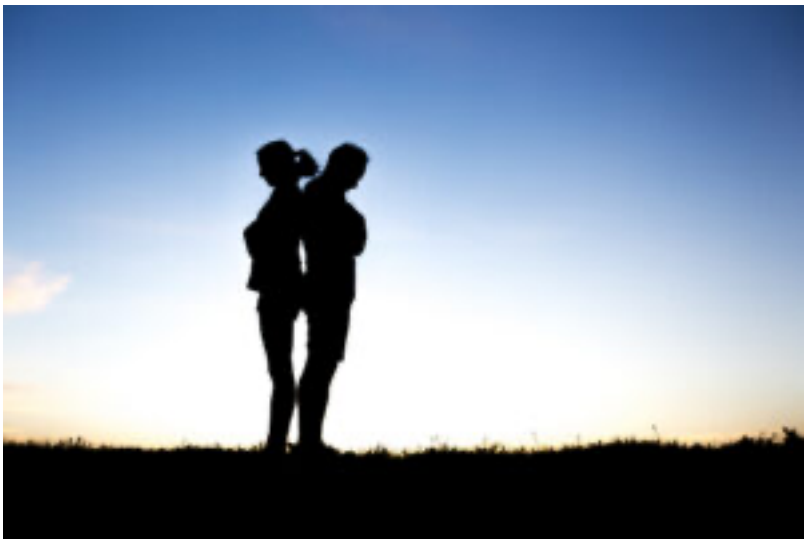
A Mother's Guide to Divorce and Custody

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A Letter to Mothers Facing Divorce



If you are reading this guide, there is a good chance you are facing one of the hardest decisions of your life. Maybe you have concluded your marriage cannot be saved. Maybe you have been considering divorce for months, or years, without knowing where to begin. Or maybe your spouse has already raised it, leaving you overwhelmed about what happens next.

Whatever brought you here, know this: what you are feeling is normal, and the decisions you make in the coming months can shape your finances, your relationship with your children, and your future. My hope with this guide is to help you make those decisions from a place of knowledge rather than fear.

I have represented mothers throughout California for years, through some of the hardest periods of their lives: women worried about losing their children, mothers unsure how they would support themselves after years out of the workforce, and professionals just as overwhelmed by the legal process as anyone else.

Every family is different, but the concerns I hear are remarkably consistent. This guide is about the harder cases, the ones that drag on for years and turn custody into a battlefield.

Before You File: Getting Grounded

Should I File a Restraining Order to Protect Myself and My Kids?

If you are genuinely afraid for your safety or your children's safety, yes. That protection exists for exactly that reason, and you should use it.

A restraining order is supposed to be a shield.

The problem is that I have also seen it used as a sword, filed not because of real danger, but to gain leverage in a custody fight, since in California an abuse finding creates a real presumption against the other parent for custody.

I have had a case where a wife filed a restraining order the moment a settlement conversation about finances stalled, and the timing told the whole story: the request that followed was purely financial. It worked, in the sense that it separated a father from his child for months.

But it also came at a real cost: enormous legal fees, a child who kept asking why he could not see his dad more, and a court record that can come back to hurt you if the truth comes out later.

If you have a genuine safety concern, raise it; do not second-guess yourself into silence. But if you are weighing whether to file as a strategic move rather than a safety one, understand what you are trading: your children's stability, for leverage that courts are increasingly good at recognizing for what it is.

Does It Matter Who Files First?

Often, yes, particularly with restraining orders.

The parent who files first typically gets the initial custody orders in place, and those tend to hold until a full hearing changes them, which can take weeks.

Filing the divorce petition first can also lock in a disputed date of separation and triggers a set of automatic protections called ATROs, discussed below.

That does not mean you should file reflexively out of fear of being beaten to the courthouse, but if there is a genuine safety concern, waiting to see what

the other side does is rarely the safer choice, a judgment call where your attorney's read on your specific situation matters more than any general rule.

