

# Divorce Conflict Information Booklet Series<sup>1</sup>

## Section Two: The Solution

### Booklet VIII. Growing the Pie

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#### Introduction

In our two books, *Game Theory and the Transformation of Family Law* and *Winning Strategies in Divorce*, we apply Game Theory to family law negotiations and mediation. We posit that our books describe a comprehensive approach to divorce negotiations that prepares parties for their post-judgment lives. Our approach is most valuable when there are children because of the continuing involvement of parties with one another, but our approach is also a healthy way to say goodbye when the parties have no children. We are producing these Booklets with bitesize principles, with the hope that the traditional family law system will change and produce better outcomes for parties, by following these principles.

Growing the pie merely means adding value to the payoffs of negotiations. In Booklet VII, “*Goal Based Planning with Game Theory Principles*” we delineated three of eight principles that lead to optimal Solutions. Those are:

1. Information Management
2. Objective and Subjective Payoff Values
3. Axiomatic Bargaining

In this booklet, we look at an additional three interconnected principles involved in growing the pie.

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<sup>1</sup> Our Divorce Conflict Information Booklet Series is organized into two Sections: Section One- Understanding the Problem and Section Two- Planning the Solution. Each of the Sections has six Booklets. This is the first Booklet in Section Two of the Series.

<sup>2</sup> For more on the subject, you are encouraged to read the following two books, written by your authors:

“*Game Theory and the Transformation of Family Law: Change the Rules- Change the Game. A New Bargaining Model for Attorneys and Mediators to Optimize Outcomes for Divorcing Parties.*” Unhooked Books. Scottsdale, AZ 2015 and “*Winning Strategies in Divorce: The Art and Science of Using Game Theory Principles and Skills in Negotiation and Mediation.*” The latter is an online book only. See [www.unhookedmedia.com](http://www.unhookedmedia.com).

1. Bayes Rule
2. Bounded Rationality
3. Sequential Bargaining

We also introduce two more principles involved in growing the pie:

1. Growing the pie with competition
2. Growing the pie through Inductive Bargaining

Finally, we will introduce a concept that occurs during bargaining and leads to optimal agreements: The Convergence of Expectations. See Booklet IX.

In this Booklet, we continue to flesh out solutions that can prevent divorce conflict or at least prevent the escalation of divorce conflict to self-defeating levels.

## **Bayes Rule**

Thomas Bayes was a monk and statistician in the 18<sup>th</sup> century that turned probability statistics on its head. The statistics are complicated, but the principle is simple: the probability of a particular solution changes with new information. For example, if one of three coins is weighted to turn up heads, and the other two coins are fair coins, and one coin is tossed three times and comes up heads, the statistical probability that the next toss will be heads has changed dramatically. The one coin is no longer likely to be the unfair coin at 1 in 3 odds.

This principle expanded to mean that as people get new information, their focus on good solutions increases. In divorce bargaining, the implication is that regardless of what people believe at the beginning of bargaining, their views of ideal solutions change as they get new information from the other party and the attorneys.

The obstacle in traditional divorce bargaining occurs when parties and/or attorneys have rigid positional goals (see Booklet III, *What's Wrong with this Picture*). In rigid positional bargaining, the goal is to get as close to the desired position as possible. If Bayes Rule is in place, new positions arise as the parties and attorneys get new information from one another, or other sources.

This ties into the next principle, Bounded Rationality.

## **Bounded Rationality**

Bounded Rationality is a principle derived from neurological and evolutionary sciences. Evolution required that the neurology of any species required certain skills and very high levels of functioning. For example, birds must be able to make highly sophisticated calculations of all

of the variables affecting being able to fly from one branch to a branch on a difference tree. These skills are, however, limited to what the species need to know to survive and do not include skills that other species have that are crucial to their survival. The implication is that each organism has a wealth of information, much of it completely unconscious, that affects every decision made and action taken.

