



Divorce-Ready: 5 Things to Know *Before* You Start a Divorce

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Contents:

- **What you need to know to help you preserve your rights as to children, property and alimony.**
- **How what you agree to or what the Judge orders will affect what you can do later if you have to go back to court for any reason.**
- **How to decide if you need a lawyer or if you can do your own divorce.**
- **How to prepare yourself to meet with a divorce lawyer.**
- **If you need a lawyer, how can you best pay for those services?**
- **What to do next**
- **Resources**
- **Bonus: “5 Most Common Mistakes People Make In Divorce Court”**
- **About Vivian C. Rodriguez, Esq.**

INTRODUCTION AND DISCLAIMER

The information presented in this Guide is simply that, information; it is not legal advice of any kind. You should **not** rely on this information to resolve any legal issues or problems you may have; but, instead, you should seek the assistance of an attorney in your area to give you specific advice for your circumstances.

Reading or accessing this information will not create an attorney-client relationship between you and I.

If you will be getting a divorce, you will have to go to Court. There is no getting around it.

The important thing for you to realize is that how you approach the process of divorce will make a huge difference on how difficult or easy it will be for you and your family in terms of emotional and financial costs.

The information I provide in this whitepaper is the result of over twenty years of practicing, particularly in the areas of divorce and paternity in Florida.

The things I will talk about in here are things to think about before you even get into court; and trust me, thinking about it may be scary but it is something that will help you keep as much control as you can over a process that will seem strange and foreign to you.

#1 – The First Step in Preserving Your Rights to Children, Property and Alimony

If you have downloaded this whitepaper, then you:

- are thinking about getting a divorce; or
- your spouse is talking about divorce; or
- you sense things are not going well, and you will eventually end up getting a divorce

Regardless of the reasons for a divorce, getting information and preparing is the smart way to approach the process of divorce.

But you should also know that there is something else usually going on in a divorce that has nothing to do with legal matters, but that will most likely impact your divorce in terms of fees and time spent. That is the emotional toll of divorce. Depending on where you are in what I like to call the psychological divorce process, you may also be able to help yourself by seeking information or advice on how to deal with the emotional aspects of a divorce.

The good news is that by getting this whitepaper you have started to take what I consider the key, first step to take when divorce is a real possibility. **That first step is** to educate yourself in a general way about rights regarding children, property and alimony (if that is applicable) in a divorce and the process of divorce itself.

While this information only deals with the legal aspect of divorce, it may also have a beneficial side effect of taking the “unknowns” you will face in the legal system, and putting it into perspective for you.

This is a good idea to do even before you see a lawyer.

There are several benefits to you for educating yourself about divorce:

- First, it helps you to put your own problems in perspective in the legal arena.
- Second, it helps you focus on the particular questions relevant to your circumstances.
- Third, since it provides you perspective from a legal standpoint on your own circumstances, it helps you prepare questions to ask a divorce lawyer when you meet with him or her.
- Finally, it will help you work with your lawyer in looking for solutions that will help you and your family in the end.

Online websites like my own and other, as well as sites from the State can offer you basic information about divorce, paternity, and domestic violence in Florida. The Florida Bar provides information and guides you can download free of charge, and this includes information on divorce, adoption, paternity, guardianships.

Visit their [Consumer Information Page](#).

If you have the stomach for reading legalese, then you can visit the divorce statute itself at this [link](#) to the Florida Legislation website and look for Title VI and then Chapter 61, which is the divorce statute.

Keep in mind, however, that nothing will substitute for specific legal advice that applies the law to your situation to provide you likely solutions for all the issues that may be present in your particular divorce.



Things To Watch Out For: Legal Advice from Non-Lawyers.

You will have friends and family who are divorced and will try to help you by telling you about their results in court. As friends and family, they mean well when they try to share their experience of their divorce with you.

The problem with this is that the laws that may have applied during their divorce may no longer be good law. In addition, their fact situation and the problems they had may be different than yours, which may result in a different outcome for your case.

Your divorce situation is as unique as you and your spouse are unique individuals.

If you need a professional to help you in resolving the problem, get help from a Florida lawyer who practices in the areas of divorce, paternity and domestic violence. An experienced family attorney keeps up to date with the law, and can provide you a legal opinion as to a likely outcome for your situation.

Family attorneys can also provide you alternatives to resolving legal problems, even in the middle of a contested or litigated case. These alternatives may not necessarily involve a long process in the courts.

