent and ask if this one time he does not have to go. You are signaling to the child that decisions are based on his temporary feelings; this makes your child feel powerful and want more control. The resistance might grow into a powerhouse refusal to see the other parent.

This might seem extreme to you, and you might wonder why you should give this a try. You just need to see what happens in litigation to appreciate the dynamic and excitement of merely having a child refusing to go to the other parent. It can (and does) get really crazy, where everyone takes sides, and more and more cooks are introduced into the kitchen. Before long, you might have 6 or 7 more professionals involved, all trying to get to the bottom of things or fix the problem. The drama of the alienated child family dynamic is amazing. The agony grows exponentially, not only for your ex but also for all of those helpless professionals. Your child will love you for being on her side, and she will love running everyone ragged simply by refusing to see the other parent. Children worth their salt can think of enough complaints about a parent to at least make the refusal sound reasonable. Most of the professionals will be a little ambivalent about the

situation. Adults get to choose who they associate with, and who they don't. They ask: Why shouldn't this quasi-mature teenager be able to make that choice?

There are also some other hidden benefits. Often, you can disrupt the relationship between the child and your ex all the way to adulthood. Then, you might be lucky enough to have what is called a "boomerang effect." As an adult, alienated children often turn against the favored parent and become alienated from that parent; that is you. In other words, you are now off the hook with your young adult child. You will have no obligations. You will not have to help plan the wedding or even pay for it because you won't be invited. You can sit in your yard and have a cold one and not be bothered with those pesky grandchildren. Just think of it. You might also have lost contact with a lot of your friends, and even your extended family, who all got tired of listening to all of the problems with your ex. They will think it horribly unfair that your child has now turned against you, but they might partially blame you for that. They might even contact your ex in order to see their grandchild. You might end up rid of the whole bunch of them. Do you remember being 14-years old and wishing more than anything to be rid of your parents and even your siblings? This can be accomplished; it can be a dream come true. But is it?

CHAPTER LESSON: The accuse-defend dynamic usually works well for the accuser and poorly for the defender. Get into the role of the accuser as soon as possible to avoid being in the defender role. The best accusations have an element of truth, but do not underestimate the usefulness of fictitious accusations. However, remember opportunity, physical evidence and witnesses to avoid being found out as a liar. If you can take the accuse-defend dynamic to the level of alienation, you can create a real circus.

Chapter Eight: Collusion is Important

A really nasty divorce makes a person feel “real.” Remember how “real” you felt when you were first dating? Remember how “real” she seemed to feel? You know that you did not believe that anyone could really love you, and there it was: someone did. She couldn’t get enough of you and you couldn’t get enough of her. Then you began to run into the big “IF’s,” “If you really loved me, you would . . .” fill in the blank. “You would have called,” “You would not talk to me like that,” “You would not have stayed so late working on your car,” “You would feel like having sex whenever I wanted sex,” “You would have gone with me to my parents for dinner,” and the list goes on. It felt so good to feel “real,” but the feeling was going away. You were colluding with one another to convince yourselves that you really could be loved, but you could not have done it alone. You needed someone to collude with you. Otherwise you would have been a pathetic sob-story pining over someone who would not give you the time of day.

No one can feel “real” all by themselves. To be honest, this is not entirely true. Take the saying, for example, “Absence makes the heart grow fonder.” It is not really the absence that makes the heart grow fonder; it is our imagination. When not in the presence of the Other, we can imagine that he is again the Other that made us feel *real* when we first met. This is complete imagination, because when you see him again, he has just smelled up the bathroom, and there are still some suspicious yellow spots on the toilet seat. Keep this in mind because the proper use of imagination can greatly help in the quest for a nasty divorce. Our point here is that you must collude with the Other, either in reality or in your imagination, in order to feel *real*.

The key then to a really nasty divorce is the relationship with the ex; there must be collusion. There is both a mindset and a set of techniques for accomplishing this task.

First: the mindset requires the absolute rejection of the way things are, in favor of the way things should be. Your focus should be the way your ex should have been in the marriage and the way he should be in the divorce. He has to do the same. This opens Pandora’s Box for criticisms, because you are always measuring each other against the standards of what you think the other person should be, instead of what they are. With this in mind, when you criticize one another, you are, as they say, “Only being honest.”

