



Quick Start Guide to a better divorce *

**For California cases with minor children but
no real estate or retirement funds**

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*Excerpted and adapted from the book, *Make Any Divorce Better*

CHAPTER 1

It's about time!

(and money and children)

I need some time to help you make your situation better. You need time to read, think about, and digest the things I am going to tell you. Do we have a few weeks for this?

As a family law attorney for over 35 years, I tell you that unless you face a serious emergency like the ones listed in my article, [What's an Emergency?](#), then:

- The **worst** thing you can do is run to an attorney before you are more informed.
- Divorce problems are almost **never** legal, they are almost **always** personal.
- There are **no**—zero, not any—solutions in law, in court, or in a lawyer's office for personal problems. This is especially true for children and parenting issues.
- Over 90% of all divorces can be done better with little or no attorney involvement.
- After you take the steps I recommend, if you still have trouble working out terms with your Ex, you don't need an attorney, you need a mediator. Later, I will explain your other options, other things you can do.

The things you can do for yourself are far superior to anything an attorney can do for you. I will show you why court is not good for you, your child, or your bank account and what specific things you can do to make your situation better, no matter how bad it may seem. I will tell you how to settle things down, reduce conflict, solve problems, negotiate a fair agreement about children property, debts and money, But this takes some time.

Your first job is to find a way to make yourself safe and secure for at least a few weeks, maybe a few months. You need time to let things settle down, get centered in a new direction, let you, your spouse and child adjust to changes, and . . .

You need time to read and think about the things I am going to tell you.

You need time to take some important early steps, noted in my [Pre-divorce Checklist](#).

What's the hurry—money? children? debts? Apart from needing to get on with your life, or make a bold declaration of independence, the most common and deeply felt sources of urgency are concerns about children, money and debts. How will the bills get paid? When will I get to see my children? How will we share parenting? What will happen to our property and accounts?

It will be hard to find peace and work out terms for *anything* unless you can make some arrangements, at least temporary ones, so both sides can feel safe and stable for a few weeks or months while you take some time to think things over and work out final terms.

Money. For things you can do about money in the early stages of divorce, read my article, [Funding the separation](#).

Children. If you're worried about parenting arrangements, read my article, [Parenting in the Early Stages](#).

Debts. If debts are weighing heavily, read my article, [Dealing With Debts](#)

Taxes. Some people think it is important to have their divorce final by December 31 so they can file using a single tax status in the coming year instead of filing a joint return or married filing separately. However, what you might save by gaining a favorable tax status counts for little compared to what it will cost if by rushing you end up with lawyers on both sides in a legal contest. Taking your time is almost always better.

If you decide at any point that you would prefer personal assistance, call **Divorce Helpline (866) 250-3332**. Tell them Ed sent you. On your first call, which is free, they will describe how they can help you and how much (or little) it will cost.

It's personal. I have a lot of confidence in the expert attorneys and staff at Divorce Helpline because I started the company in 1989 to re-invent the way lawyers work I'm retired now, but they still follow the unique model we built over the years to create an attorney service that is effective and affordable. They are easy to reach, responsive, and effective and can work with you in person at their offices around California or anywhere in California by phone. Did I mention affordable?

Divorce Helpline does not represent you or go to court, because that way lies grief, but rather they work as your coach, guide and support team. They give legal and personal advice, develop your options, help you solve problems, talk to your spouse and negotiate. They do mediation, arbitration, collaborative law, draft settlement agreements and legal paperwork. For those few cases that fall into legal conflict, they will refer you to someone who can represent you in court.

Parting thoughts

Don't retain (hire) an attorney to represent you until you get organized and prepared, understand what you want from the attorney, and what attorney to go to.

Don't talk to your Ex about divorce until you read about how to reduce upset and lay the groundwork for successful negotiation.

And, please, **be very careful** who you listen to. Don't take advice from anyone who is not expert on exactly your topic. Friends and relatives can be great for moral support but do not get your advice there. If they are mistaken, *you* pay the price. .

“ Nothing builds confidence, feels so good, so reassuring, as gaining clarity—realizing that you can now start to take charge of yourself and your case, That's what my books, my site and this Guide are about. ”

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CHAPTER 2

About your case

There are over one million divorces every year in the U.S., over 120,000 in California. Over the past 35 years I've helped millions through [my books and software](#), and since 1989 my [Divorce Helpline](#) service has handled over 45,000 divorces that did **not** end up in court. This means that **whatever** is happening to you, something very similar has happened to a great many other people and we have learned over the years **exactly** how things work in any situation and **exactly** what you can do to make things go better.

There are five divorce profiles—which one is yours?

Early cases

You haven't broken up yet, or broke up only recently. This is good, because the earlier you start, the easier it is to heal wounds and lay a foundation for a smoother trip. The way you go about doing things now will have a powerful influence on how things work out in your future—for better or worse.

- **Your goal** is to solve problems and settle issues without taking problems to court or spending much (if any) time in a lawyer's office. Your goal is to end up with an **Easy Case** (below).
- Read the [Pre-divorce Checklist](#) and start working on those items.
- Read my article, [The Good Divorce](#), so you will have a model to keep in mind.
- Get [How to Do Your Own Divorce in California](#) and read a summary of California divorce laws, decisions you need to make and advice about how to make them, and step-by-step instructions for the paperwork (all forms included).
- Get my book, [Make Any Divorce Better](#) and learn all of the specific things you can do to smooth things out. Some are discussed in articles on [my site](#) and some will be in chapters below, but they are all discussed in greater detail in my book.
- **Do not talk to your spouse** about divorce until you learn how to reduce conflict, create a foundation for negotiation, and negotiate effectively.
- **Do not go to an attorney** until you are better informed and prepared—unless, that is, you face an emergency. Read [What's an emergency?](#) Before you visit an attorney, you want to have already organized all the facts and documents in your case (see below) and learned what you can and cannot expect from an attorney. To learn about various types of attorneys and other services, read [Who Can I Call?](#)

Easy cases

If your spouse **won't come to court to oppose you**, you've got an easy case. It could be he/she is gone, doesn't care, or because you are able to sit down and agree on terms. All that's left is to file papers and go through some red-tape to get a judgment. You can do the paperwork yourself with [How to Do Your Own Divorce](#) or get it done inexpensively (see first bullet below).

