

LEGAL LIFE SAVERS

By Martha Thompson and Dan Young

Peter Bascombe faced financial ruin and feared he'd never see his kids again. Here's what he did.

I don't believe it!" Real estate broker Peter Bascombe threw the papers across his office and watched them drift to the floor in a tangled mess. He clutched at the knot in his stomach and pounded his fists on his desk.

What had begun as an ordinary day was quickly becoming the worst morning of his life; he'd suddenly plunged into a horrifying nightmare.

Only an hour before, he'd stepped out the door of his Burnaby home, kissed his three children as his wife bundled them in the car for a trip downtown, and waved goodbye before getting in his own car and driving to work. That's where things started to go wrong.

A man stood outside the door of his real estate office. Assuming he was a client looking for a house, Bascombe smiled and invited him in.

"Mr. Peter Bascombe?" asked the man, and handed him an envelope.

He'd just been served with a petition for divorce from his wife of 11 years.

How to avoid the divorce from hell

Don't pay more than you should

Five little-known secrets your lawyer may never tell you

A good divorce lawyer can charge \$250 an hour and up. Peter Bascombe used these tactics to keep more of his money.

1. Don't phone your lawyer... fax instead! Your lawyer may need to search for your file while you dangle on the line. Conversations can be misunderstood. And you can end up covering the same ground over and over. Meanwhile, the meter's ticking. Faxing is a cheaper way to confirm instructions, set your thoughts out clearly, and maintain a paper trail.

2. Don't give your lawyer a free hand. Instruct your lawyer not to answer any communications involved in your case until you've had a chance to review them. If he takes it upon himself to respond to your spouse's lawyer, your legal bill can soar thanks to unnecessary communications.

3. Use paralegals to do the grunt work. Paralegals charge about \$35 to ...continued on page 80

As he pored over the petition that day, Bascombe veered between feelings of rage, fear and a terrifying powerlessness. His wife was asking for full custody of their three children, exclusive possession of the matrimonial home, spousal support and child support that amounted to more than he made before taxes.

Demands like this are not that unusual, says Joseph Catania of *THE CANADIAN DIVORCE RESOURCE CENTRE* (1-800-221-1631/669-0200 in Vancouver), an organization which helps people get through separations and divorce as painlessly as possible. "It's what happens when you mix strong emotions, hardball lawyers and our family law system. Unfortunately, it really hits you hard when you're already smarting from the initial blow."

Bascombe had 30 days to prepare his response, and he had no idea where to begin. He felt paralyzed.

"The thought that I might never see my kids again was the worst thing," says Bascombe. "The night before all this happened, I'd taken some work home, and I hadn't had time to play with them before bed like I usually do. I couldn't help thinking I'd blown my last chance."

Act fast... or else

"The danger is getting stunned into inertia," says Joseph Catania. "If someone like Peter Bascombe lets it slide, he could end up paying big-time. The courts are very likely to award his wife everything she asked for."

Bascombe came very close to that scenario. He couldn't help but remember a friend who'd gone through a divorce proceeding a year before. The couple had paid more than \$50,000 to lawyers and sold the house under duress for a fraction of its value. In a year and a half, they'd gone through \$150,000 in assets, and Bascombe's friend had lost his retail business in the bargain.

It was the thought of losing the kids that finally galvanized Bascombe. There was no way he was going to risk being shut out of the lives of his two daughters and his young son.

"My first reaction was to simply hire the most expensive ... continued on page 80

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lawyer I could find," says Bascombe. "But I decided to learn everything I could about my rights." He smiles now, holding 3-year old Cameron on his knee. "Demystifying the whole process took a huge weight off my shoulders. I was taking back control."

Instead of handing his life over to lawyers, he learned how to hire and — more importantly — *manage* a good lawyer. He learned what information to give a prospective lawyer and what he might want to withhold. And he discovered ways to keep his legal costs to a minimum (see sidebar).

