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My ex and I went through a terrible divorce five years ago, but didn't settle our kids' college expenses. How do I make him pay his share?

Story by Beth Pinsker • 4h



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- 15
-
- 7
-
-

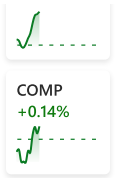
My ex and I went through a terrible divorce five years ago, but didn't settle our kids' college expenses. How do I make him pay his share?

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FIX MY PORTFOLIO

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strategies can help you make the most out of your money? You can write me at beth.pinsker@marketwatch.com.

Dear Fix My Portfolio,

My awful divorce was finalized in 2018, but there's a lot still left unresolved. I have two children who are now 14 and 16, and we are starting to look at colleges. The only thing we accounted for in our master separation agreement was that we have prepaid tuition plans in our state. If they go anywhere else, we'll have a problem.

I know my ex-husband will say he doesn't have any obligation. And I will say our agreement is to split all shared expenses according to the ratio of our incomes — which is 20% for me and 80% for him. Why wouldn't the same apply to college? He'll say, "Sorry, tough \$\$\$%" — and he's a lawyer. I know it's coming.

Beyond that, what about the cost of tennis lessons, cellphones and car insurance, which we didn't specify as "necessary" and he has declared should therefore be split 50/50? He says if I don't pay half of the car expenses, he won't let our oldest use the vehicle he bought when they are at my house.

Is it worth going to a lawyer and fighting these things if it's going to cost me \$25,000 or more?

MJ

Dear MJ,

Years after a divorce, it can be hard to want to step back into that fraught emotional space, especially when the process wasn't smooth the first time (and when is it ever?). If you're dealing with a high-conflict personality, it's a big question whether it's worth it to poke the bear, as they say. But what are your other choices?

The only surefire way to avoid stepping back into battle is to make sure you don't forget anything in your original agreement — which is a lesson for those now contemplating divorce, but a little late for you.

"There should be nothing left undone," says accountant [Ilan Hirschfeld](#), who is the partner-in-charge of the New Jersey Advisory Services group for Marcum LLP and specializes in marital-dissolution services. In his world of high-net-worth divorce, where all the professionals involved are making \$700 an hour or so, he says, "There's no such thing as leaving something out. If something hasn't been thought of, you still abide by the four corners of the agreement."

That may be easier said than done: Hirschfeld has seen couples return to their original divorce agreement years later, mostly because of a change in financial circumstances for one of the parties. If one spouse's income changes 20% in either direction, they can go back into mediation or court to get their share of expenses changed.

Hirschfeld has also had clients who purposefully retained shared property or stayed in business together, and then had to settle up years after their divorces. But that's not something that he, or the courts, typically recommend. "Judges always take the attitude that to settle this case, you need to be fully separated," he says.

Another possibility for those who have left or are considering leaving a high-conflict marriage where resolution seemed unattainable: Some 10% of the population has a personality disorder, according to [Bill Eddy](#), co-founder and chief innovation officer at the High-Conflict Institute, a team of certified international mediation specialists.

In high-conflict situations, there may be one spouse who just never gets over their anger, and that could have roots in their psychology as much as, if not more than, the marriage itself. "Personality disorders are an enduring pattern of behavior — it may last a lifetime," Eddy, a high-conflict-divorce specialist, said at a recent conference, [Journey Beyond Divorce](#).

"Most people take a few years and you can get over a divorce and move forward, but high-conflict people get stuck [in] anger," Eddy explained. "That kind of person can't accept loss. ... And you can't scream at them and make them see. You can't get a judge to scream at them and make them see their part in the problem. This is really a psychological barrier."

College complications

When dealing with college expenses in particular, divorced families run into a range of issues. Many get divorced when the children are small

and the parents have no idea what college will cost, or whether their kids will even go to college.

Some families will simply punt on the decision, says [Brett Ward](#), co-chair of the matrimonial department at Blank Rome, a law firm in New York. "They are dealing with the issues of the day, and [so] they say, 'We'll deal with that when they go,'" says Ward.

Others agree to pay some percentage split, often 50/50, but capped at the equivalent of the going tuition rate at the state university where the family lives. But then what happens if one parent becomes financially successful in the meantime, while the other has limited means and Harvard tuition is \$90,000 a year? Or if one parent simply refuses to fill out the financial-aid forms when the time comes, or just refuses to contribute?

"About 90% of the cases don't become an issue, but some do because people will fight about anything," Ward says.

[Erica Gargol](#), a financial planner based in Arizona who has a designation as a certified divorce financial analyst, says she sees cases where families with more than one child will split the kids up: One parent pays for Kid A and the other pays for Kid B. "For that to work, it depends on how amicable they are," Gargol says. "You also have to factor in who is likely to get scholarships and what kind of school they will go to."

Unfortunately, one parent usually just capitulates if a former couple is sorting things out after the fact, Gargol says. "A lot of time, the primary custodial parent takes the brunt of it," she says.

Ward has also seen that in his practice and his own divorce. "Some have less money and they still pay," he says. "They say they're at peace and that's worth more to them than fighting. That's a common refrain."

If you do step back into disputes about college or any other costs, Eddy says, adhere to the basic principles of dealing with high-conflict individuals and keep control of yourself in communications.

"Try not to open up emotional confrontation, don't get stuck talking about the past, and don't tell them they have [a] personality disorder," Eddy advises. Instead, stick to constructive action items. Eddy's rubric is BIFF: brief, informative, friendly, firm.

So before heading to a lawyer or delving into your money disputes over college and cars, try first being clear about your parameters. You could factually state that, per your agreement, you'll be paying 20% of the car insurance, and see if that works.

"Focus on doing," Eddy says. "It's helpful for people to know that the high-conflict person can't see their part in problems, and so you're wasting your energy trying to get them to see that."

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