Spouse on board? It's very difficult to divide assets and debts or arrange parenting without your spouse's participation, so **your goal** is to settle things in a **written settlement agreement**.

Here are tools to help you complete an easy case and make sure it stays easy

- Read the [Pre-divorce Checklist](#) and start working on those items.
- [How to Do Your Own Divorce](#) discusses California laws, decisions you need to make and step-by-step instructions for the paperwork (all forms included). To find someone to do your papers inexpensively, visit the [California Directory](#) for a professional near you, or read [Who Can I Call?](#) If your estate is significant or complex and you want legal advice or want your agreement and documents done by experts, call [Divorce Helpline \(866\) 250-3332](#). If you're thinking of using online divorce forms, find out why this is [not a good idea](#).
- **Keeping easy cases easy.** Most cases are delicate and easily stirred up. To learn how to keep an easy case from blowing up into a difficult one, I recommend that each spouse have a copy of [Make Any Divorce Better](#) and follow specific steps to calm conflict and negotiate effectively.
- **Get organized.** As soon as you can, organize your facts, gather documents and start thinking about how to divide community property, and how much spousal support will be paid (if any), and how children will be supported and parented. I created a set of [Divorce Worksheets](#) that will help you organize, think about and discuss the facts and finances in your case. They will definitely save you time and money. The same worksheets come with [How to Do Your Own Divorce](#) and [Make Any Divorce Better](#) or you can get them [separately](#).
- **A written settlement agreement** is very important in all but the simplest estates, and **you** need one because you definitely need a parenting plan. A sample agreement comes with [How to Do Your Own Divorce](#) and [Make Any Divorce Better](#), but for larger or more complex estates, or for guided assistance in tailoring a parenting plan, [DealMaker](#) software is ideal. It takes your information, asks you to make some decisions, then writes a sophisticated, professional settlement agreement and parenting plan that you can use as-is or edit with any word processor. It is also a very useful guide for creating a parenting plan.

Difficult Cases

This profile fits most divorces. Your spouse is in the picture and cares about how things will end up, but you're having some trouble (or you expect to) with discussing and settling terms—that is, how to divide marital property and debts, how much spousal support will be paid, if any, and how children will be supported and parented.

The reason divorce agreements are difficult is almost **always** personal—bad communication, bad history, bad habits, etc—and almost **never** about the law. Neither the law nor lawyers have any tools to help you settle problems that originate in your personal relationship.

Your goal is to take specific steps that will make your case smoother and easier, to turn it into an Easy Divorce (above) so you can make a written agreement and do the paperwork yourself or get it done inexpensively. There are a lot of things you can do for yourself to make things better, steps that have helped tens of thousands of couples, so they can help you, too. My [books](#), [my site](#) and this guide are primarily about how to solve the problems of a difficult divorce without taking them to court, and help you turn it into an Easy Divorce.

Here are tools to help you

- Read my article, [The Good Divorce](#), so you will have a model to keep in mind.
- Start working on some important early steps, noted in my [Pre-divorce Checklist](#).
- Get my book, [Make Any Divorce Better](#) for yourself (and maybe a copy for your spouse) and learn about the specific things you can do to smooth things out. Some of these steps are discussed in the Reading Room and articles on [my site](#) and some will be in chapters below, but they are all discussed in greater detail in the book.
- **Do not talk to your spouse** about divorce until you learn how to reduce conflict, create a foundation for negotiation, and negotiate effectively.
- **Do not talk to an attorney** until you are informed and prepared—unless, that is, you face an emergency. Read [What's an emergency?](#)
- **Organize your facts.** Start now to organize your documents and facts. I created a set of [Divorce Worksheets](#) to help you organize, think about and discuss the facts and finances in your case. They will definitely save you time and money. The same worksheets come with [How to Do Your Own Divorce](#) and [Make Any Divorce Better](#) or you can get them [separately](#).
- Get [How to Do Your Own Divorce](#) and read the summary of California laws that affect you.
- **A written settlement agreement** is important in your case if for no other reason than that you need a good parenting plan. You can use the sample agreements that come with [How to Do Your Own Divorce](#) and [Make Any Divorce Better](#), but [DealMaker](#) software goes a good deal further toward simplifying this task. [DealMaker](#) takes your information, asks you to make some decisions, guides you through the parenting plans, then writes a sophisticated, professional settlement agreement that you can sign as-is or edit with any word processor.
- **If you have trouble** working out terms, you don't need an attorney, you need a mediator. Call [Divorce Helpline \(866\) 250-3332](#) or read [Who Can I Call?](#)
- **Collaborative law.** If you want to be represented by an attorney, try to get a Collaborative Lawyer on both sides. Read more about this in [Who Can I Call?](#) Divorce Helpline also does collaborative law as well as arbitration.
- **Arbitration.** If you can't resolve issues after mediation, you should consider taking your case to arbitration rather than court. It is similar, in that the arbitrator imposes a decision, but the setting is more informal and an arbitrator is paid by the hour so will take all the time you need to understand the facts about your family and situation. A judge has to move cases along quickly, so will tend to hurry through divorce motions or trials.

Domestic abuse and violence (DV)

DV includes physical attacks, threats, intimidation, verbal attacks on a personal level (put-downs, insults, undermining your self-confidence) and other efforts to control you.

It can be difficult to distinguish between high levels of divorce conflict and forms of domestic abuse and violence. The DV profile is more about cases where your spouse is an **habitual** controller/abuser. Our advice is useless here: these people are not responsive to reason because their need to control or abuse is too strong. When dealing with an habitual controller/abuser, your only choice is to go somewhere safe and get specialized help.

Safety first. If you fear for the safety of yourself or a child, don't take chances. Go somewhere safe. Visit a friend or relative, anywhere you can't be found. Ask the local police for domestic abuse support groups near you. What you need most now is personal advice and counseling from someone who specializes in domestic abuse

Legal Battle

If you follow my advice you probably won't end up in a legal battle, but sometimes you simply can't avoid one or you might be in one already. If you're already in a legal battle, or if you can't avoid a battle even after following the steps in **Make Any Divorce Better**, then you have to do what you have to do—get an attorney and fight. If you must fight, you might as well learn how to do it effectively, so welcome to the Battle Group. Keep in mind that this is a **legal** battle, it's all about business—you do not need to battle on a personal or emotional level. In fact, you will be more effective and healthier if you don't. But you **do** need to learn:

- How to deal with extreme conflict
- Damage control
- How to protect children
- Winning strategies—hardball or softball?
- How to fight effectively at less expense
- How to choose and use your attorney
- How to fire your attorney (if you want to)

Make Any Divorce Better discusses this information in detail.