The implication to divorce bargaining, and growing the pie, is that the parties have a wealth of information about themselves and each other, much of it unconscious, that the attorneys do not have. Attorneys have their own wealth of information, but theirs might not be relevant to the parties involved. For example, an attorney might assume that it should be a goal for a higher earner to pay the least amount of spousal support possible, within the range that would likely be ordered by a court, if not settled in negotiations. The logic of this is obvious, and the client might even superficially go along with this idea. Thus, the focus in bargaining might be on one party paying as little as possible and the other party bargaining for the most possible. This approach might be forcing the square parties into a round hole.

Incorporating Bounded Rationality in bargaining means that proposals and counter-proposals come from the parties, with no pre-conditioned goals. Attorneys help facilitate the unconscious knowledge of the parties, but do not generate proposals, by guiding the parties to make decisions based on the Bounded Rationality of the attorney. For example, rather than outlining what a court is likely to order and a strategy for bargaining to the lowest support possible, the attorney can ask the client questions like, *“How good is the other party at managing money,”* or *“What kind of life-style would you like the other party to have?”* Proposals from the parties might surprise the attorneys because they do not share the wealth of information that the parties have about one another.

This leads us to the next principle, Sequential Bargaining.

## **Sequential Bargaining**

Sequential Bargaining is simply the process of taking turns making proposals and counter-proposals. Simultaneous Bargaining is the traditional approach. This occurs when both the parties and their attorneys come to the table with positions and proposals in mind, and unless there is a very unusual coincidence that both parties have exactly the same proposals, this establishes a positional bargaining process.

**Sequential Bargaining allows both Bayes Rule  
and Bounded Rationality  
to operate in the bargaining process.**

Sequential Bargaining in practice: Party A makes a proposal. During questioning by Party B, Party B discovers the goals behind the proposal and other relevant information (e.g., Party A might reveal that his parents have offered to help him financially in the short term). Party B

learns a great deal with the information involved and is able to access her Bounded Rationality information before making a counter-proposal. She makes the next proposal, which reveals this new information and an understanding of Party A's situation. Attorneys can help facilitate this by asking questions about goals, about information that is not on the table yet, or even slow the process down by asking for time to think about the proposal. This bargaining technique works!

## **Growing the Pie Through Coopetition**

In this Booklet, we address two other principles derived from Game Theory. The first principle is based originally on the work of John Nash, perhaps the most famous game theorist because of the book and movie, *A Beautiful Mind*. Although he is best known for the principle called the *Nash Equilibrium*, which predicts choices that people will make,<sup>3</sup> another major contribution that he made to the field of Game Theory was the principle that has become known in business as “coopetition,” as one basis for growing the pie.

**This principle is essentially that people can optimize solutions for themselves as individuals by first increasing the value for everyone involved, that is, growing the pie through a cooperative effort, and only then dividing the pie.**

Coopetition begins with a collaborative, cooperative process in which businesses cooperate with one to another increase the total value, usually by increasing the market size for their products or services, and then competing for shares of the now larger market. As one example, coffee cafes might locate near one another to try to draw more people to the area as “the place” to go for coffee. One also sees fast food restaurants grouped together. A non-geographic example might be in the clothing business. Jeans seem to last forever, and so the only way to sell more jeans is to change the style and have that become a fad. However, one company, alone, might have difficulty creating a new fad. If several jeans companies all start selling a new design, for example, with open tears in the fabric, and advertise this new style in magazines, there is a reasonably good chance that the fad will catch on, creating a larger market for sales. Imagine five companies that make jeans making them in the new style and advertising the style, creating a large market. They then can compete for shares of the increased market.