Understanding Your Family's Finances Before You File

The instant you file, or the other parent is served, a set of Automatic Temporary Restraining Orders, called ATROs, go into effect on both of you.

They are financial and logistical guardrails, not about personal conduct: neither of you can move the children out of state, take out new loans against shared assets, cancel insurance, or move significant money outside normal living or business expenses.

They exist to stop one spouse from hiding assets or destabilizing the household while the case is pending.

They are automatic, but a determined spouse can still try to work around them, so before you file, it is worth taking real stock of your family's accounts, debts, and property.

Protecting Your Relationship With Your Children

Whatever else happens in the case, your relationship with your kids is the one thing worth guarding above all else.

That does not mean staying silent about legitimate concerns, but it does mean thinking hard before you say anything to your children about the legal process or let them feel caught between two parents.

Courts notice which parent keeps the children out of the conflict and which parent pulls them in, and so, eventually, do the children themselves.

Custody and Parenting Time

As the Parent Who Has Done Most of the Day-to-Day Care, Will the Court Just Side With Me?

Not automatically, and this catches a lot of mothers off guard.

California courts start from a presumption of 50/50 custody, then look at the facts on the ground: who has actually been the hands-on, primary caregiver, and what the children's routine has looked like.

If that has genuinely been you, the court will weigh that.

But I have watched plenty of primary caregivers forget just how capable the other parent really is. I will have a mother tell me the father cannot handle the kids overnight, and then we get into the facts and it turns out she went on girls' trips for a week at a time and he managed just fine.

The court sees through that inconsistency, and so will opposing counsel.

Be honest with yourself about what you actually saw during the marriage, because that history follows you into the case.

My Ex Barely Lifted a Finger Before. Why Does He Suddenly Deserve Equal Time Now?

This is one of the truest patterns I see, and it is worth hearing before it blindsides you.

Parents who were not very hands-on during the marriage often become much better parents after separation, simply because they no longer have the option of coasting.

A father who worked long hours and treated weekends with the kids as a bonus, not a job, will often step up once he actually has the kids to himself.

It is not that he was lying about who he was; it is that the marriage let him get away with being less present.

I understand the instinct to think, "he does not deserve this time, he never did the work."

But courts are not looking backward at who did more laundry. They are looking forward at whether both parents can safely and capably care for the children now.

Holding onto resentment about the past will not move the needle in a custody hearing, and it can make you look like the one creating conflict.

Is It Worth Fighting for Every Extra Hour or Percentage Point of Custody?

Sometimes the fight itself is the point, and it has nothing to do with the child's welfare.

I once watched an attorney spend $50,000 of a client's money in a hearing over roughly two percent of custody time, a few hours a week.

That was not about the kids; it was about not wanting to feel like less of a parent.

I understand that instinct completely, especially for mothers who feel like giving an inch is somehow proof they do not care as much.

But your children are not adding up percentages. They are not going to conclude you love them less because you had 48% instead of 50%.

Before you fight over the margins, ask yourself honestly what you are actually protecting, because sometimes conceding a little bit, especially on things that do not meaningfully affect the kids, is not losing.

It is often the smartest move you can make, financially and emotionally, for everyone involved, your children most of all.

What Is the Difference Between Legal Custody and Physical Custody?

People use these terms like they mean the same thing.

They do not, and this confusion causes a lot of unnecessary panic.

Physical custody is about where the children actually live, their day-to-day schedule and routine.

Legal custody is about who gets to make major decisions regarding health, education, and welfare.

When a parent hears they might “lose custody,” they often picture losing their children entirely.

In reality, losing legal custody means losing the right to make joint decisions with the other parent; it does not mean losing your children or even necessarily losing significant time with them.

Understanding this distinction matters because the two are decided somewhat differently, and conflating them can push you toward panicked decisions that are not grounded in what is actually at stake.

Trust, Fear, and Safety

I Don’t Trust My Ex Alone With the Kids. Is That Real, or Am I Overreacting?

