

# Why Your Divorce Lawyer Can't Protect Your Finances



Getty Images—iStockphoto

By [MELISSA MONTGOMERY-FITZSIMMONS](#) - February 16, 2016

Getting divorced? Be forewarned: Hiring your own financial adviser—right away—can be the difference between a workable settlement and disaster.

As a financial planner and estate attorney, I have found that too often in divorces, divorcing spouses each hire their own lawyer but not their own financial adviser. It's a mistake that many wealthy people make, and one that can make them a lot less wealthy.

For example, one woman I know of was happy to get the family home in her divorce settlement—only later to discover that her husband had taken out a home equity loan to fund a high-risk investment. He had never told her about the loan, and his investment never reaped the rewards he had hoped for.

The couple's financial adviser, who was still working with both spouses, did not know that the husband had not told his wife about the home equity loan.

The divorce left her owning a property that carried twice as much debt as the original mortgage, and she had difficulty making the payments. Her finances and credit were ruined.

Unfortunately, most people seek financial advice only after the divorce, once things have already gone awry. It's an easy mistake to make. Divorce is a stressful and overwhelming life event, and people would rather not add a new person into the mess. Rather than seek out a new financial adviser, one or both parties rely upon a lawyer or tax accountant to create the plan to separate the assets.

As both an attorney and a financial planner, I can assure you that law school does not provide the necessary training to competently offer financial planning advice. Your lawyer simply does not have a financial planner's expertise to calculate and quantify your long-term needs—everything from retirement to insurance to college savings and trusts. Divorce can create a personal financial crisis, so it's a critical time to have someone in your corner. Sharing a financial adviser with split loyalties is a recipe for disaster.

### **Unequal Assets**

The spouse who takes custody of the children will often push for ownership of the home because of a strong emotional attachment and a desire for continuity for the kids. As a result, one spouse might get the house while the other gets the liquid assets. This can seem like a fair trade.

But while \$1 million in blue chip stocks might grow in value and pay dividends, a \$1 million home requires insurance payments, upkeep and significant maintenance costs. An independent financial planner can help make sense of such situations.

Similarly, different assets can come with very different tax liabilities, and financial advisers can help account for such complexities.

Stay-at-home spouses, whether male or female, tend to need independent financial advice the most. They might not have handled the finances in the past, and they may not have the trusted business contacts who can connect them with the best advice.

That was the case for a woman who turned to her own father, an attorney, for divorce advice. After all, she thought, if anyone would have her best interests at heart it would be Dad. But he also represented her husband's company as corporate counsel, which was a serious conflict of interest. After the divorce she ended up unhappy with her financial situation and regretted her decision.

Another common problem in divorce is that one spouse can try to hide assets—for instance in an out-of-state limited liability company. A financial adviser knows how to look for such hidden assets.

Many financial planners contribute to the problem by trying to keep both parties in the divorce as clients because many are compensated by the amount of assets under management. That's a conflict of interest as clear as if one lawyer represented both parties in a divorce.

Ideally, if you're about to split up, you should find your own financial planner before even calling a lawyer. A full understanding of the household's finances can significantly influence the settlement.

-----