In some legal negotiations, such as Integrative Negotiations, this principle of “growing the pie” is employed (sometimes called “value added” negotiation). For example, if two companies want to merge, or if two people want to form a partnership, they do best to focus first on optimizing the outcomes for both, by seeking solutions that meet the interests of every party to the negotiations. For example, two people develop a plan for their new partnership that accomplishes more for both of them than they could do individually. Then they might focus on percentage of ownership, what roles that they might play and at what rates of compensation

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<sup>3</sup> This is a principle that we also cover in our books.

they will be paid. However, the “competition” is in the context of accomplishing their shared goals, so their decisions will be based on which outcomes gives them their best chance of reaching those goals. While competitive, the negotiations at this point are likely to be amicable. Also encouraging amicable competition is the awareness of a relationship going forward.

**The cooperation approach is rarely used in divorce negotiations.**

When it is used, there is another obstacle that makes optimizing outcomes challenging. Many, if not most, divorce negotiations begin with competing over legal outcomes in the Zero-sum Games of time with children, property and future income. Divorce law requires the distribution of property, debt, future income and time with children and so cases quickly become focused on this distribution (the legal outcomes), rather than the Non-zero Sum Games of raising children and financial planning. This often promotes fierce competition and limits the payoffs to both parties. When the parties have children, the fierce competition fosters a negative relationship going forward, often filled with conflict. Worse yet, more competition in the form of relitigating and tug-a-wars with the children is all too often the end result.

In order to avoid the pain of such a negative relationship, many divorced parents simply have nothing to do with one another, even ignoring each other when at the same event or even in the same room. In negotiations, when an attempt is made to move to interest-based bargaining in order to “grow the pie,” the focus is usually on short-term interests, not long-term goals. For example, a party to a divorce might want to remain in the marital home and the other party might not want to pay spousal support. Through interest-based bargaining, they agree to a waiver of spousal support and an unequal division of property. Both parties get something that they wanted. However, this might or might not be a good long-term financial plan for either party. Making an important decision at the time of a divorce based on what might be temporary emotion is not wise.

How, you might ask, does this limit the payoffs for the parties? There are only so many days in the week, and the children have to be with one or the other parent, so a day gained by one is a day lost by the other. Competing over the schedule will likely have little or no effect on long-term outcomes for the children or even for the parents. They all might end up with a miserable family life. The value of the property and debt is a certain amount, and any dollar one gets, the other loses. In most divorces, there is an imbalance in incomes, often requiring some income-sharing, and the payer is not likely wanting to pay, and the income receiver is not likely to refuse the money.

**A distorted mindset pervades the traditional family law system,  
and when parties come into the system,  
they begin to think in the same distorted manner.**

This distortion is undergirded by two unquestioned assumptions:

1. That the purpose of the divorce system is to establish legal outcomes on the day of the final divorce decree, and

2. That the parties are in a dispute about those legal outcomes.

**Both of these assumptions go hand-in-hand to reinforce each other,  
but both are fundamentally false.**

Many (perhaps most) attorneys focus on the legal outcomes because of their professional training, and hence, that is their business. By definition, the Judgment of Divorce is the end of their case. The appeal of this distorted (and incorrect) view is not only because the professionals seem to believe that the view is the truth, but also because the distortions (inadvertently) create the fantasy for the parties that the relationship is actually ending. The divorce process generally brings up a good deal of anger, pain, guilt and sadness, and the fantasy that those feelings will go away on a final court date can be appealing. For spouses, however, the divorce is just beginning, starting on the day of the Judgment of Divorce.

When people marry, they developed a partnership that included, among other things, an eventual parenting partnership and a financial partnership, with the hope that the partnership would accomplish more than either of them could do on their own. Separate from this pragmatic side to marriage is the emotional life of the spouses. The pragmatic considerations meant planning when to have children, how many children, what jobs, careers and other forms of creating income they would do, how to spend that money, how to save money for a car, a house, college and other goals in their financial lives. Once married, the planning process continues, and if planned well, they will start accomplishing their long-term goals. The excitement and passion at the time of the marriage has little to do with the long-term quality of their lives; the planning does.