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**#2 – What Happens in Your Divorce Will Determine What You Can Do Later  
If You Have to Go Back For Any Reason**

**It is not uncommon common for people who have been divorced to have to go back to divorce court** to get things changed. This is called a modification action, and is often the case when there are children or provisions for the division of property; sometimes it is applicable to divorces where one of the parties has received alimony from the other spouse.

**What most people do not realize is that the divorce decree issued** by the court will create a standard that will dictate what can be changed, when it can be changed, etc. This is the case whether the divorce decree is one issued by the judge after a full-blown trial or one that just incorporates the agreements made by the party as a result of a mediation or settlement.

**These modifications cases are, in essence, a new legal action**, and can be as litigious or friendly as any initial divorce. But the difference is that what you are able to do may be limited by the divorce decree and the law applicable to the particular thing you want to change.

**This is why it is extremely important** to make sure that your original divorce action is one in which:

- **you have clearly understood what is happening,**
- **have fully participated in reaching an agreement,** and
- **understand the legal consequences** of that agreement if there is no trial.
- **And if there is to be a trial,** that you understand what it is you will face at a trial—including the evidence you will have to present and how much it will cost to present that evidence--- and what you may have to do if you do not like the judge's decision after that trial is finished.

**Finally, there are some** things that once you give up in the original divorce action, you can never undo or go back to court to get.



## Things To Watch Out For: Signing Agreements or Other Papers Without Knowing The Legal Meaning or Consequences of What You Are Signing

**Most people are aware of the** saying that “Ignorance of the law is no excuse.” In the context of a divorce, this means that just because you don’t know what it meant to sign something doesn’t mean you will not be held responsible for what you agreed to do—or what you agree not to do. It doesn’t matter if a paper you sign is formally titled “Agreement” or has no title whatsoever.

**The bottom line is** that it will be assumed that you knew what you were agreeing to when you signed a document, even if you in fact did not know what it meant in a legal sense.

**The key here is to make sure** that you ask as many questions as you need—remember the only dumb question is the one you don’t ask.

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#3 - How To Decide If You Need A Lawyer Or If You Can Do Your Own Divorce

The law lets you represent yourself in your own divorce.

But it’s been my experience that the question most people should ask themselves is: can I afford NOT to use a lawyer for my divorce?

Keep in mind that not using a lawyer means you are making decisions without the benefit of information about rights and obligations which later you may wish you had.

The decision to do a divorce without a lawyer is usually made on the perception that you cannot afford a lawyer. This is not as true as most people like to believe. Nowadays, you can hire a lawyer for a whole case, part of a case, even just to provide you advice along the way. This is known as limited representation, and can go a long way to letting you get the legal assistance you need. Keep in mind, though, that limited representation does not mean free representation, but the point is you can get legal advice for a reasonable fee.

There are at least three good reasons to use a divorce lawyer, even if your divorce is an uncontested or friendly divorce.

- **First, it can take longer to do your own** divorce than if you use a lawyer who knows the steps to follow to get the divorce done in an orderly manner, from beginning to end.
- **Second, a lawyer can help you by** pointing out things you might not have thought about but that need to be resolved within the divorce.
- **Third, a lawyer can answer all the questions** you have to help you decide which way to go in a friendly or uncontested divorce. But, more importantly, a lawyer can help you watch out for things that may turn into a contested question between you and your spouse if not properly discussed before an agreement is made.



Things To Watch Out For: Relying For Legal Advice On Non-Lawyers And Those Who Fill Out Legal Forms

As I mentioned before, once you have told your friends and family that you may be headed for divorce, you will have well-meaning friends and family members who will try to help you with all kinds of advice.

You will also have access to people with businesses who are allowed by law to help you fill out the forms you may need to get a divorce done, especially if you have the perception that you cannot afford a lawyer.

In addition to these businesses you may have access to the self-help centers that many courts provide. The staff at these centers is training to help you fill out forms.

What your friends, family, form businesses and self-help center all have in common is that they cannot provide you legal advice. The reason for this is that none of these people are trained as lawyers with the knowledge of the legal system and the particular law that may apply to a problem you may have which is not taken care of by the forms you are trying to use to do your own divorce.

#4- How to Prepare Yourself to Meet With a Divorce Lawyer

Consultations with attorneys, free or for a fee, will most likely have very little or limited value to you unless you know what questions you need answered.

But to know what questions you need answered you first need to have some information so you can ask questions within the context of your problem and the law.

The first step that I wrote about in here is a good way to start. There is no substitute for having information that is meaningful to you because it sheds light on the things you need to think about to resolve problems, avoid problems along the way and after the divorce is final.