I ask every client the same question when this comes up: during the marriage, did you ever leave the children alone with the other parent, for an evening, a weekend, a work trip?

If the honest answer is yes, and nothing happened, that is important information.

A lot of fear that surfaces during a divorce is not really about new evidence of danger; it is about the panic of not having eyes on your kids for the first time in years.

That panic is completely human, but it is not the same thing as a legitimate safety concern, and courts and attorneys will distinguish between the two.

If there is a real pattern of actual abuse, neglect, or danger, say so clearly and let your attorney build the case around facts.

But if you are finding yourself imagining worst-case scenarios that never played out before, that is a sign to talk it through with a therapist, not necessarily your lawyer.

Sorting out which kind of fear you are feeling is one of the most important things you can do for yourself and your case.

How Do I Know if I'm Making a Decision Out of Fear Rather Than Facts?

Fear is not always wrong; sometimes it is exactly what protects you.

If your gut is telling you your ex is hiding money, that is worth raising with your attorney; in my experience, those concerns turn out to be justified more often than people expect.

But fear can also run the other direction: convincing you the other parent is dangerous when the honest history says otherwise, or pushing you to spend six figures chasing something that is not there.

The test is simple: is this rooted in something you have actually seen, or in anxiety about what might be true?

A good attorney should help you tell the difference and steer the strategy accordingly.

Managing Conflict and Control

My Ex Seems to Be Trying to Control Everything Through the Kids. Why?

Because the kids are often the last thing a controlling person can still control.

I have seen spouses who managed every dollar their partner spent, and once the finances are divided by the court, that control disappears, so it shows up somewhere else: fighting over religion, extracurricular activities, minor schedule changes, refusing to agree to anything simply to keep a hand on the wheel.

Recognizing this pattern does not make it less exhausting, but it can help you respond differently.

The goal is not to win every skirmish; it is to notice when a fight is really about control rather than the kids' well-being, and to decide, deliberately, which battles are worth having.

What If I Have Already Lost My Temper in Front of the Kids or During a Custody Exchange?

I had a case that still weighs on me: a mother who had spent years managing a controlling, difficult ex-spouse, and who finally, in one five-minute moment at a custody exchange, lost her composure.

It cost her custody.

The judge said, on the record, that he understood what she had likely endured for years, but that did not undo what happened in that moment.

She eventually got custody back, but only after a long, painful fight and real damage to her kids.

I share this not to shame anyone who has snapped under pressure, but courts weigh single incidents heavily, sometimes unfairly so.

If you are dealing with someone who provokes you deliberately, the hardest and most protective thing you can do is refuse to give them that moment on camera or in front of the kids.

Work on yourself, get support, and build in a buffer before you are the one standing in front of a judge explaining what happened.

My Anger Is Justified. Could Acting on It Hurt My Case?

Almost always, yes, your anger is justified.

Divorce rarely happens to people who feel nothing has gone wrong.

But I have seen that anger, dressed up as “justice,” destroy the very things people were trying to protect.

I represented a spouse who spent so much fighting out of pure spite that the family home had to be sold just to cover legal fees, leaving far less than if the case had settled early.

I have seen a business destroyed rather than divided, simply so an ex-spouse would not benefit from it.

Vengeance feels like it is giving you something in the moment.

In practice, it costs far more than it delivers—in money, time, and your relationship with your own children, who are watching all of it unfold.

What Is the One Thing I Actually Control During My Divorce?

Yourself.

That is genuinely it.

You cannot control the other parent, the judge, or how long the case takes.

What you can control is whether you react or respond, whether you keep your children out of the conflict, and whether you get the support that lets you show up as the steady one.

I have watched parents who “won” on paper lose years of peace to a fight that never needed to happen, and parents give a little ground and come out with their children, their finances, and their own well-being far more intact.

The parents who come through this best are usually the ones who did the hard work of managing themselves, not the ones who won every argument.