

FREE REPORT

THE TRUTH ABOUT MASSACHUSETTS DIVORCE

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**Irwin M. Pollack,
Attorney at Law**

SPECIAL REPORT

The Truth About Massachusetts Divorce

Any man or woman contemplating divorce, in the middle of the divorce process, or weighing the advantages and disadvantages of going back to court is under a great deal of stress.

I know, because I went through my own bitter divorce battle years ago.

It doesn't matter which stage you are in, but it is critical that you learn the steps and strategic moves you can make to successfully plan and execute a successful court action in the Worcester Probate and Family Court.

No matter where you live – Worcester, Fitchburg, Leominster, Milford, Shrewsbury, Gardner, Westborough, Southbridge, Webster, or Auburn – everything is at stake now.

This is The Truth About Massachusetts Divorce.

Do not assume that your spouse will be fair. You must be prepared for battle. Any type of Complaint – paternity, divorce, custody, modification, or contempt – can be a long, drawn-out nightmare for those who do not take action and prepare.

First things first...

Whether you are the one filing for divorce, or if you've been served with papers, it's imperative that you consult with an attorney so that you know where you stand and what options are available to you.

My name is Irwin Pollack. I'm the Founder and Lead Attorney of The Massachusetts Family Law Group. While our regional headquarters are here in Worcester, we have five offices in Massachusetts. We provide a "statewide brain trust" of divorce and family law representation.

As both a divorce lawyer and a divorced parent myself, I'd like to think I have a distinct advantage over other attorneys or law firms in Central Massachusetts. After all, as you share the story of your marriage – along with the anguish, lies, deceit and empty feelings – I'm one who can look you in the eye, tell you how I understand and speak from experience when I assure you that you will get through the storm of your court battle.

Here's the best part: The strategies that my attorneys and I can help you with come from the tested and proven playbook that we used when some of us got divorced.

The tips, ideas, suggestions and recommendations listed below are all intended to help you. Moreover, I'm not so sure that I'd call this legal advice, but rather common sense about what to do and how to accomplish your goal.

With the exception of Number One, my tips are numbered for ease of reference – in a chronology as you go from the pre-planning stage to post-litigation. All the suggestions and ideas are equally important, and if you can use even just a few of them, your experience with the Worcester court should be much easier on you, your children and maybe even your soon-to-be former spouse.

1. Can you and your spouse agree to settle your differences on your own – without the need of going to court? Realistically, if you're reading this Report you have probably reached the point in your life where going before a judge seems like the only option. But take a step back and ask yourself whether the two of you can put the emotion aside and take a business-approach to resolving your differences.
2. Fully realize that planning for your divorce or Worcester Probate Court matter requires a minimum of six months. What does that mean? It means that once you have made up your mind to divorce or litigate some other matter, you must have the staying power to hang in there long enough to develop your master plan. Just as a General in the army doesn't just move in and attack, you cannot plunge into a battle without planning ahead. The saying goes "ready, aim, fire;" not "ready, fire, aim!"

Furthermore, whenever you file an action with the court, you must provide the court with a copy of your Financial Statement. This assessment of your life becomes the basis on which the divorce court makes alimony, child support and child custody decisions. So, by now it may be too late to really do anything significant to improve the outcome of your case.

3. Create a "Document Checklist" and photocopy or scan the following list of documents. Note: Even seemingly unimportant papers help trace hidden assets and income, so copy everything. Copy or record all hand-written notations that may lead to additional documents. If your (former) spouse owns his or her own business, or you suspect they aren't being upfront about the finances, hire a forensic accountant or business valuation expert to scrutinize your joint assets.

Document List

- Address books and contact lists – both hard copies and online versions. The captured names and addresses will help you prepare subpoenas for documents and depositions. Don't forget mystery numbers either. Initials or numbers are identified through reverse directories.
- Federal and State Tax Returns for the past five years
- Business Records and Financial Statements – because tax returns don't tell the entire story, you should identify any separate real estate that may need an appraisal. Also, expense accounts at your spouse's job might give you clues as to marital conduct, hidden assets or unreported income.
- Small Business Ownership Records – Any information you obtain is helpful in appraising the value of a business, including buy-sell agreements, key-man or life insurance, non-compete agreements, financial statements and more.
- Employment Benefits – This is a favorite of mine! To me, many benefits can be considered either income or an asset and should be included on the list of inventory of the marital estate and subject to Massachusetts' equitable distribution analysis.

Identify any clothing allowance, company car, employee benefits brochures, expense accounts, medical or life insurance, profit sharing programs, stock purchase plans, etc.

- Loan Documents and Applications
- Bank statements, copies of both sides from cashed checks and checks cashed from third parties.

