



Beware the Urban Legends of California Divorce

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Those of us who practice divorce and family law in California for a living frequently hear our clients complain that their spouses have made one sort of threat or another... anything from "you'll never see the kids again" to "I'll make sure this divorce bankrupts you," and so on.

Thanks to San Diego family law attorney [Paul Staley](#) for his take on these threats, which he calls "urban legends" because they are frequently believed but mostly not true. I thought I'd share them here with readers of my blog because it is important to understand that these threats are, well... just threats. Keep in mind that there is a big difference between what your spouse says and what the Judge says. And guess which one is more important?

Here are the common urban legends per Attorney Staley:

1. "I'll quit my job before I pay you that much support." Not likely. This is usually an attempt to bluff you into a lower support amount. Ask your attorney whether you should "call" this bluff. Document the statement right away. Write down the date, circumstances and exact words used. Better yet, if the spouse sends this to you by e-mail or, in a letter, save it for use as evidence. Judges do not tolerate this kind of bullying and they can find interesting and painful ways to send that spouse the message.
2. "It doesn't make sense for us to be paying two lawyers; it's just a waste of money that we could otherwise keep. Let's just both use mine." Aside from the obvious conflict of interest here, the spouse making this plea wants to control you and the process by controlling how much advice and information you get. Don't fall for

- this. Good legal advice and representation may not be inexpensive, but often its value is priceless.
3. "You have no right to take what's mine away from me." Usually refers to a pension earned by the complaining spouse. The error is that it's not just his/hers: earned during the marriage, it belongs to both of you. Your request for half of that is fair and the law entitles you to it.
 4. "I'm taking the children to North Carolina (or Texas, or some other place) and filing the case there." If the other parent makes this threat, and actually does move without your permission, it's time to get into Court quickly because they might actually get away with this, at least in part, if you wait too long to do something. There are different rules for which "jurisdictions" can do what, with regard to: children, property, and marital status.
 5. "You'll never see the children again." Usually an attempt to get you to stay in the relationship. California law presumes frequent and continuing contact with both parents is a good thing, so this is seldom a legitimate threat.
 6. "Your attorney is just running up your bill with all these documents he's demanding that I provide. Call him off." Any family law attorney is going to need to see documents which relate to your and your spouse's financial situation. Otherwise, the attorney can't advise you on what you should expect or demand. Trust your lawyer on this.
 7. "You didn't work a day during our marriage, just stayed home and took care of the kids. Hell will freeze over before you get a dime of my retirement." Usually it's a husband who makes this threat, since stay-at-home moms still outnumber stay-at-home dads (about 4-1). A spouse making this threat has no power to make good on it, since the court can and will just order the employer directly to pay the stay-at-home parent.
 8. "I'll go to jail before I pay support to you." Jail time is among several tools the judge has available to enforce a support order, but it's seldom necessary. This is a common bluff. For anyone with a paycheck, it's easy enough to extract support involuntarily, but most people just pay it.

9. "I'll only pay support if I know the money is going to the children. I want receipts for everything you spend that child support check on." California law does not require the supported parent/spouse to account to the other for how the money is spent. Period.
10. "If the court finds out how you've behaved, you'll never see the children." i.e., back off or the mud slinging begins. Family court judges aren't outraged by a lot of things your spouse thinks are outrageous: your promiscuity as a teenager, a several-years-past drug habit, infidelity, moderate drinking, etc. These are things which the judge realizes don't reflect poorly on your parenting qualifications, so he/she doesn't take them seriously.
11. "We'll do this like I say, or else...?" This legend is usually capped off with a threat of withholding money in the form of support and, sometimes, less frequently, a veiled or a direct threat of harm. The law exists to ensure justice and fairness as between adversaries of unequal strength, funding and sophistication. Attorneys work diligently to see that the law is applied to their clients' best advantage. This process works. Let it work for you.
12. "I'll litigate you into bankruptcy. I'd rather pay my lawyer than yours so don't expect me to compromise on anything." It is true, many spouses threaten this hoping you will give up and run. While this is unfortunate that people use such tactics, there are legal techniques to stop the spouse from going forward with this threat. A good attorney can push a case forward to trial. The court can sanction a delaying spouse employing these tactics, making them pay your attorneys fees.

For more information about California family law and divorce issues, please contact [attorney Gary D. Sparks](#) at (925) 465-2500 or (707) 398-6008. Or, send a contact request directly from the californiadorcelawyerblog.com page you are currently viewing.