As you find out information, write down any questions that come up about your situation. Remember the cliché I quoted above, there are no dumb questions only unasked questions.

When you meet with a family attorney, take your list of questions with you. Ask each and every one of those questions; and any follow-up questions that you think of during your meeting with the attorney.

I am not a fan of free consultations because I feel that you can get plenty of free information just about everywhere. What we lawyers get trained for is to apply the law to your particular information—and a free consultation on information that is already freely available, seems to me, to be of little use to a prospective client. Plus, at most free consultations the lawyer spends the bulk of the time collecting your personal information and details necessary to be able to give you an opinion on the fly.

Instead, I have found in my own practice that a flat fee Case Assessment Session™ works better for the client. The reason I feel this way is that prior to meeting with a client, I have the client provide me all of the information I will need for our meeting. In this way, I not only save time, but I am able to get to the discussion of legal issues right away for as long as necessary—not just give the free information they can get anywhere. And my prospective clients get homework from me before the meet with me since they have to prepare for our meeting by providing me information within a framework.

This has the added benefit of triggering questions in the prospective client's mind as to their situation. That will come in handy because now they have an idea of what questions they need answers to. If you would like information as to how I do my Case Assessment Sessions™, please visit [Case Assessment Session](#) on my website.



Things To Watch Out For: Meeting With an Attorney When YOU Are Totally Unprepared For The Meeting

Lawyers are just a few of the people who may be involved in your divorce; and who will help you along the way. But nothing will substitute for your own interest and involvement in your own divorce case.

It makes sense, then, to be prepared when you first meet with a divorce lawyer about your divorce. This means preparing for that first meeting as if you were meeting with a doctor about a health problem. Only with adequate preparation will you be able to tell the lawyer about your marriage, including all about concerns related to children (if there are any of the marriage), property, debt, alimony.

Being prepared means knowing all the basic facts, thinking about where you and your spouse are financially and emotionally, and if you have children thinking about the mechanics of timesharing; thinking about what you want to do in the future and considering whether that will be impacted by a divorce; if there are children, the state of your relationship with your spouse and whether you anticipate any problems in being able to bring up your children together with your spouse after a divorce.

You will get as much out of this meeting as you put in. If you put little effort by being unprepared and not having with you information that will be important to get an answer to your questions, chances are you will get a general opinion that may be of little use to you in evaluating your options, and how to best proceed.

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### #5 - If You Need a Family Lawyer, How Can You Best Pay For Services?

**Legal services are traditionally provided at an hourly rate,** which often leads to the perception that legal representation is only for the wealthy among us.

**But there is an alternative to hourly fees for legal services,** which is increasingly more common. A flat-fee arrangement may work for you as an affordable way to get your family problem resolved.

**Regardless of how you decide to pay for your fees,** you need to understand how your attorney bills for her or his time in working with you and for your case. You also

## Divorce-Ready: 5 Things to Know Before You Start a Divorce

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need to address the issue of costs that have nothing to do with your attorney's services. Understanding the billing arrangement will avoid nasty surprises later.

**If you cannot afford an attorney**, contact a legal aid organization in your area or the self-help centers usually provided by the individual Circuit Courts in Florida.



### Things To Watch Out For: Not Understanding How You are Being Billed for Legal Services How to Use the Services of a Lawyer

**Whether you hire a lawyer based on a flat fee or billing by the hour**, you must understand what are the exact services being provided, when payment will be due, and what is included besides the services of the lawyer.

**It is common for people in the middle of a divorce** to call the lawyer for what is essentially advice of an emotional nature.

As lawyers we are aware that a divorce can be traumatic and carries a heavy emotional burden; we are also aware that many decisions having legal impact may be made to relieve emotional pressures.

But your lawyer is a legal adviser not a therapist. Particularly with agreements where you will be billed by the hour for legal services, keep this in mind so as to use your financial resources efficiently.

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WHAT TO DO NEXT

If you anticipate that a divorce is looming for your marriage, do not wait until the divorce action is filed to begin preparing for it.

If you want to try and avoid a divorce, consider speaking to your spouse about seeing a marriage counselor. This may not be possible if there are domestic violence problems.

If seeing a marriage counselor is not an option for any reason, then begin to gather important information and documents which may be harder to get once the divorce has started.

Most of all, begin to educate yourself about the process of divorce as soon as possible.