Second: the mind set relies on both of you taking everything personally. If she is late, it is not because she got caught behind an accident on the road; she is late because she doesn't respect your time and wants to mess up your day. When he did something really fun with the children, he was trying to get them to like him more than they like you. You might find this a little difficult, especially if something novel happens, but with practice, you will be able to achieve this harbinger of misery. When you do not take things personally, you have the apathy of being unaffected by the doings of your ex. Of course, it is true that most of what your ex does is not personal, but don't let that stop you. By taking everything your ex does personally, you will really ache, get murderously angry and creatively plan retribution. Your ex colludes with you by also taking everything that you do personally too.

Third: the mindset is always facing the past, not the future. After all, all of the transgressions are in the past. What about the future can you be angry about? You see our point. By looking to the past, you can always conjure up justifications for your anger and shame. The past is a reliable source of material to feed the fires of your nasty divorce. To help your ex play her role in the collusion, you have to guard against her taking a future perspective and to keep the conversation, or deadly silences, focused on the past. If she says, "Can we switch weekends next week?" your retort can be, "Remember what happened when I asked to switch weekends?" She was facing the "wrong" way - the future, but you turned her around to the past.

Fourth: the mindset is undergirded by the connections between what to others might seem trivial and unrelated events. For example, a bag of clothes comes back from the ex with the children with dirty underwear the weekend before your wedding to your new love. Get the connection? Okay, it might take a little imagination, but that is what a nasty divorce takes: imagination.

Let us give you a hint; remember to take everything personally. Now do you see the connection? Let's try this again. Your 8-year old daughter comes to your house and over dinner mentions that she had a great play-date with her mom and with a man and his 8 year old daughter. She also tells you that she is not hungry and asks if she can call her mom, your ex. Do you let her call or do you divert her attention? If you can see what is really going on, of course, you do not let her call. If she calls, she will be taking the first step towards replacing you with her mom's new boyfriend. You see, you have drawn the connection between a play date, a man, your

child having a good time and a phone call. You have figured out that your ex is trying to replace you with her boyfriend. If you were in a boring amicable divorce, you would dismiss these thoughts and connections as jumping to a lot of conclusions with no evidence. Do you see the difference in mindset?

Fifth: never solve a problem. The best way to perpetuate a problem is to avoid solving it. Take the following example. Dad is concerned about mom letting the children ride bicycles without helmets. Mom and dad can choose one of two paths: they could solve the problem or they could avoid solving the problem. If they choose the former, it might go something like this. Dad calls up mom and describes his concern. Mom reassures him that it is only when the children are riding in the yard that she does not insist on helmets. She considers that safe, and if they ride elsewhere, she insists on helmets. Dad is reassured but still concerned. Mom states that she disagrees, but wants him to feel the children are safe with her, so she will insist on helmets all of the time. Dad thanks her and it is over. Done - the problem is solved and there is nothing left to talk about. So boring!

What if they choose the latter, keeping the nasty divorce alive? Dad tries to influence the children and convince them to wear helmets all of the time. The children promise, but of course, used to adapting to the two separate homes, they do not. Dad checks up on them by driving by, sees that they do not have helmets on and calls Child Protective Services, who investigate. Of course, the investigation goes nowhere, but mom is really defensive and angry. The situation escalates to the point that each of the parents has five or six concerns being litigated in court, each trying to get their ex do what they want them to do. Do you see the difference? In the former case, the Ex's have nothing more about helmets to discuss and do not even have any reason to bring it up again. In the latter case, the argument goes on and on, and they can keep bringing up the problem for years. Perpetuate; don't solve.

CHAPTER LESSON: The nasty divorce is achievable only because both exes collude. They both have the proper mindset: they both stay focused on the way the other ex should be, instead of how they are. They take everything personally; they are always focused on the past and bringing up past transgressions, real or imagined; they get the "connections" between otherwise seemingly trivial and unrelated events; and they perpetuate rather than solve problems.