The most important thing to remember about legal battle is that you can keep trying to move your case toward negotiated or mediated agreement, using all the steps discussed in **Make Any Divorce Better**. This book and the worksheets will help you stay in control of your attorney and your case. Discourage any legal action or activity that you think is not necessary and instruct your attorney that you want to mediate as soon as possible and to work toward that end. Also talk about this directly with your spouse, if possible. Couples frequently end up working out their own terms without their attorneys.

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For personal assistance, call **Divorce Helpline (866) 250-3332**. Tell them Ed sent you.

The three divorce paths

You might not know it, but you are going through two divorces at more or less the same time—your **Real Divorce** and your **Legal Divorce**.

The real divorce is your life, the context in which the narrow concerns of the legal divorce are played out. It is about ending one life and beginning another. It's about your relationships with your Ex, family, friends, and yourself. It's what you go through in practical, emotional and spiritual terms. The real divorce is about breaking old patterns, finding a new center for your life and doing your best with the hand you've been dealt. These matters are not assisted or addressed *in any way* by the legal divorce.

The legal divorce has very narrow concerns—it cares only about the division of marital property and debts, and whether there will be spousal support. In high conflict cases, it's also about keeping the peace. That's it, that's all. If you can settle these matters out of court, there's nothing left but some paperwork and red tape to get your judgment, yet the legal arena is where couples experience so much upset and expense. Why is that?

We have an “adversarial” legal system. It began in England in the Middle Ages with “trial by combat,” where men with a disagreement would fight and he who survived was “right.” Today, physical contact is no longer a recognized legal technique, but things are still set up as a fight. The parties are regarded as adversaries, enemies in combat. In a divorce, the spouses through their attorneys argue, struggle and compete against one another and try to “win” the case, to “beat” the opposition. Rules of professional conduct require your attorney to be “adversarial,” that is, aggressive and combative. This system and the way lawyers work in it is a major cause of trouble and the high cost of divorce. You want to have as little as possible to do with it.

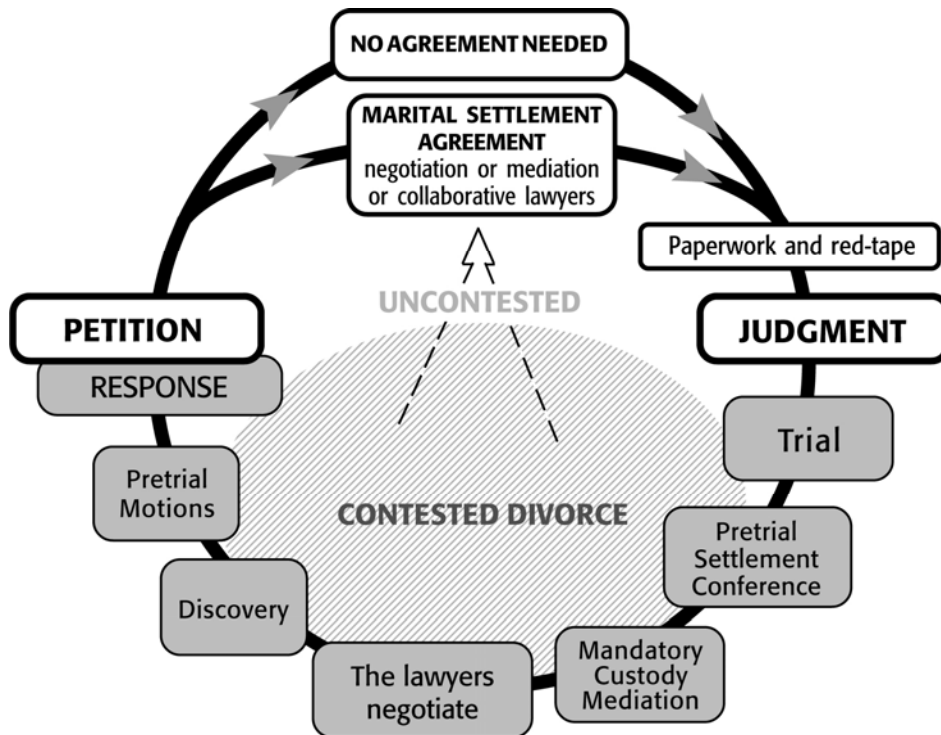
If you have trouble agreeing on what to do about property, support and money, the problem is almost **never** legal, almost **always** about personalities and emotions, for which there are absolutely **no** solutions—zip, zero, nothing—in court or in a lawyer's office. In fact, getting involved with lawyers and courts almost always makes things worse—much worse. The purpose of this Guide is to show you how to solve your legal divorce problems without getting caught up in the legal grinder or, if you can't avoid a legal battle, how to conduct it effectively.

If you start off by retaining (hiring) an attorney to “take” your case, you will almost certainly end up in the legal system, filing papers, going through motions, discovery procedures, hearings and possibly a trial. This is the approved “professional” way for a lawyer to handle a divorce and it can take years, create extreme emotional upset and bitterness, and cost more than everything you have. The average case with attorneys on both sides costs at least \$20,000 on *each* side! But the average figure is low because most people don't have even that much available to pay. Couples with more money typically spend a lot more, tens of thousands or hundreds of thousands more on *each side!* Most couples in legal battle settle only when most or all of their money runs out.

Lawyers are not always villains. Conflict is already lively in most divorces and lawyers are sometimes more moderate than their clients. But even for lawyers who work in the

system and truly mean well, the tools they use and the system they work in will invariably increase conflict, because that's the nature of the system they work in.

Here's a diagram of how the legal divorce works.



Every divorce starts with a petition and ends with a judgment, but when and how you start your case and how you get from petition to judgment makes all a huge difference.

The top path is where no agreement is needed. This could be because one spouse is long gone, doesn't care or can't be bothered, or because you are able to work out a written settlement agreement on your own.

The second path is where both spouses are in the picture and care how the terms work out. There are several variations along this path.

