

Chapter 8 – Divorce Drafting

“Divorce was even presented as a chance for inner growth and self-actualization. But the moral tides are turning, and people are showing a greater concern for the social cost of family breakdown...”

- Chuck Colson, *How Shall We Now Live?*, 1999

By now, I have made my view of divorce very clear; not only the social devastation to families (and children in particular), but also the business or greed of this legal proceeding. No-fault divorce has not only opened the doors, but also the windows to so-called individual rights at the untold cost of children’s welfare and well-being—while proposing the notion that no-one is at fault. Imagine a war or battle where no one is at-fault in spite of all the destruction and devastation; or the taking of an innocent life (without provocation) where no-one is at fault or in the wrong. The term “no-fault” applied to divorce is a contradiction unto itself and, as will be described in a brief history below, is not the result of human relief or charity but, instead, of the state replacing the church as the custodian of marriage.

In the early 1900’s, a form of no-fault divorce was instituted in Russia with the understood basis to be the **replacement of ecclesiastical law** with civil law—or with the replacement of the church by the state. Coincident to this change was the creation or formation of communism (Russian Revolution of 1917); thus, the underlying if not evident influences or political motive behind the change. In this country, similar “reform” took place in 1970 and, without much detail, spread across our land by 1983. In the most basic understanding, no-fault extends divorce beyond the basic, traditional causes (adultery, abandonment, and abuse) and limits the decision of divorce to exclusively one spouse. Judges and lawyers have been given the dubious honor of originating and promoting this extension, and perhaps have a sound reason for having done so. Still, one cannot overlook the statistics that bear-out the consequences as, during the matching time period, divorce in the U.S. has skyrocketed.

The divorce rate has shown some recent retraction but so too has the marriage per capita. From a recent article in msnbc.com entitled: "U.S. divorce rate falls to lowest level since 1970", the following summary:

America's divorce rate began climbing in the late 1960's and skyrocketed during the 70's and 80's, as virtually every state adopted no-fault divorce laws.

The article notes that a recent decline in the rate, apparently with status quo for no-fault divorce law, is due to a declining rate in marriage per capita:

The number of couples who live together without marrying has increased tenfold since the 60's; the marriage rate has dropped by 30% in the last 25 years...

Yes, divorce has declined, but so too has marriage. But what about the profession of law; specifically, what about growth of this profession during the matching time period for this social trend called divorce? Well, as you probably guessed (or are aware), the profession has realized radical growth. It would be too careless to suggest or imply that one has a direct correlation to the other; but can you deny or overlook the relationship in the view of the originators of the extension and the consequences to marriage? Can you deny that divorce is not big business for the legal community? The truth is that, sad though it be, "the state" has fostered the divorce rate by essentially taking the authorship and authority away from the church. This taking of marriage has reduced the institution from some semblance of holiness and covenantal responsibility to a license revocable for no cause or fault. From a legal aspect, marriage is only a license that generally involves a nominal fee or cost; but in relation to the "divorce industry", divorce is a boom!

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The **good news** is that some sources within our society have (and are) opposing this *extension* of divorce. According to sources cited in wikipedia.com:

Members of **fathers' rights movements** propose "reasonable limits" on no-fault divorce when children are involved. Other commentators on no-fault divorce propose an amendment (to no-fault divorce) to create a presumption of custody of any minor children for the respondent (who is innocent or does not wish to divorce) regardless of gender. Tim O'Brien, a proponent of the proposed amendment and a Libertarian, predicts that the proposed amendment would result in a plummeting divorce rate, and would reduce the negative consequences of divorce for children.

Sounds good, but what would happen to the burgeoning percentage of attorneys—or to this very profitable industry? Why don't we ask the children—since they have a stake in this...as do their children...and their children...?

Some children (or a sample) have been asked (on this matter of divorce); not necessarily by their parents, but referring to the classic study by Judith Wallerstein. From the study, she presents the following on the feelings of children about divorce:

Children of all ages **feel intensely rejected** when their parents divorce. When one parent leaves the other, the children interpret the act as including them. Children **feel intense loneliness**. It amazes me how little support they get at this time, even from grandparents. Divorce is an acute, painful, long-remembered experience that children must often negotiate with the **sense that they are alone in the world**. All support, even their parents, seems to fall away. There may be no one to talk to, nowhere to turn.

Left to the children, what might they have to say in each personal case? Can they understand the concept of "no-fault" in divorce when, according to the study, they (the children) **can believe that they too are at fault**? From his own fifteen year study, Robert Warshak writes in *The Custodial Revolution*:

The situation is appalling and getting worse; our record-high divorce rate creates new victims daily, but no new solutions. As the worst battle scars are born by the children. Mental Health experts agree: **one of the leading causes of emotional problems in children of divorce is the diminished contact with their fathers.**

Where have all the fathers gone? To date myself, this question impulsively invokes the 60's folk song by Pete Seeger—although it mentions nothing specific to fathers or children. If the song did (or could) post-add these characters, what might it conclude or reason?

