

Business Partnership Breakup: Getting A Divorce

By

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There are many similarities between a business partnership and a marriage. They both begin with a mutual attraction and then some "wooing and courting" and an agreement to enter into a binding contract. Like a marriage, there's a lot of wishful thinking and idealization of the other party. And then, after the honeymoon, there's the real work of making the partnership, the marriage, work. Some partners devote their lives to making the arrangement work for everyone's benefit and some start looking for other arrangements right from the beginning or just let the other party do all the heavy lifting. Some business partnerships last entire lifetimes, and some end before the first business quarter is over.

But whether the breakup comes right away or after thirty years of business marriage, the emotional involvement can be even greater than in a real marriage. Ask a mediator or an attorney and he or she will tell you that they can be just as nasty, vicious, and irrational as the divorce battle in the movie "War of the Roses."

In a divorce action, almost always there is one party who initiates the split and the other is shocked to discover they are being left behind. They can't believe what's happening and simply aren't prepared to accept the loss and the changes the separation will bring.

Partnership disputes are divorces just as real to the members as any marriage breakup. They can be as upsetting since the parties may have put as much effort, emotion and even a great deal more time than occurs in a marriage. As a result, the "loser" in the partnership may act from the same emotional base of anger, jealousy, disappointment and desire for revenge as any "jilted" marriage partner. The fights over the property and assets and the future of the business name are as ugly as any divorce battle. The "jilted partner" is jealous and angry. This partner is afraid of what the economic future will be and whether in the process of breaking up the business, he or she will make decisions that leave them "on the short end of the stick." On top of that, if the jilted party is being pressured by friends or family to defend against an unfair breakup or to fight the split all the way to the Supreme Court, then the chance of making rational decisions is diminished.

Sometimes, to make it even more complicated, the party *just thinks* everyone else wants him to fight to the end, when in reality they only want to see a fair outcome and hope the dispute can be settled quickly and peacefully.

And that's where facilitative mediation comes in.

Many divorces have been completed without the vicious acrimony, long term ill will, and enormous cost we've all either heard about or gone through ourselves. The technique used to reach these more satisfactory results, even in the face of real emotional problems, is called Early Stage Divorce Mediation. It allows the parties, with the help of a neutral

mediator, to work beyond their initial rigid positions and demands and get to their actual needs and interests.

Mediation focuses on the future not the past. This means that while the mediator will give the parties the opportunity to vent their anger about the breakup and the alleged despicable actions of the other side, the mediator will slowly turn the discussion to the specific issues that need to be resolved and the creation of alternatives that will let the parties feel they are still in control of their lives and that they have received a fair settlement, not one imposed by lawyers and judges. Mediation also helps preserve the relationships between the couple to be sure the best interests of the children are met.

So what does this have to do with a partnership dispute? As we said at the outset, partners are frequently emotionally involved in their businesses and any threat to its stability is a personal attack on them, just like a marriage. Partners have no more desire to give up ownership in the company than a parent wants to give up custody and parenting time with his children. And they want to punish the other side just the same as an aggrieved spouse.

A mediator trained in the techniques used in divorces negotiations, who also has business experience and training, can be very effective in helping partners resolve contentious business disputes.

Nothing, not even mediation, is 100% successful, but studies have shown that parties, who enter early stage mediation, reach mutually satisfactory agreements 85% of the time and then there is nearly 100% compliance with those agreements.

Hey! It's worth a try.

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