- Many couples can work out the terms on their own, so all they need to do is reduce their agreement to writing as described in chapter 9, then all that's left is some paperwork and red tape to get the judgment.
- If you have (or expect) trouble working out terms with your Ex, you should get **Make Any Divorce Better** to learn all the things you can do to reduce conflict, settle emotions, lay the groundwork for negotiation, and how to negotiate.
- Consider getting **DealMaker** settlement agreement software.
- For assistance, call **Divorce Helpline (866) 250-3332**. Tell them Ed sent you. Or, look around locally for a mediator. Read **Who Can I Call?**

The bottom path, in gray, shows the complicated course of a legal battle. This is where a lot of unnecessary pain, suffering and expense is created. . If you end up here, read about Legal Battle at the end of **chapter 2**.

CHAPTER 4

It's all about you!

You are at the center of your child's life, but **first** you are at the center of **your** life, and what both you and your child need more than anything is for **you** to be okay. Being OK will also greatly improve your negotiations with your child's other parent.

There are a lot of things you can't change, can't control, so you have to play the hand you've been dealt. But the one thing you **can** do something about, the one thing you **can** control, is how you react to things that happen. From now on, what you **do** and what you **say** is entirely up to you—**you** are in charge! I want to help you learn about the things you can do and say that will greatly improve the health and well-being of you and your child, creating a better future sooner. That's what **my book** and this Guide are about.

How you feel, who you are, what you do, choices you make, and how you act toward the other parent, these will all have a powerful impact on your child and on your own life from this day forward. As soon as possible, you need to turn away from past upsets you are still tangled in. Let it all become the past, not your future—it's all old news and bad habits. Now it's time to turn your attention to creating new habits, a better attitude, and a calm, strong, outward-looking center. Doing this will help you and your child and improve **all** your contacts and negotiations with your child's other parent and others in your life. It will greatly increase your chances for a more peaceful settlement of all issues.

So, while you are struggling to deal with events in your daily life, high up at the top of your list of priorities is your determination to find a new center in a new life, to create calmness, strength and optimism at your core. While life swirls on, you keep this constantly in mind and you become patient because you know you are on a journey of a thousand small steps. Whenever you wander off course, or get blown off, *fuhgedaboudit!* Pick yourself up and put yourself back on course to how you want to be.

If you're like most people and finding this to be a very trying time, I'd like you to go to my site right now, or soon, and read **Tips for getting through a tough time**.

The other parent

You can't control your Ex but you **can** control how you act and react toward anything your child's other parent says or does. You have to keep in mind that your Ex also faces fears and challenges. Above all, you must know that his/her state of mind is **extremely** important to **you** for three reasons: (1) this is your child's other parent and your child needs **both** parents to get centered and settled so they can give the child a feeling of well-being on both sides, and (2) you can't negotiate terms or work on parenting arrangements when either of you are fearful, angry or upset, and (3) because upset can drive your Ex into a lawyer's office and drag your case into court.

You need to help calm one another's fears and spread reassurance that financial and parenting arrangements can and will be worked out, just some temporary arrangements for parenting paying bills on both sides, just long enough to get you through for a while until you can reach a final agreement. The important thing is to try everything you can do on your own before you hire an attorney to go to court for support or other orders, because that is certain to get you into a very nasty and very expensive legal battle that will ruin your finances and all chances for rapid recovery. If nothing else works, ask your Ex to join you, for the sake of your child, in mediation just about temporary arrangements. Meanwhile, keep plugging away at things you know you can accomplish, doing things you know you can control.

Specific steps you can take to calm conflict and lay the foundation for negotiation are discussed at length in [my book](#), some are on [my site](#), and a some will be in found in this Guide.

Things you can control

You can't control your Ex, but you **can** control how you react to things the other parent says and does. Remember, "If a dog bites you once, shame on the dog; but if the dog bites you twice, shame on *you*." How long, how often, are you going to let your Ex push your buttons, get you riled, make you feel bad? People are more complicated than dogs, so it takes more than two or three bites and it's especially difficult if you are interacting about your child and short-term arrangements, but at some point you have to take responsibility for your own part in cycles that play and replay over and over. At some point, it's up to you to rise above it and find some way to change how you react to the same old triggers. Yes, it's best if the other parent is doing the same, but remember ... you can't control that. Focus on what you can control—you. Divorce and parenting are emotional deep water, but for the sake of your child's and your own future well-being, you need to turn the boat and start rowing toward a friendly shore and a more useful way of looking at things.

The first part of the equation, the first place to start. **It's all about you** and the things you, and only you, can do to make things better.

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CHAPTER 5

About your child

Children don't learn so much from what you say as how you live, how you deal with the things you face in life. When the going gets rough, what do you do? How do you act? That's what a child learns.

Look at life from the child's point of view. Parents are the biggest, closest and most important factor in a child's life. A child in your home is **totally** dependent on you for a sense of warmth, comfort, safety, security, self-confidence and good attitude. The child needs parents to model how life can be okay and get better after heavy bumps in the road. Things happened, we deal with it and we are okay again, right? But you have to really mean it. Kids have powerful BS detectors. Deep down, they know. They need you to be well. They need the relationship between you and them to be strong and something they can depend on no matter what.

This is why we said in the previous chapter that your first job is to be (or become) well.

However long or how bad things have been in the child's home, today is the day you start to heal and make things better, for you and for your child.

Co-parenting. It can be very difficult to get over past history with the other parent, but it's **hugely** important that you do. Important for your child, important for you. If you can't make progress, get help. Really! Call around to get references to a good counselor who specializes in parenting or parenting support groups.

The real damage of divorce is when a parent never gets over the past, never heals, never breaks loose from bonds of hurt, anger, or blame. Children are incredibly resilient, but they can't hang on forever while tension and stress take up permanent residence in their home. Instead of being a place of comfort and refuge, home becomes something to avoid, escape into books, TV, computer games or onto the streets. The child learns that problems can't be solved and life is hopeless. Worse, children tend to blame themselves when parental relationships stay sour and this can become a permanent personality fault-line.

Here's what really counts: At least one parent has to get well, so you go first, ok?

Please go now to my site and read **Kids First**, which includes Ten Tips for Helping children get through a tough time. And, if you haven't already done it, take a look at the similar tips for you, **Tips for getting through a tough time**.