When people divorce, it is no different. There is the emotional life of the relationship, which at the point of a divorce can be problematic. However, there are also the pragmatic tasks of planning for their future financial lives and parenting. They have goals for their children, which are usually very similar if not the identical, and they have to plan how to reach those goals. Most parents want their children to do well in school, learn to do well socially, have good morals, stay out of too much trouble, do well as adults, have good relationships with both parents and not be negatively affected by a parental separation. The financial goals shift from how well they do together to how well they each do separately, although they still have to consider how well they do together financially as parents.

**The real focus can be simply summarized:  
As people approach a divorce,  
developing a Plan based on their mutual long-term family and financial goals  
is in everyone's best interests, which comes from growing the pie.**

Legal outcomes on the day of the Judgment of Divorce should be constructed to accomplish long-term goals. For example, one goal of parents might be for the children to have really good Christmases, including both parents being part of those Christmases. This is a planning task, not a competition. Living in separate houses is not a tragedy; it is a logistic

problem that just needs solutions. This is a good example because it illustrates how to grow the pie. [We will return to this after a quick detour.]

Our detour. In Booklet VII, we introduced the principle that everything has both an objective and a subjective value. \$20.00 has the objective value of \$20.00, but to a homeless person, \$20.00 might have the high subjective value of the ability to buy a meal, while to a wealthy person, the subjective value might be very low. The same house in one neighborhood will have a substantially different value in a different neighborhood. The only objective value is the cost of materials and labor to replace the structure, independent of where it is.

Returning to our example of planning Christmases, the two parents are much more likely to increase the subjective value of the holiday for themselves and for their children with a good Plan, rather than simply alternating Christmases every other year.

**The concept of cooperative planning is not just a theory.  
In the field of mathematics known as Game Theory,  
research has been done on growing the pie through cooperative planning.**

This research informs us that cooperative planning can increase the value of a payoff up to 146%. Rather than splitting 100% and each getting 50%, people through cooperative Goal Based Planning can split 146% and each get 73% of the value. One can readily see this in our earlier examples of company mergers, partnerships or locating coffee shops near one another. Rather than a customer base of 200 in a unique location, a coffee shop can compete with other coffee shops in shared location for a customer base of thousands.

**The implication for divorce negotiations  
can also be simply summarized:  
Rather than focusing on the legal outcomes in the Zero Sum Games  
of time with children, property and income,  
with the assumption of a dispute,  
the focus should be on the long-term goals of the parties,  
with cooperative planning  
to optimize the outcome for both parties.**

Growing the pie through competition and goal-based long-term planning is “simple” to implement:

- Rather than discussing the custody schedule for the children (meaning what percentage of parenting time each gets), the discussion should be about how the parents can optimize their involvement with the children to accomplish their long-term goals (how both parents can be parents 100% of the time).<sup>4</sup>

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<sup>4</sup> Parents are rarely with their children all of the time, and yet can be actively involved in all aspects of their children’s lives and feel like they are parents all of the time.

- Rather than focus on an equitable division of property and financial support, the focus should be on what division of property and form of support will most likely help both parties reach their long-term financial goals.

**John Nash's brilliant idea,  
which has been repeatedly proven true in research,  
is that the best way to be selfish is to be selfish and altruistic  
at the same time.**

Beginning with cooperative planning to optimize the outcome for both parties increases the value to both of the parties. Negotiations might include some competition, but knowing that they have a future relationship to protect and having already grown the pie, might make amicably competing more likely.

### **Growing the Pie Through Planning Inductively**

Another Game Theory principle at play here, planning inductively, makes growing the pie possible. This is the opposite of planning deductively, which is what is generally done.