Also at stake is what is referred to as **the greatest social crisis of our day**; yes, I mean the diminishing of dads in households and families. On the decline of marriage and the “disaster of fatherhood” in our culture, David Popenoe writes:

The decline of marriage is a disaster for fatherhood. Women have always been able to view marriage and childrearing as somewhat distinct institutions. Whatever their marital state, women bear children they generally assume responsibility for those children and continue to care for them over the course of their lives. **For men, this is not the case. Men tend to view marriage and childrearing as a single package.** If they are not married or are divorced, their interest in and sense of responsibility toward children greatly diminish.

As marriage goes, so does fatherhood; and the trend toward fatherless homes has grown and continues to grow—through both the destruction of divorce and the decline of marriage. You may already realize this social trend, but you may not be aware of the dramatic and alarming statistics associated to fatherless homes. At the risk of getting off the intended topic—though offering the essence of why divorce is so destructive—let me assure you that the risks and consequences of divorce (to children and families) will be re-visited with depth in the chapters to come.

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Well, now that you have a taste of the general industry along with the social crisis and tragedy, allow me to get personal; or to elaborate with some repetition of my own recollection and regrets of divorce. My general sentiment—if not already presumed—was to avoid, avert or altogether abstain from divorce. My belief is that, if you consider the possibility or practicality of this alternative, you are more-likely to exercise it. Even if your thinking is to express the “D-word” for control—or to invoke fear—you are *playing with fire*.

This reservation or practice was not true of my ex-wife however, as the “D” word” became a standard for her dictionary of terms and conditions (“Demarcation Drawing”) for control. When conversation turned to conflict and reason gave way to rage, the “D” word” was deployed as an ultimatum or *final solution* to the moment. I admit that to simply hear the word was sometimes enough to get my attention and to acquiesce to the alibi—if there was one—that whatever caused her anger in the first place was beyond question or conclusion. I seldom understood why she would become so angry and, without her willingness to help my understanding, stood little opportunity to draw conclusions. Oh yes, she did draw a “Demarcation” (as described in the last chapter), but when the lines change without explanation, the intentions seems more about control and less about conclusions.

My divorce was not the consequence of adultery, abuse, or abandonment; but as my wife (at the moment) blurted out to Judge Debra Turner, “He does not make me happy.” In hearing the statement—which I’ll never forget—came both the sadness that her decision was based on her wanting for happiness, and the shock that she was finally admitting the truth about her decision for divorce. But to carry truth further, her happiness was being predicated on the wrong person; or in other words, her misguided belief that her happiness hinges on her husband. When all the paperwork has been written and filed, and the attorneys have done their *dirty work*, the divorce occurred because my ex-wife was not happy and elected to divorce presumably and expressible to pursue her happiness.

Did she not realize that this pursuit was doomed from the beginning; did she not realize that happiness is momentary and conditional—often predicated on events occurring over a relative instant of time? For example, she used to get very happy when her college ball team one a game—which was often. But let them lose on that rare exception and the effect was the extreme. I know, it’s a role reversal, but the example serves to describe the whimsical and conditional nature of happiness.

I don't know if she will find happiness but, having already been discarded as the cause for her unhappiness (that's me), I hope she someday will truly find what she evidently and desperately wants. At least, we all hope she does! At the same time, I must continue to wonder how my children are doing—and how they are coping with the *furious winds, demarcations* and conditions for her happiness. It must be Hell if the condition for happiness now rests with them.

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When we went to court the first time, I had an attorney that had been referred to me by, of all people, the pastor of our church. The pastor had well advised me I'm sure—although my reluctance was the hope that the marriage could be saved and the realty that our finances had been ransacked by my wife. Still, dealing with creditors was relatively simple compared with the very real possibility that I was about to lose my family.

In the months leading up to the divorce, she had withdrawn from our church. Within the church, an apparent friend had first entered her life while we lived in Florida; a daughter of one of our neighbor's. Sharing a similar family size and situation as we had, her friend was trying to become a friend; but again, my wife cut that tie as she did all ties to our church.

Cutting-off relationships—to include family—was not unusual but, as I've described, was another means or *device* of control. I could not force her to return to church, to shore-up or reconcile with her supposed friends, or to do much of anything. I had asks her to move from Florida to Georgia; and now, for a second time, she was proving it more than she was capable of doing. It was northeast Florida or nowhere; it was within shouting distance to her mother—whatever the cause for shouting—or nothing else. Of course, she also cut-off our relationship too; but ours is not the last.