Conclusion: Falling out of Hate and Finding a Better Alternative

By now, you must see that a really nasty divorce absolutely requires collusion on the part of the Ex's in the nasty relationship. Only with a willing partner can two Ex's make themselves feel *real* by being pumped up emotionally, even at the thought of the other and even at the mention of her name. Each must be willing to play their roles, and here is the important point: the relationship can never change, not even the slightest, or the "game" is over. In a really nasty divorce, even ten years after the divorce if you speak to one of the Ex's, it will sound like the divorce happened yesterday. This is because the relationship has never changed.

All this sounds simple and indeed is, for a short while. But time marches on, children grow up, Ex's get remarried and perhaps even do well financially. Ex's are constantly tempted to change the relationship. They profess that they cannot wait to be rid of one another, but where would they be without the nasty divorce? It is part of their identity. Imagine a mother no longer having children. Empty. Ex's play the pretend game of trying to free themselves from the emotional grip that they have on one another, but their worst fear is that the grip will come free and they no longer have the colluding partner. You see, the other half of the formula, of wanting to free oneself from the ex and her wanting to free herself from her ex, is that they also both desire to "enslave" one another and be enslaved by one another. They still just want the other person to be the bit player in the "good divorce" [for me] movie.

The parties were unable to control each other while married, and make each other play the roles of good spouses, so they had a nasty marriage and got a divorce. Now, they are still unable to control each other and make each other play the roles of good Ex's. They can never give up trying if they really want a nasty divorce.

You ask, what can you do if your ex will not collude with you to have a really nasty divorce? What can you do if you have the right mindset, but your ex does not? What if you try the techniques presented in this booklet and your ex will not play his role?

Soon you understand that the following: 1) If your ex will not play his role, you stick out like a sore thumb as either nuts or pathetically bitter. 2) Your children start ignoring you and patronizing you. 3) If your ex treats you

with tolerance, respect, kindness and sadness, you start to fall out of hate. 4) If your ex tells the children to love you and that you are doing the best that you can, you fall out of hate. The collusion is over!

Allan Watts, a famous psychologist and author, once wrote that life is a game where the first rule of the game is: This is not a game, this is serious.

- What happens if your ex will not play the game with you?
- What if your ex turns every Zero Sum Game into a Non-zero Sum Game?
- What if she does not take anything you say or do personally; when you ask for extra time with the children, and she says “yes,” unless she has plans that she cannot change?
- What if he will not have arguments over the past and only speaks about the future?
- What if she accepts herself for who she is and you for who you are?
- What if he greets you with a smile at children’s events?
- What if she never jumps to conclusions, changes her beliefs when she gets new information and apologizes when she makes a mistake?

***Well, sorry.
The game is over.
If you keep playing the game when your ex will not,
you look like a fool,
you feel like a fool and
actually,
you are a fool!***

This might seem “sad” to you; but hopefully not. However, remember what Oscar Wilde once said: There are two tragedies in life, not getting what you want and getting what you want. Or, remember what George Orwell once wrote: Revenge is sour.

It might not seem “fair” to you that your ex can ruin your hopes for a really nasty divorce, but remember what your parents said when you were young, “That’s not fair,” “Life is not fair.” The reality is that without your ex colluding with you, and without you colluding with your ex, it is **impossible** to have a really nasty divorce!

Get it?

OK. Perhaps you have decided to find a better alternative to the nasty divorce. Here’s where you can start- by reframing each of the eight chapters of our Booklet:

Chapter One: Make every issue a Non-zero Sum Game.

Chapter Two: Always play Sequential Choice Games.

Chapter Three: Never claim you own your children.

Chapter Four: Sad is always better than anger and blame.

Chapter Five: Look for solutions that are good for you and for your ex, with planning based on goals.

Chapter Six: Always start with individual items and build the settlement package inductively.

Chapter Seven: Don't buy into the Accuse-Defend Dynamic, Fictitious Allegations and Alienation.

Chapter Eight: Break the bond of collusion: accept the way you and your ex are; don't take things personally; focus on the future; don't jump to conclusions; and solve problems when they come up.

Conclusion: Don't fall in hate.