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Building a foundation for agreement

Things get a little out of sequence here, because you really don't want to start negotiating terms with your Ex until you have your facts organized and have learned more about how to reduce conflict and negotiate. These subjects are a major part of the material in [Make Any Divorce Better](#).

Temporary agreements. In case you need to work out temporary arrangements for your separation, some short term solutions, you need to start now to learn how to lay the groundwork for useful discussions.

Stick to short-term solutions. Unless things are very smooth between you, stick to temporary arrangements and short-term solutions for pressing issues. Do not try to settle final terms for your divorce because you need more preparation for that in most cases.

Bad habits. Most couples have a predictable pattern of interaction that doesn't work, a set of triggers that will set you or your Ex off more or less the same way every time, over and over again. You have habit patterns for dealing with disagreements that do not serve you well or solve any problems. It may not be intentional or even be conscious, but you know each other's buttons and you both push them automatically, without even thinking, especially when feeling angry, frightened or guilty.

It's time to make some changes in this regard.

The divorce starts to work for you when you learn to untangle yourself from the ugly dances you used to do. If **you** can stop reacting in the same old way (not easy to do), your Ex may keep on, but will eventually have to notice that it's a solo performance. If not, too bad, but your Ex's problems aren't yours any more. Your sole concern now is how you feel, how you act, what you say and do.

Insecure or upset spouses. You can't negotiate with someone who is insecure, upset, or fearful. If pressed, they are likely to retain a lawyer to fight for them.

- **If your spouse is insecure**, there's a **lot** you can do to help. Let your spouse know you'll be open and fair and make no moves without letting him/her know ahead of time. Make sure both sides have some stability for the time it takes to settle things. Tone yourself back, listen more, don't argue, repeat yourself, or insist. Take it slow and easy and help your spouse gain the confidence to negotiate. Do not try to con your spouse because if he/she catches on, you'll have lost trust for the rest of your miserable and expensive lawsuit.

- **If you are the insecure person**, you have to find some confidence or get help. You'll feel a lot better if you become informed and prepared. Get [How to Do Your Own Divorce in California](#) to get basic information about how divorce works. Get [Make Any Divorce Better](#) and organize yourself and your facts by using the worksheets that come with the book. Learn the specific things you can do to deal with upset, fear and conflict and how to negotiate with your Ex.

If you want advice or feel you just can't go through it alone and want someone to go through it with you, even represent you, consider taking your case into mediation or look for a collaborative lawyer near you and encourage your spouse to get one, too. I recommend that you call [Divorce Helpline \(866\) 250-3332](#) and tell them Ed sent you. They'll work with you conveniently by phone or in person at their offices in Santa Cruz, Sacramento, San Jose, San Francisco, Walnut Creek, San Diego, Los Angeles, Encino and Irvine.

Tips for Building a Foundation for Agreement

1. **Anger is not reasonable.** When someone reaches the flash point, the ability to reason gets less as anger increases. Don't bother trying to talk sense until the anger is well past. Anger always passes. It runs its course faster if you don't feed it, faster yet if you use defusing techniques (below).
2. **Deal with the problem,** not the person.
3. **Never threaten legal action** or take legal action unless there's an emergency. See [What's an Emergency?](#)
3. **You do not have to give in or be a doormat**
 - **Rights.** You have the right to act in your own best interest; to respect and stand up for yourself; to politely express ideas and honest emotions; to ask for what you want; to set limits; to be treated with respect and dignity; to make mistakes and accept responsibility.
 - **Responsibilities.** It is your responsibility to respect and honor the same rights for your Ex; to take responsibility for your own behavior.
4. **Be assertive and constructive**
 - Confront the problem, not the person.
 - Defuse hostility, don't play at patterns that don't work. Your goal is to keep things calm so you can deal with problems or complete business at hand.
 - Disengage from conflict. Pay attention to your own anger level. If necessary, say you need to interrupt the meeting for a cool-down period. Reschedule another time to meet, then get up and quietly leave.
5. **Defusing.** Here are some techniques for defusing anger when it comes up:
 - Remain calm yourself. Don't react—instead, use your sense of curiosity; become an interested observer. Encourage talking by listening openly.
 - Show that you understand or are trying to. Nod, paraphrase and mirror what you hear ("Let's see if I have this right; you are saying that _____?"). You must be sincere in this for it to work well.
 - Talk to your spouse with "I" messages instead of the accusing "you." For example, "I can't discuss this when you speak at me so loudly," instead of "You are being aggressive and totally inconsiderate."
 - Make statements about yourself when necessary, but not about your mate personally. Be specific and concrete, be positive not negative.
 - Calmly set your limits. "I don't want to stop this discussion, but if you keep raising your voice at me, I will have to leave and set another time to meet." Or, "If you are more than 30 minutes late picking up the children, I will have to leave with them."
 - Don't defend or attack, don't generalize ("You always do this to me"), don't be sarcastic or discuss your mate's motives or dig up old history.
 - Deal with the specific matter now at hand.
 - Reassure your mate; help him or her to save face.
 - Remember, your goal is to reach agreement, not score points.

6. **Work with the attitude** that you want to find solutions that allow you both to get what you want and need. Avoid the win/lose attitude.
7. **Don't expect a quick fix or miracles.** You can do all the right things and not have immediate results. It's like erosion, the sort of thing you have to chip away at. It takes time, but you will succeed if you keep at it.
8. **Get help if you need it.** Consider counseling for yourself or your children. For help with talking to your spouse, consider couples counseling or go see a mediator to help you work out temporary arrangements. Finally, if you really feel you need to be represented by an attorney, look for a Collaborative Law attorney near you and try to get your spouse to get one, too. See [Who Can I Call?](#)

A sample agreement for temporary arrangements

It's best if you put your agreement for temporary arrangements in writing as a way of reminding one another later what was agreed and what wasn't.

Get my [sample temporary agreement](#) and modify it to suit your own situation. It's in RTF format that can be edited with any word processor. It's free.

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For personal assistance, call [Divorce Helpline \(866\) 250-3332](#). Tell them Ed sent you.

Child Support

When you have minor children, you **must** settle the amount that will be paid for child support. Unless the parents can agree to an amount, it will be settled by a judge after a hearing or a trial in court. Very expensive; very messy. You don't want that.

