



A Good Divorce

Theo Marinis explores how to make the best out of a situation that can have a high financial and emotional cost for couples and their loved ones.



By **Theo Marinis**

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In my role as a financial strategist, I've known couples to each spend more than \$50,000 on fighting in court when they break up. That, in my opinion, is a 'lose/lose game'.

It's a harsh but scary reality and prompted me to ask a professional colleague – is there such a thing as a good divorce?

Rose Cocchiaro, specialist divorce lawyer and principal of Resolve Divorce, says yes.

If two people love each other enough to walk down the aisle, pool their finances and procreate, then yes, it is possible.

Of course, it would be naïve to ignore the fact that a whole lot can happen between marriage and separation to make a peaceful parting of the ways simply beyond the realm of possibility for some couples. But where it exists, it should be explored.

There is no right or wrong way to approach separation.

For some families, it may simply mean obtaining a divorce, which is simply the act of becoming unmarried. That can be achieved in a matter of months at a cost of \$930 to cover the Court filing fee. At the opposite end of the spectrum are the families who end up in long, entrenched and expensive litigation through the Court.

Rose says that in her experience, most Australian families fall somewhere in the middle. Issues which are commonly on the table for discussion relate to care arrangements for children, the division of assets (otherwise known as property settlement), spousal maintenance and child support.

On the scale of stressful life events, divorce is only outranked by the death of a spouse. For Rose, this was a startling statistic, and it became one of the driving factors behind her decision to establish Resolve Divorce.

There is a difference between the best legal outcome and the best outcome for a client. You might think they are one and the same, but that is not the case. For example, in a financial matter, the best legal outcome might be receiving the most assets in a division. Sure, that might be a win in your books. But what if your goal was to maintain an amicable parenting relationship for your children? What if it meant that your former partner had to move to a different suburb – meaning more travel time for your children?

To quote Rose: *“The goals and needs of our clients come first, and we support them through the divorce process in a way that helps them achieve those goals.*

“That is not to say that the traditional model of the law is no longer relevant. It absolutely is. It has been tried and tested for decades and it clearly works. Where it does fall short is that it is a ‘one size fits all’. In any sphere of work that deals with humans in such intimate and intricate detail, such simplicity does not exist. We work creatively to explore other options.

“Even through the arduous process of divorce, the parties can remain empowered and in control of how their assets and resources can be divided to ensure the best future possible for all involved.”

Working through a divorce is the complex unravelling of parental, financial and emotional threads. It goes beyond the family it concerns, but it reaches to extended family, friendships, workplaces, schools and teachers – and the list goes on. Given the far-reaching impact of a separation, it is unsurprising that many collaborative practitioners consider divorce to be a social challenge rather than a legal challenge.

It is also unsurprising, therefore, that the legal process we have in place lacks in its ability to address the social problems which arise out of separation.

Rose believes in the importance of having a network of professionals on hand to support and inform clients where it is needed. These include:

- Financial planners.
- Accountants.
- Family therapists.
- Psychologists, for counselling and therapeutic support.
- Divorce coaching, as someone who can lend an ear.

For example, having a specialist tax accountant as part of the team and directly involved in the process can ensure that all tax and accounting issues are taken into consideration with regard to the final agreement to realign the family assets.

Being informed, however, is only part of the story. The other element? Rose is of the view that the emotional ramifications of divorce should be placed on the same plane when considering the legal, financial, and practical implications of separation on families. She believes that family therapy can be indispensable in supporting couples to keep the lines of communication open, honest, and constructive for themselves and their families, while transitioning through this change.

Whilst there are many ways in which a resolution can be achieved, Rose believes in having a goal-focussed approach as the basis for dispute resolution. Collaborative practice, mediation, and negotiation all play a role in the dispute resolution process. The methods which provide the best outcomes, however, are those which empower parties to make decisions which best meet their individual and combined financial goals (for example, private school fees and private health cover) and their parenting goals.

Now, from a financial planning perspective, the financial consequences of divorce are often not as devastating as many people imagine.

Most people can, in my observation, pick themselves up and move on to a post-marriage life pretty successfully, particularly when they accept their new reality.

Yes, they may have a different home, they may have a less glamorous car, but they can rebuild themselves and the family financially by getting advice and following a well-articulated financial plan.

With the assistance of a competent and compassionate lawyer, an experienced financial adviser and your accountant – all working in the best interests of the family – yes, it really is possible to have a good divorce.

Theo Marinis is Managing Director of Marinis Financial Group.

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