**Deductive Planning.** Planning deductively would start with a decision on the physical custody schedule. With this planning, the mother gets the children four weekdays and every other weekend; the father gets the children one weekday; and they alternate weekends. Next, they begin to drill down to the details; for example, the start and stop times for the weekdays and weekends. Next, there might be a discussion about a different schedule for the summers, and then move on to discuss vacation times and finally holidays. The holiday discussion is often not a discussion at all, but rather a template of one parent getting the children in odd numbered years for half of the holidays and the other parent getting the children in even numbered years, so that holidays are split each year and alternated every other year. There might be some discussion about details, and perhaps even disputes over one or two of the holidays. This approach ignores the possibility of growing the pie by incorporating subjective values and doing Goal Based Planning.<sup>5</sup>

**Inductive Planning.** Planning inductively recognizes that a physical custody schedule is actually a group of many sub-schedules, and for each sub-schedule, the parties should first discuss goals and the subjective values at play before developing a Plan. For example, parties might begin with a discussion of long-term goals involving Mother's Day. What do they want their children to learn about Mother's Day? What would they like to hear their children say, as adults, looking back and how their family celebrated Mother's Days? What would the parties, looking back, like to say about how they handled Mother's Days? They could count how many Mother's Days are left during the minority of the children, and then make a Plan that will accomplish those long-term goals. By simply agreeing that the mother gets Mother's Days, they

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<sup>5</sup> See Booklet VIII, "*Convergence of Expectations*."



fail to increase the value by discussing long-term goals and how to accomplish those goals. Notice too that by planning, both parents are playing a parenting role with their children. For example, part of a good plan might have the father helping the children make a Mother's Day card or planning a breakfast that they can cook for their mom.

The appeal is to values and goals, not short-term emotions at the time of a divorce. Once planned, they might move on to Father's Day and continue through all of the holidays. When a Plan for each holiday is complete, the parties might move on to a discussion of their long-term goals for vacations, looking at the logistics and realities, and then make a Plan. Summers can be broken down to weekdays and weekends, or even parts of days. The discussion always begins with long-term goals. If a parent expresses a short-term interest (e.g., *"I want the children to be with me when she is working"*), the questioning should refocus on goals, not on interests. The next question might be, *"How will that enhance the long-term outcome for the children?"* The summer discussion might include, for example, what types of experiences during summer weekdays are likely to help your child enjoy summer and learn important lessons? The schedule will be how logistically to provide those experiences and both be involved.

The school year might involve planning for school year weekends. For example, one parent might share a strong interest with the children for skiing, and the plan might have the children more weekends during the skiing season with that parent or some form of procedure for that parent to have the children for ski days. One parent might be particularly interested in the children's religious training, and the plan might have the children with that parent for church on Sundays. Weekdays are also a collection of mini-schedules: where the child sleeps; who picks her up after school; who takes care of her if she wakes up too sick to go to school; where she has dinner; who takes her to evening activities; who helps with homework; and so on.

In brief, a Plan does not have to buy into the assumption in the law that time with children is property to be awarded and that the parents "own" whatever time they are awarded. It can be a Plan as to how they intend to parent in order to achieve long term goals they have for their children.

This same process can be followed in discussing property division and support (both child support and spousal support). However, the mindset of the parties and/or the attorneys (or mediator) must be on the long-term life goals of the parties, not the legal outcome. Often, even in interest-based negotiations, the law, BATNA (best alternative to a negotiated agreement) and WATNA (worst alternative to a negotiated agreement) frame the discussion. However, a Plan to accomplish the long-term financial goals of the parties might well be outside of that framework. With a new mindset, it is to get a good picture of the long-term financial goals of the parties, and then make a Plan.

Equitable division, BATNA and WATNA may have nothing to do with having a good plan for both parties, or providing steps towards long-term mutual goals, but rather than what you get now. When a young couple marries and decides that they would like to own a home, they might start by sacrificing and saving money for a down payment, so that in three years, they can buy a house. Likewise, when people divorce, making short-term sacrifices in order for both parties to reach their long-term goals might also be necessary. This is different from “compromising.” Making sacrifices to reach goals does not mean “giving in.”

A BATNA-WATNA range for spousal support might be between \$1,000 and \$1200, for example, but a support order for \$1,600 might be required for both parties to reach their goals. Inductive bargaining involves looking at each asset, debt, income and expected income to see how each can be used to reach long-term mutual goals.