1. How much? You don't have to spend one more minute wondering or arguing about this question because the amount of child support has already been settled for you.

Mandatory child support guidelines. California's child support guidelines define the amount **any** judge in the state **must** award, based on financial data proved to the judge by financial documents or other admissible evidence that proves the income and allowed deductions of both parents.

Agreements. Parents can agree to any **reasonable** amount in a written settlement agreement, but their agreement must show the correct amount of guideline support and, ideally, attach a computer calculation of the amount. More about this below.

Additional support. In addition to guideline support, parents must arrange for health care for the child if it is available through the employment of either parent, and parents must share health care cost not covered by insurance equally (50/50) unless agreed otherwise. Parents must also share child-care costs required to permit the custodial parent to work or attend job-related training or education.

Demonstrated financial data. Guidelines are based on income of the parents and certain expenses that can be deducted. A judge can only consider financial data that can be demonstrated by admissible documents (pay stubs and financial statements), so you can't expect one parent to agree to financial claims of the other parent that can't be supported by similar credible evidence. If you show each other your financial records and apply the data to the guideline, there's really nothing left to argue about. Why waste the money it costs to go to court if you already know what the judge will order?

Exception—Imputed income. If it can be shown in court that a parent is capable of earning more at a full-time job when such jobs are available, but chooses to work less or work at a lower-paying job, a judge could decide to set child support based on the amount the parent could be earning rather than actual income. For example, if a qualified mechanic lives where such jobs are available but chooses to make a bare living as a freelance writer, that parent should not be surprised if a judge figures support based on what a mechanic earns. In other words, you have to do your best for your child(ren).

2. How to compute the guideline amount. California guidelines are so incredibly complicated that all lawyers and judges use a \$500 computer program to figure the correct guideline amount and lawyers charge a stiff fee each time they run the program. Most people want several runs, based on a variety of "what if" possibilities, and later to calculate the guideline whenever there are changes in income or deductions.

To provide what you need, I created **CalSupport**—very affordable professional-quality software that has been certified by the Judicial Council every year since 1995 and is used by hundreds of professionals, yet it will cost **you** only \$34.95. CalSupport is just as powerful as any of the professional programs, only it is easier to use and understand. CalSupport guides you at every step, so when you are done, you understand how you arrived at the outcome. It has reports that help you negotiate. CalSupport changes arguments about "How much?" into discussions of "Are these figures correct?" To learn more and download a **free trial** version of **CalSupport**, [click here](#). I recommend that

you get a copy of it right **now** and give a copy of it to your Ex so you can both start learning and thinking about support.

Caution!

Only use information found on the official site because you can't be sure that information found on any other site—except mine—is current or complete. To find links to California's official child support sites, [click here](#).

Do not use online calculators on private sites as you can't be sure they are accurate. The ones we've seen have been incomplete and lack adequate instructions. In fact, even the calculator found at the official California site is tricky to use and lacks adequate information about your many options. **CalSupport** is still your best bet.

3. Establishing and enforcing child support orders. Every county has state and local offices charged with helping people establish and collect child support. If you have questions or want help with child support, this is the first place to look. If they are very busy, it might take some time to get assistance, but call and find out what they do and how they can help. [Click here](#) for links to California's child support enforcement agency. You should also call the Superior Court Clerk's office in your county and ask for the name of local offices that help people with child support issues.

4. If public assistance for a child is being received or applied for, the Department of Child Support Services must sign their approval of any judgment concerning child support before a judge can sign it. If you fall into this category, contact their office in your county right away and discuss your case with them. Ask your Superior Court Clerk for contact information or [click here](#) for a link to the Department of Child Support Services.

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Custody and parenting plans

Most people are used to hearing about “custody” and “visitation” and these are the terms used in court. However, it is widely recognized that they make the “visiting” parent feel undermined and reduced in status. I agree and urge you to use “custody” and “visitation” only in court, never in the family where you need speak only of your parenting plan.

Here's the meaning of the California custody terms:

- **Joint legal custody** means that both parents share the right and responsibility of making decisions relating to the child's health, education, and welfare. If you wish, this term can be defined in more detail in your settlement agreement.
- **Joint physical custody** means each parent will have significant periods of physical custody arranged to assure the child has frequent and continuing contact with both parents. It need not be 50/50; even 70/30 would be okay.
- **Joint custody** used alone means both joint legal and joint physical custody.
- **Sole physical custody** means the child will live with and be under the supervision of one parent. "Primary physical custody" is often used instead—it has the same legal meaning but doesn't have the harsh implication that only one parent has the child. The other parent can think of it as having less time rather than no custody.
- **Sole legal custody** means that only one parent has the right to make decisions relating to the child's health, education, and welfare.

It is very common practice to award joint legal custody with primary physical custody to one parent, as this enables the parent with less time to feel fully a parent.

The parenting plan rules

No matter what your custody order says, it's your **parenting plan**—a schedule at heart—that actually determines when a child will be with which parent. You'll understand this better when you look at the Simple and Detailed Parenting Plan Worksheets that come with **Make Any Divorce Better** or **DealMaker** software. The worksheets are very useful, but **DealMaker** offers a bit more support because the software guides you through the making of your plan.

Flexibility. From day-to-day, parents are free to depart from their plan at an time by mutual agreement. But when parents can't agree, it's the plan that settles the matter.

Separate plan for different schedules. All children who have the same schedule can be grouped under one plan, but it is often necessary to have different schedules for children of different ages or with different needs. You need a separate plan for each different schedule. As young children grow older, you'll want to make a new plan.

Age appropriate visitation. Everyone agrees that babies should not have the same schedule as school-aged children as their needs are so different, but there is not wide agreement as to exactly what this means in specific terms. Here is one state's suggestion that you can use, ignore, or modify for your own family:

Infants: A few hours every two or three days to build a bond with the non-custodial parent. Over-night can be too traumatic.

1-year olds: One day a week

18 Months: One day plus a night

2 to 3 years: Two days plus a night

Elementary School age: Alternating weekends, plus extended visits during school breaks

Teens: Same as above, but with more flexibility to accommodate their schedules

Reasonable visitation. California has rejected the old "reasonable visitation" order because it proved to be of little use, a source of trouble, since no one can say what it means. But how much detail is required? How much detail is desirable?