A faster, cheaper divorce

In fact, Bascombe avoided using a lawyer when he could. By learning what a good paralegal could do for him, he was able to save substantially during the initial stage of compiling documents.

He found out how child custody assessments — the process in which a mental health professional recommends what is in the "best interest of the children" — can be used maliciously, and what he could do to protect himself.

"In adversarial separations and divorces, false allegations fly like crazy," says the *CANADIAN DIVORCE RESOURCE CENTRE*'s Joseph Catania. "Things get blown out of proportion until no one knows what the truth is. You need to begin

Don't pay more than you should

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\$50 an hour — a fraction of what a lawyer charges — and are capable of doing much of the preliminary work. Suggest your lawyer use one to save you money

4. Maintain your own records. Whenever you speak to your lawyer, make a note of what's been discussed. Then, when he tries to charge you for that April 14th call when he only rang to ask you how you were, you can dispute it.

5. Challenge your lawyer's bill if you feel you've been unjustly charged... but keep him on the case. Some lawyers may threaten to quit if you challenge the bill, ...which is something you don't want. Some experts suggest you counter this by sending a letter advising the lawyer that if he quits, you'll summons him to court as a material witness. Lawyers don't like to go to court for free.

Thanks to the CANADIAN DIVORCE RESOURCE CENTRE. For more details on saving legal fees, call the Centre at 1-800-221-1631 (in Vancouver, 669-0200)

Take this test

Check those you think are true.

If I move out of my home, my spouse may:

- Accuse me of desertion or abandonment. Change the locks.
- Have me charged with break and enter or trespassing if I enter the home. Obtain a restraining order to keep me away from the home. Obtain an order for exclusive possession of the home.
- Make renovations to the house without my consent.
- Deplete assets from the premises without my consent.
- Sublet the premises, take in boarders or have other people move in without my consent. Hold me responsible to pay the costs of the home without having access to it. Elect to list the house for sale without my consent.

Believe it or not, your spouse may do any of the above if you move out.

preparing for this immediately."

Bascombe began keeping a parenting journal of the time he spent with his wife and children, so he'd have a defence should his wife decide to employ such dirty tricks as a criminal charge of assault or an unfair assessment.

"I think the most important thing I learned is when I had a real chance of winning on an issue and when I'd just be wasting my time and money," says Bascombe. Once he understood the inherent bias of the court system in B.C. and Canada, he decided to focus on getting equal access to his children, rather than repeatedly going to court (and paying for it) to try for full custody.

His approach paid off. Instead of finding himself broke and broken-hearted, today Bascombe maintains a cordial relationship with his wife and shares custody of the children. All this without watching the lawyers walk away with all their assets. "I shudder to think where I'd be right now if I hadn't got this information," he says. He gestures toward where his daughters play on the jungle gym in the back yard. "I know how close I came. I could have lost all this."

Peter Bascombe's story is based on actual events, but his name and some of the events have been changed to protect his privacy.

How to protect yourself Get the information you need before you take action

If you're facing a separation or divorce, in the midst of it, or are already divorced, make sure you have solid information on protecting your rights and assets.

The *CANADIAN DIVORCE RESOURCE CENTRE* suggests you have a strategy when hiring and managing legal professionals before taking any steps that could jeopardize your case. The Centre publishes reports, holds workshops, produces videos and provides information on such subjects as:

- How to "win" a fair and just settlement for yourself and your children.
- What asset protection strategies currently work... and which don't.
- How to select and manage a competent family lawyer... and pay less.
- Ways to save your business even if your spouse won't give up their share.
- How you can anticipate and counter "dirty tricks" your spouse's lawyer may recommend.
- Little-known tactics you can use to increase your chances of getting custody.
- How to save thousands of dollars — and months of agony. Ways to get a fair separation agreement in 30 days through mediation.
- How to make child custody assessments work for you.

To learn strategies, secrets and techniques other men and women have used to get fair settlements, call the *CANADIAN DIVORCE RESOURCE CENTER* at 1-800-221-1631 (in Vancouver, 669-0200).