Lastly, if there are children of your marriage, it is important that you begin to consider how to best approach telling them. If you don't know, then consider seeing a child therapist to find out how to approach telling the children, and what you can do in the middle of a divorce; and even after the divorce is final, to help your children with any questions they may have. In this regard, you may want to take the 4-hour divorce parenting class early, which is going to be required by the court anyway. You can see what this looks like at this [link](#), where I have affiliated with Dr. Stephen Mayville for my clients to take the course in helping children during and after the divorce.

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## **RESOURCES**

### **Courts:**

The Florida Supreme Court maintains a site with links to all the other Circuit Courts in Florida. The circuit courts are the first court you have access to in a family case, divorce included.

But this site has a lot of information on different types of actions, resources and forms.

[Flcourts.org](http://Flcourts.org).

### **Statutes:**

#### **Chapter 61, Florida Statutes –**

#### **For Miami-Dade Divorces:**

If you live in Miami-Dade County, FL, and you think your case may involve litigation at the time you file it, you need to be aware of an order that applies to all litigated divorces since August 2014. This Order sets a Status Quo in all such new cases. You can download it directly from the Miami-Dade Family Division online website.

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Following is the Bonus information I promised on the “5 Most Common Mistakes People Make In Divorce Court”.

“5 Most Common Mistakes People Make In Divorce Court”

As a divorce lawyer, I get to go to court for my own hearings before judges as well as I sometimes get to see the hearings of other lawyers and pro se people—pro se people are those who do their own divorce without a lawyer.

Whether you have a lawyer representing you, or you do your divorce on your own, avoiding these mistakes will go a long way in your case. They are not in any particular order; they are all important.

Mistake #1 – Not Being Prepared

You may think this is obvious but you would be surprised at how many people show up to court as if this were some Sunday morning stroll. Being prepared means knowing what the exact topic of the hearing is going to be, and having all of your papers ready to deal with what the hearing will be about.

If you don't have a lawyer, you must not only be prepared about the subject that will be discussed, but also make sure that you have all of your papers in some order. It has been a painful experience for me just to watch this: people show up in front of the judge, argue with the judge about a paper or something else that they say they can prove, only to start looking among their papers like chickens scratching around to find a worm. The end result is usually that the judge loses patience because they have so many cases to deal with just on that same day, and the hearing may not go well.

But if you are represented by a divorce lawyer, you are not excused from preparing. You too should be prepared but in your case, the preparation for that hearing should have been done with your lawyer, whether at the lawyer's office or via telephone. The bulk of the work will be done by your lawyer.

Mistake #2 – Speaking Out of Turn

All hearings in court have an orderly process to present evidence and testimony to the judge so that he or she can make a decision; and there is a particular way of doing it.

Hearings are not social events. If you are represented by a lawyer, you answer only when you are asked a question directly by your lawyer, the other lawyer or the judge. Sometimes, a judge will ask questions directly of the parties even when they have lawyers; and, of course, you should answer. But if you must say something to your lawyer in the middle of a hearing and there is no question pending for you to answer, then whisper it to your lawyer or write it on a paper and pass it on to her or him.

If you are not represented by a lawyer, and are not sure of what to do at a hearing, then try to find out what the order of the hearing will be. In any event, you should not shout answers to questions that are not put to you; better to ask permission of the court to say something (and check with your lawyer, if you are represented, before doing so).

Mistake #3 – Not Dressing Appropriately

If it were up to me, I would work in jeans and comfortable shoes all the time; but there is a formality to court that I, as a lawyer, need to observe.

But guess what? Even you should observe some formality, regardless of whether you represent yourself or have a lawyer helping you. This doesn't mean you have to go out and get expensive clothes though (lucky you).

What it does mean is that you should come with clean clothes with no holes or stains. Leave your fashion-sense at home. **For men** this means no pants below the waist where we are all treated to a peak of your underwear (no one cares and it makes you look shoddy and unkempt). **For women**, this means no spaghetti straps or revealing clothes (chances are you will find no potential mates here, and I say that without any regard for political correctness because in the “serious” environment of a courthouse, this is just out of place and it looks like you ended up at the wrong place).

Mistake #4 – Not Taking a Judge's Offers For You to Look for a Lawyer

Every so often, I am present in court where one of the parties in a hearing without a lawyer gets another opportunity to get one, meaning that the judge literally stops the hearing, and tells that party to consider getting a lawyer; and then re-schedules a hearing for a later date.

If a judge tells you this, take the opportunity he or she is giving you, even if you think there is no way you can afford a lawyer. **Why?** Because you buy yourself some time to try and understand what is going on that you should get a lawyer. And because you may be able to get a lawyer to look over your papers without necessarily hiring him or her to represent you at the later hearing.