Simple or Detailed? When parents are very comfortable co-parenting together and have a high degree of trust, a very simple plan might be suitable, but in general more detail is better.

Legal minimum. In California, even a minimum plan needs enough detail so a future judge can, if necessary, determine whether a parent is being deprived of parental rights.

More is better. In general, the more detail the better. Parents can spontaneously rearrange their schedule any time they like by mutual agreement. It's when they don't agree that the details truly matter, and then they are very valuable indeed, as the schedule settles the question of where the child(ren) will be at any given time. The way good fences make good neighbors, a good parenting plan can help make parenting more comfortable. A detailed plan can be more trouble to work out in the first place but it will make parenting easier forever after.

Reasons for not doing a detailed plan. There are two reasons commonly given, of which only the first is convincing.

1. Emotions are too high. The best reason for not working out a detailed plan at the outset is that the parents are too upset about their breakup to deal with it. Parenting can be a very sensitive issue, so if you are negotiating when emotions are high and nerves are raw it might be best to agree on everything else—property and support—and limit your parenting plan to a set of general guidelines. This is not ideal but in some cases it's the only way to get a settlement agreement signed and start things moving forward. You should agree that you'll work on a more detailed plan after things cool down and you've had some experience with shared parenting.

2. High degree of trust. Some parents feel they get along so well that they have no need for much detail and prefer to leave things minimally defined. They don't want to be bothered with working out details that they don't plan to stick to anyway. However, even under a detailed plan, parents can spontaneously rearrange their schedules by mutual agreement any time they like, so that's not a convincing reason. Besides, to be sure of getting your agreement through, you'll need at least the legal minimum amount of detail.

DealMaker templates and worksheets. DealMaker has two parenting plan templates—Simple and Detailed—that will guide you through the making of plans in a format that should satisfy any judge. DealMaker also prints parenting plan worksheets so you can think about or discuss your plan while away from your computer.

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CHAPTER 9

Getting Organized

The business end of divorce is about property, debts, and support (if any). To make sound decisions, you first need to get your facts and documents organized so you'll know for sure what you're dealing with. This is very important, because the choices you make now can influence your well-being for the rest of your life.

The prepared person will do better. Generally speaking, the person who is better prepared will do better in negotiations, mediation or in court. It is common for one spouse to have more information and experience, therefore more negotiating power than the other and that makes for an imbalance of power and a more difficult negotiation. This situation can be improved if the less-confident spouse gets organized, informed and prepared. Even in the middle of a divorce, it is not too late—just follow the advice in this article and watch everything start to make sense and self-confidence rise.

Decisions are based on facts. Making decisions—knowing what you want—is based on two things: the facts of your case and what the law has to say about those facts. Right now, we're going to discuss how you gather and organize your facts.

Worksheets. To help you organize your information I put several worksheets on the CD that comes with [Make Any Divorce Better](#) and [How to Do Your Own Divorce](#), or you can get them [separately](#) on my site in a format that can be used with an PC or Mac. These worksheets are exactly what any good attorney would use to organize your case, including:

- Personal Information
- Assets and Debts
- Budget (income and expenses)

Use these worksheets to get your facts and your thoughts in order. If you prepare your case with these worksheets and gather supporting documents before you visit an attorney (if you ever want to) you will save hours of attorney time and hundreds or thousands of dollars. You will impress the attorney as being someone who is prepared and knows what they are doing. Having organized your facts, you will have pinpointed exactly what you want to know and you can ask the attorney specific and informed questions. Do that, then think things over and decide what you want. But make up your own mind—don't live on someone else's values.

Even if you never see an attorney, you will feel more in charge of things yourself.

The law. In California, the law on dividing property is so highly refined that you can predict pretty accurately what any judge would decide with a given set of facts. **But note** that the law doesn't come into play unless you end up in court. Otherwise, you are free to decide what is fair and reasonable and the law won't affect you unless your division is disturbingly unfair. **The value of knowing the law** is that in negotiation you can set your sights on something you know you can get in court and negotiate in that neighborhood. To find out about California law, read the summary in [How to Do Your Own Divorce](#), or get sound, neutral, legal advice in person from the excellent family law attorneys at [Divorce Helpline \(866\) 250-3332](#).

Ten peaceful options. Long ago, a judge in Riverside came up with a wonderful list of *Ten Ways to Divide Property Without a Fight*. To get a copy, [click here](#).

More about decisions. Don't make long-term decisions when you are upset, because your judgment isn't sound and you don't want to build the rest of your life on decisions based on anger, guilt or fear. Slow things down and put off making permanent decisions until you are more centered. Try to create short-term, temporary solutions instead of long-term, permanent ones.

Consider what your real values are. Think about what's important: security, property, money, revenge, income, peace of mind, your family, future relationships, doing what's right, being fair, forgiveness, and so on. Attorneys almost always proceed as if getting sole custody and the most money is what's important, but you might have different values and you might prefer your values over the law. Getting every last cent might not be as important to you as other things, like fairness or settlement without legal battle. Or maybe it is.

Keep orderly records. Your work will be easier if you keep your records safe, neat, organized, and all together in one place. Otherwise, you may end up swamped in a mass of papers that will make you feel confused, frustrated and insecure. You might misplace important papers. It's easier if you start off right and keep things that way.

Keep file folders in a drawer or box, or go to a stationers and get a large accordion folder with six or more compartments, or just use some large envelopes in a box. Keep a set of files for:

- Correspondence with your spouse, lawyers (if any), and others who are related to your divorce
- Worksheets
- Documents and records
- Any other categories that will help you sort things out

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Taking care of business

I've already discussed some business aspects of divorce. In chapter 1, I gave you a link to my [Pre-divorce Checklist](#) and I hope you've already made progress on those business details. In the previous chapter, I encouraged you to start organizing your facts, your documents and your thinking by using my [worksheets](#). That's an important part of taking care of business.

By now, you've already begun to see that much of divorce is about business—money, property, procedures, paperwork, negotiation, written agreements, and so on.

This chapter is about the widely understood rule that business and personal (emotional) matters do not mix. This is especially important when you and your Ex get ready to start talking about the terms of your divorce.

The best way to reduce conflict and confusion is to keep business matters as separate as possible from personal issues.

Be sure to tell your Ex the way you want to proceed and explain that it will help you both. You can do it on your own, but it's best if you can both agree to take this approach. I recommend that you both have your own copies of [Make Any Divorce Better](#).

