

Worried about the break up of your marriage? *It doesn't have to result in a vicious battle.*

Make your situation better. Read the wise advice in this article series authored by experienced family lawyers. Then consider how you'll proceed in the best interests of yourself and your family.

Article 3: Surviving a breakup: what you should do until the lawyer is hired

This is the third of ten articles designed to help people understand the complex area of family law. The articles are not a substitute for legal advice. They are meant to help you focus on the issues that you should consider when faced with family conflict.

What is so unfair during a breakup is that you will be asked to make decisions and to be present for your children like never before. This will happen at a time when you are least able to do so because of your stress and grief.

Sometimes just doing something provides its own sense of peace in troubled and chaotic times. Here are some suggestions about what you could be doing after a breakup but before you see a lawyer.

Your first move should be to **seek help with your feelings and with planning for your children**. You could contact one of the communications coaches who are part of the Collaborative Family Law team (www.collaborativefamilylaw.ca). They are trained to deal with the issues specific to marriage break up.

Are there any **safety issues** for you and your children? If there are, act on them. It will be extremely difficult for a lawyer to obtain restraining orders quickly. You may simply need to leave your home with your children and go to a women's shelter. For information about shelters, call your local Elizabeth Fry Society (763- 4613 in Kelowna).

You will need to decide how you and your children, or your spouse and your children will support yourselves until your matter is resolved. In this initial stage it is important to realize that your priority should be to "just get by" because **the long term solutions are yet to be decided**. You and your spouse need to think about the additional cost of housing, issues of transportation for yourselves and the children, after school child care, and cash flow.

I always advise against using possession of the house or withholding of the means of support (e.g. money) as a negotiation tool. Doing so will ensure you both ending up in court, and it will set a tone of conflict that will flavour all your subsequent negotiations.

Lawyers often tell clients to stay in the matrimonial home because it could be difficult to get back in afterwards. However, staying together after deciding to break up can be damaging to you and your children. The sensible approach is to **focus on what is best for the children** (if there are children). If you don't have children, you should consider who will most likely be keeping the home after settlement.

The time immediately after a breakup is when you and your spouse should **gather important papers**. You will be asked for three years of tax returns, your last property tax assessment notice, year-end financial statements for family companies, and details of investments and debts.

As you gather these documents, photocopy them and share them with your spouse. Lawyers are expensive; the last thing you want to pay them for is to pry documents out of each other that you will both need to reach a resolution. Withholding of information in settlement discussions is not an effective power negotiation tool; it is a tactic that damages trust and adds to the cost of the process.

Ronald J. Smith and Glenda Peacock are family lawyers and mediators based in Kelowna, BC. They wrote this article series to help people learn about preparing for collaborative and constructive solutions to the legal issues involved in marriage breakup.

You can contact Smith Peacock for a consultation by phoning 250.860.7868 or 888.787.6484.

Smith Peacock 1615 Bertram St. Kelowna, BC V1Y 2G5 • www.ronaldjsmith.com



SMITH PEACOCK

Lawyers, Chartered Mediators, Chartered Arbitrators