I have tried to excuse my profession as being nothing in the way of a counselor when it comes to people and their problems. My only claims pertain to this marriage of fourteen years and the bits & pieces of wisdom and understanding that ideally has occurred through both failure and friendship. On this recurring reservation is the related risk to say something that is *beyond my years* or completely wrong. For example, the earlier comment about my children, “it must be Hell for them”, could be wrong; and as the reader (whoever or whatever you are), other statements (of mine) may have similar issues or error.

When I desired to move to Georgia for the first time, it was for a job; and when I desired to move a second and final time, it was for a job too? But there was also some anticipated benefit for her and for the children. The children would be geographically closer to my parents who had been very active in their lives.

The closeness of family was important to me (as it was for my wife); but the difference was that her mother and step-father were not nearly as able (or willing) to care for the children and to spend time doing meaningful things with them. I saw the move to Atlanta as very beneficial to the children but association that my own experience with my grandparents and paternal family. In the end (or shortly after the divorce), the “terms and conditions” would be re-instated that all-roads end in northeast Florida, and anywhere else is nowhere. Her eventual return to Florida was inevitable.

During her absence and development of the divorce, our financial status *went south* along with her: she borrowed \$11,000 from an equity account that we had set-up; and what’s more, she liquidated our checking account. Not bad for an accountant, don’t you think?

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In the months to come—and after her return (to our residence) at her own volition—she was never ask to account for these monies. I did not press her because of the tenuous nature of our relationship and the likelihood that most of borrowed funds had been expended on an attorney and her living expenses in Florida. It may seem passive and irresponsible to have avoided the issue, but my prevailing desire to save the marriage and reassure the children was more important at the moment. A recovery plan or any possible response to this enormous spend was not yet eminent.

During that summer, my wife re-assured me that her intention of divorce— though still pending— was not going to be carried out. Yep, you guessed it! I believed her or, should I say, that I desperately wanted to believe her.

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On her return, she also expressed the desire to get re-certified as a CPA and indicated that she would need additional help with the children. Yep, you guessed it! I offered to help and thus, spent many a weekend caring for and doing things singularly with the children. She studied for the CPA and made final preparations for her divorce—all under the guise of good intentions and marital faithfulness. Any number of sayings may come to mind, such as: *all's fair in love and war* or *love is blind*; but I'll just stop there.

Her last opportunity to follow-through with her intention of divorce came in September. While traveling on business in Philadelphia, I received a call from her attorney. Informing me that my wife and children were temporarily living in a hotel, the attorney made "the suggestion" that I move out of the house such that my children could return. Yep, you guessed it! I moved out of the house on my return so that my children could return to their rooms, their house and some stability if possible. Two weeks later the divorce happened—contrary to what my wife has said that summer. Oh, and did I mention that, in my wanting to believe her, that I relieved my attorney? I know, another saying: *a fool is born everyday*.

Thus I went to my divorce trial without an attorney—and with only a type-written, self-composed letter to the judge. In the closing of this chapter, I (the fool) now share a condensed version of the letter with you.

The development and well-being of the children have and continue to be of primary importance to me. Of particular need is that they remain together, and they understand to the degree possible, that they are blameless.

As a father, I have been actively involved in the children's lives at church, scouting, school and home. As my children will attest, I talk to them, read to them and prayer with them during the week. In the words of one of Vicki's friends, "I have been more involved with the children than most fathers."

My interest and involvement with my children have been for two reasons: I love the children dearly and want to be actively involved in their development; I love their mother and enjoy giving her as much children free-time as possible. Although my involvement has and will likely be involved by the divorce, my interest and sense of responsibility will not change.

In the continuing and exhaustive content of this letter (or testimony), I discuss the history of our conflict and my impression and understanding of her behavior or anger. As having read this document since that time, I realize that my heart was broken and that I too, was angry—not because of some unresolved matters pertaining to my mother (and father) but because I did not want to be a part of the present tragedy. In the closing statement, and again with some abbreviation, the following:

My love for her remains true, and as I indicated in the hearing in April, I do not agree with divorce simply because I do not believe that there are grounds for divorce. However I do believe that her anger, as manifested in her noted actions, is beyond my complete understanding and ability to help....

Although she sees this divorce as her gateway to a better, happier life, the contrary will occur. She will be working full-time and carrying the bulk of the parenting responsibilities—of which she has not had to do previously. I believe that her circumstance will only exacerbate her behavior and that anger, now directed ostensibly at me, will be diverted to the children in some form over a period of time.

There is a fine line between love and foolishness; indeed, the saying that *love is blind* does have some connotation to foolishness. My reason and rationale for choosing to believe my wife (at the time) was because of love for her and a desire for the marriage to last. Some may argue that I went too far—and that I should have been more assertive—and perhaps they might be right. But with children involved, this war called divorce—or *The Mess*—is a delicate matter that sometimes warrants placable rather than punitive principals, and trust that God honors our choice just as God honors marriage as a covenant.