This doesn't mean you don't need to deal with emotional matters—just not when you are taking care of business. [Make Any Divorce Better](#) shows you step-by-step how to deal with emotional issues and keep them separate from the business of divorce. You'll want to read that, but for now here are some guidelines for taking care of business:

- Read [How to Do Your Own Divorce in California](#) to learn basic information about divorce law and how divorces are done in Texas.
- Work hard to decide what you want ahead of time. Postpone decisions on things you aren't clear about. Keep a business diary for your thoughts and decisions and review it now and then, especially before you go to a meeting with your Ex.
- Unless your estate is very simple, I suggest you complete the [worksheets](#) to organize your facts, your documents and your thinking before you start talking terms with your Ex. If you feel the need, get some advice from a family law attorney-mediator so you can feel confident that what you want is reasonable.
- Act businesslike. Dress for business instead of casually, adopt a professional attitude and tone of voice. Try to see yourself as two separate people—a business professional and an emotional, feeling human being. Be the other person some other time. Postpone meetings if you cannot be relatively calm and thoroughly prepared.
- Discuss business at appointed times and places. Always be prepared with a written agenda of what you want to talk about and check off each item as it gets done. Bring copies of any necessary documents. Take notes.
- If you meet in person, do not meet at the home of either spouse. It's too personal, it triggers emotions, and someone may feel at a disadvantage. You should be able to get up and leave if necessary. Meet at a coffee shop, in a library or school room, at a park or a friend's house if it feels good. Anywhere quiet, safe and neutral will do, but do not meet at a spouse's home.

- Refuse to discuss business and personal matters in the same conversation. Be consistent and diligent about it. If something personal comes up when talking business, say “I’d like to discuss that later with you, please,” and offer to set a specific time for it. If your spouse persists, hold firm, repeat your request once more, then explain that you will leave or hang up if it happens again. If necessary, do so. Don’t get excited or emotional; be businesslike, but stick to your decision.
- Refuse to talk business when you are discussing personal matters. Do not get into a business discussion spontaneously or impulsively. You need to be properly prepared and emotionally composed each time.
- If your spouse is being difficult in your emotional life, try not to let that infect your business relationship. Similarly, if your spouse is being bad in business negotiations, don’t let that affect you emotionally. Don’t get upset—it’s only business.

Before you actually start negotiating your settlement terms, I encourage you to read about how to reduce conflict and how to negotiate effectively in **Make Any Divorce Better**. Because you have complicated assets in your estate, I think you’ll find it extremely useful to get **DealMaker** software and use its screens and worksheets to guide you through the many options that are available. I’ll discuss this program a little more in the last chapter, but if you’re getting ready to negotiate now, why wait?

It would be no surprise if negotiating with your Ex isn’t easy, so read **Make Any Divorce Better** ahead of time to learn specific things you can do to reduce upset and make negotiation effective. In the alternative, you might consider working things out with the help of a good mediator. If the issues are primarily personal, it isn’t necessary that your mediator be a family law attorney, but if your difficulties involve legal issues—spousal support/alimony or dividing complex assets, or mixed up personal and marital property—a family law attorney-mediator might be able to bring a legal perspective to the table. As you know, I recommend **Divorce Helpline**.

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Settlement agreements and DealMaker software

The chapters have all been leading to this point—your settlement agreement.

The settlement agreement is the heart of your case. Once you have a signed agreement, you're 90% done. All that's left is some paperwork to get your judgment.

Finishing the paperwork. Once your agreement is done, read the [Easy Divorce](#) in Chapter 2 above about how to get the paperwork done.

Yes, it is possible to complete a divorce without a written agreement, but because you need a good parenting plan, that would be a very bad idea. A written agreement makes everything so much cleaner and more “finished” because you've both considered everything and put your signatures on the deal you've made.

Putting your agreement in writing. If you'd like to be guided through every step, have your hand held, so to speak, then you'll enjoy the power and ease of [DealMaker](#) settlement agreement software. It is especially good at helping you think about and negotiate how you want to deal with property and debts and it helps you create a parenting plan.

[DealMaker](#) guides you to enter information and make decisions then [DealMaker](#) writes a professional agreement for you, ready to edit or sign as-is. The power of software takes you much further than the sample agreements in our books.

[DealMaker](#) is powerful yet easy to use. Tips on each screen and extensive online help files guide you with information and advice.

Worksheets included! DealMaker prints worksheets that are like a checklist of everything you need to think about. These are convenient for negotiating or thinking about your agreement when you are away from your computer.

Includes free updates until new program features deserve a version upgrade, which we don't expect any time soon. Be sure to use the automatic update checker under the Help menu to check automatically, or check manually from time to time for updates.

Trouble reaching agreement? Nothing unusual for spouses to find it difficult to talk about the terms of their divorce. If this is a problem for you, my book [Make Any Divorce Better](#) offers specific steps you can take that will make this job easier. If you don't want to read a book, or you take those steps and still have a hard time reaching an agreement, you should get a mediator to help you reach agreement. Mediation is usually very effective. As a last resort, you should agree to arbitrate rather than go to court.

Call [Divorce Helpline \(866\) 250-3332](#). They can help you anywhere in California by phone, or in person at their offices in Santa Cruz, Sacramento, San Jose, San Francisco, Walnut Creek, San Diego, Los Angeles, Encino and Irvine. They give legal and personal advice, mediate and arbitrate.

You can also look in Nolo's online [Directory of Divorce Services](#) to find a professional near you.

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Parting thoughts

Divorce would be difficult for most people even without our unhelpful legal system that makes everything so much worse. **Make Any Divorce Better** has an entire chapter full of practical suggestions for how you can deal with your Real Divorce—the inherent difficulties of leaving the past behind and rearranging your life. Meanwhile, I sincerely hope the information in this guide has helped you form a better idea of what divorce is about and given you some useful ideas for how you can minimize *unnecessary* pain and expense in yours.

Feedback. Let me know if I've been able to help. If you think of something I can do differently or better, I'd like to hear about that, too. You can reach me by clicking the **Contact** button on the navigation bar at the top most pages on [my site](#).

Best wishes,

A handwritten signature in black ink that reads "Ed Sherman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nolo Press Occidental