Unrepresented people need to understand that the Judge cannot give you legal advice—they are prohibited from doing so by the rules applicable to them.

And for every client or person who says “I want the judge to give me justice”, I reproduce for you here a picture of Lady Justice: Please take a moment to notice that Lady Justice is blind folded.



It will be up to you (and in this scenario, with some legal help) to ensure that justice is given something to work with. Do yourself a favor in this instance and at least talk to a lawyer.

Mistake #5 – Not Being Truthful

At every hearing where you will provide testimony, you will be sworn to tell the truth. In family law, you will also sign some documents to be filed with the court which are signed under oath.

Putting aside for a moment the fact that failure to tell the truth after you have sworn to do so is perjury (which is a criminal offense), at the very least you want to be truthful because if the judge thinks you are being less than so or trying to be cute, your side of the case may suffer—the judge may not believe anything you say after that.

I don't know of any one who is perceived as having lied to a judge who can later make that judge think that what they say afterwards is the truth...so think twice, three times even before that happens. Your credibility before that judge will be shot for the remainder of that case!

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### **A little bit about me:**

I have been practicing in Miami, Florida for over 25 years (writing that is quite an eye-opener for me!). Family law lets me provide a service to help people solve their divorce, paternity and domestic violence problems.

If you want to know more about me visit <http://www.viviancrodriguez.com/aboutus/> .

**Online Divorce Service in Miami, FL:** If you're wondering whether you can benefit from an uncontested divorce, please take a look at how I do uncontested divorces, usually in 2 to 3 weeks from the day I open the case in court—[MiamiDivorceOnline.com](http://MiamiDivorceOnline.com)

**Divorce-Ready: 5 Things to Know Before You Start a Divorce**

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**Florida Divorce by Mail anywhere in Florida:** You can get divorced without going to court if your divorce situation is one that meets certain conditions. It doesn't matter where in Florida you live as long as you (or your spouse) have been living in Florida for at least six (6) months. You can get more information at on [VivianCRodriguez.com/florida-divorce-by-mail/](http://VivianCRodriguez.com/florida-divorce-by-mail/).

**Divorce by Publication in Florida:** This is a process for doing your divorce if you don't know where your spouse is. It is sometimes called "divorce with missing spouse." You can read more at [VivianCRodriguez.com/divorce-by-publication](http://VivianCRodriguez.com/divorce-by-publication).

**Same-Sex Divorce:** If your divorce is a same-sex divorce, please visit [MiamiDivorceOnline.com/same-sex-divorce-online](http://MiamiDivorceOnline.com/same-sex-divorce-online) for more information.

Information about divorce, paternity and domestic violence can be found at [VivianCRodriguez.com](http://VivianCRodriguez.com) or [MiamiDivorceBlog.com](http://MiamiDivorceBlog.com).

**If You Know People Who May Be Helped By This Information...**

**...Feel free to share it with them via email or in any other form you want, you must send "as is."**

**The only thing you cannot do with this free information is alter it. If you want to share it on Facebook or any social site, please use this short link <http://bit.ly/2yKkyX2>.**

**Thank you for respecting my efforts in providing this information.**

*Vivian*

All the best,

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**More from me about divorce - Kindle Books:**

[Divorce: Why Fighting in Court Will Only Make You BOTH Poorer](#): This is a case study from one of my actual litigated cases (with names changed). It gives an example of how much money is spent on a divorce when one of the parties tries to use the legal system to get revenge or otherwise make life difficult for the other spouse.

[Divorce Negotiations: 5 Principles to Help You Succeed](#) : I discuss 5 principles to help you negotiate directly with your spouse. Put them to use to resolve your divorce in a civilized way, to navigate sticky situations; and move you along to achieve a better outcome than the alternative warring scenario of a divorce. These five principles will reduce a lot of the stress found in divorce because they provide you a saner way to approach a resolution.

[Doing Your Own Divorce: 8 Steps & Tips to Prepare Yourself](#): Even as a pro se litigant (one without a lawyer), there are things you can do to prepare for hearings and trials. There is no substitute for being prepared; and not all preparation requires a legal degree.

**If you want to share your thoughts on this information with me...**

**I hope what I've discussed above has been informative for you.** If you have any comments about the content of this whitepaper, please send me an email to [viviancrodriguez@gmail.com](mailto:viviancrodriguez@gmail.com) with your comments and/or suggestions—even if you didn't like it, and especially if you have ideas about how I can improve it. I will deeply appreciate your feedback and your time to share it!