- 4.** If you are pursuing a divorce action, before you actually file there are three steps you must take:
 - Consult privately with your accountant before discussing anything with your spouse. It is essential to know your own financial position in the event of divorce before making your desire for a divorce known.
 - Consult with a divorce attorney before discussing anything with your spouse. This can prevent crucial errors and save a great deal of time and money during any legal matter.
 - Do not leave home before you and your spouse have a signed separation agreement. If you are in danger, follow your attorney's instructions carefully.
- 5.** Don't assume your prenuptial agreement is carved in stone. The validity of this agreement is fact-based. The most common reasons that a prenuptial agreement – or any provision within it – may be held to be invalid are: no written agreement (it must be in writing to be enforceable); one of you was pressured to sign the agreement; there were invalid provisions (such as self-modifying, court-ordered support payments); or incomplete information. When you consult an attorney, let him or her apply the facts in your case to the legal standard required in Massachusetts.
- 6.** If you want to try to negotiate a settlement agreement, which would address issues relating to property division and a parenting plan, negotiate from the position of strength. You should first concentrate on what the two of you can both agree on. Accordingly, before you even begin a discussion you should analyze what you want and what your spouse will want. Then, think about when the proper time might be to begin settlement discussions and where the best place might be.
- 7.** Most divorces, custody battles, or other court-related actions come down to economic exercises. Because of this, you should know where you stand – now and in the future. Have you done a household budget? What do your household expenses add up to?
- 8.** If the issues of child custody, visitation and the parenting plan become contested issues, be very familiar with your children's lives. Do you know their daily routine, who their teachers and after-school coaches are? What is his or her favorite team? Who are their closest friends? This is a wide open area for cross-examination and you don't want to lose face on the stand.
- 9.** In order to keep your legal fees down, be ready to do some homework. Example: You can do your own financial statement. You can do your own Rule 410 disclosure. You can tell your attorney (and ultimately the court) the story of your marriage – as it relates to those 21 factors which determine your equitable share of the marital estate. Sure, your attorney will help you...but you can do the heavy lifting in this area. As attorneys, we know the law... but you know the facts about your marriage!
- 10.** Adjust your estate planning documents now. You don't want your (soon-to-be) former spouse to get all your assets, and you surely don't want them to have the authority to tell the doctors to "pull the plug" on your medical care. Similarly, it is a good time to begin reviewing all your insurance protection. Think about all of it – home insurance, disability and life insurance, medical insurance, etc.
- 11.** As you begin to discuss the divorce with the children, adapt your explanations to each child's age and maturity. Play smart – this will likely get you more time with them.

- 12.** During the negotiation process, analyze and then negotiate responsibility for your children's education costs and their future. Suggestion: Whenever you and your spouse are deadlocked on a monetary point, take the difference between the two of you and put the same in a trust or educational account for the children. As Officers of the Court, we often find that one parent doesn't want to give money to the other, but when it comes to giving money to the children, most are able to come to agreement.
- 13.** Understand the Massachusetts statute as it relates to "equitable distribution." The judge is ordered to divide the marital estate equitably by applying those 21 factors as outlined in M.G.L. Ch. 208 Section 34. The most important thing to remember is that equitable doesn't mean what may be fair; instead, it turns on what is equitable based on those specified factors.
- 14.** Always assume the issue of hidden assets will become an issue at some level. Your spouse's accountant will find the bank transactions you forgot and you should do the same with the bank (and other) transactions your spouse forgot about.
- 15.** You should know the special tax laws that may affect the sale of your former marital residence.
- 16.** Because so many people going through divorce or contentious legal battles are under financial stress, they often think about the possibility of bankruptcy as a way to get control of everything. Especially in cases of an imminent divorce, when the parties have overwhelming debts, bankruptcy may be a way to deal with the financial issues.

You have legal options. Learn more by calling **(800) 970-LAWYER**, and set-up a **FREE**, no-obligation consultation with one of our attorneys. We handle both divorce- and bankruptcy-related legal matters.

There are hundreds of ways that you can minimize the pain of what lies ahead. These "moves" that you can make – just like the ones you have just read – can put you in a better position when walking into the Worcester Probate and Family Court.

Preparation for your divorce, or any other type of family law matter, is the most important test of your life. Studying for a high school test or college final is easy – the information is readily available from the textbooks and study aids.

This is a different deal. Preparing for your court battle is a far more difficult test. All the information needed to ace the test is hidden.

You have to dig for it. No one has ever taught you how to prepare for this.

I can help. For questions, or to set-up an appointment to review your legal matter, call my direct line – **(781) 708-4527**. Rings right at my desk. I look forward to hearing from you.