

## **Divorce sucks (a view from the trenches)**

### **Part III**

#### **Divorce Wars/Legal Strategies and Myths**

The cost, effectiveness, pain, and complexity of a divorce is frequently directly related to that point in time in which the man and woman accept an emotional divorce. Generally, the divorce commences at the time of the filing of the petitioner's original petition and ends, absent appeal, thirty days following the entry of a final judgment of divorce. The emotional divorce, however, may occur prior to the commencement of the action, during the commencement of the action, or following entry of a final judgment. Likewise, the emotional divorce may be accepted prior to the commencement of the action, following the filing of the original petition or after entry of a final judgment. Although there are a number of cases in which fault primarily rests with one spouse, experience has shown that emotional acceptance, in the vast majority of divorce cases, can only occur when both husband and wife accept partial fault. In other words, at the core of all marital disputes is the unrecognized and repressed reality that both parties may have made a poor judgment in electing to commence the marital compact in the first place.

Absent adult and real emotional acceptance of some level of partial responsibility for failed judgment, divorce wars can evolve primarily to establish who is "wrong" or "responsible" or "at fault" and generally lead to higher costs, attorney's fees, expense, expert fees and other strategical expenses necessary to fully put forward the position of the client. The ammunition employed by the attorney on behalf of the client is available from a number of categories, including temporary and, in some cases, post-divorce alimony, asset distribution, asset allocation, child support, possession periods with the children, holidays with the children, payment of attorney's fees, depositions, document discovery and analysis, psychological evaluations, drug testing, etc.

If, in fact, the emotional acceptance of the dissolution has occurred prior to or relatively near commencement of the divorce proceeding, it is much simpler and emotionally constructive to address the underlying core issues in the divorce more quickly and effectively. Those issues in a relationship with children, blended or otherwise, should and frequently do in an acceptance situation, revolve around the best interest of the children and the constructive approach to an adult respectful resolution that takes into account the future stability and workability of the husband and wife and particularly the children to a relationship. Frequently, the key to a quick, more cost effective and therapeutic result is the employment of qualified counselors to aid the parties on this very difficult and complicated road that must be walked prior to commencing a different life following dissolution. When there are children involved, the sooner the parties recognize that though they may divorce one another they are not divorcing their children, the sooner the recovery process can begin. Regardless of fault, responsibility or other adversarial issues, for both husband and wife, there will be future soccer games, T-ball games, graduations, marriages, funerals, reunions and other social events which in all reasonable probability, they will both be in attendance. So long as both spouses place the best interests of the child above their own best interest, in a large majority of the cases, regardless of who is at fault, a reasonable and cost effective result may be expeditiously accomplished.