### **Growing the Pie Requires a Change in Mindset**

To illustrate the required change in mindset, let us give two examples – one outside of family law and one inside family law.

**Non-Family Law Example..** Assume that a 35-year-old man has just been arrested for his second OWI, which included a vehicular accident and related serious injuries. The District Attorney would like the man incarcerated for as long as possible, and the man’s attorney would like the man to do as little jail time as possible. One might easily assume that the man would also like to do as little jail time as possible. This is the traditional mindset. Let us assume that the man’s attorney, however, is familiar with Goal Based Negotiation.

The lawyer begins by asking the man about his long-term goals. for example, asking him to look five years down the road. Assume the man says he would like to resolve his drinking problem and have no more trouble with the law. The attorney asks if other aspects of his life might be different if he reached that goal. The man reveals trouble with employment related to his drinking and also that he has been unable to establish a successful relationship with a woman that he respects and would like to marry. The lawyer notes that much is at stake for the man in reaching his goal. She then meets with the District Attorney and asks about his goals. The discussion begins with the legal outcome (as much prison time as possible), but the adept defense attorney asks further questions and learns that the District Attorney really wants safety for the public, which means that the man is no longer drinking and is no longer in trouble with the law. Notice now, that there is no dispute. There are shared goals for which to plan: a resolution of the drinking problem and staying out of legal trouble.

The man’s attorney meets again with her client along with an alcohol specialist. They discuss a plan to reach the man’s goals. The specialist informs them that even in treatment, the recidivism rate for alcohol abuse is 90% in the first year of attempted sobriety and drops to 10% by year three of sobriety. With this information, a Plan is developed and presented to the District Attorney. The man agrees to one year of incarceration with alcohol treatment and two

years of probation, one condition of which is continuing alcohol treatment. Both the District Attorney and the man's lawyer know that the likely outcome at trial would have been 6-18 months of incarceration (the BATNA for the district attorney and the WATNA for the man). The Plan has a much better chance of reaching everyone's goals and is adopted. The pie is bigger for both the man and the State.

**Family Law Example.** A father is insisting on an equal physical custody schedule. He is a crew boss for a construction company and works early mornings to mid-afternoons. The mother values the father as a parent, but does not want the children to have to get up in the mornings at an extremely early hour and go to day care or come to her house before school. Her rationale is that the parent's divorce should negatively affect the children as little as possible. She wants the children to be with her during the week so that they can have reasonable mornings and will not agree to the father having one-half of the school days. She works regular 9-5 days.

The attorneys ask their clients what their long term goals are. Both parents want the children to do well in school, academically and socially, because they predict that the children's adult lives will be better, with more opportunities (e.g., going to college). They believe that the children will also do better if they have had close relationships with both parents and opportunities to be experiment with extra-curricular activities. One of the attorneys, familiar with the relevant social science research points out that one of their children is a young girl, and the best predictor of marital success for girls is the quality of the father-daughter relationship. He asks if later marital success is a goal, and both parents agree that it is.

The law counts overnights in the schedule for the determination of primary versus shared physical custody in this jurisdiction, with obvious implications for child support, although neither parent in this case seems overly concerned about support issues. However, there is a clause in the law that indicates that "comparable time" can be substituted for overnights. One of the lawyers informs the parties of this law. The parties start by discussing holidays and have little difficulty planning those well, planning inductively. They move to summers and the high demand on the father in the summer for work, but manage to develop a schedule that has the children in camps and spending about equal time with each parent. The school year remains the sticking point.

By sitting together in a four-way meeting, the attorneys help guide the parties so that there is a Convergence of Expectations on a solution (see Booklet IX). The plan that emerges has the children sleeping all school nights at the mother's home; picked up every day from school by the father; afternoons with the father; two days per week, the mother picks the children up on her way home from work, has dinner with them and does evening activities; two days a week, the children stay with their father through dinner and into the evening, when he brings them to the mother prior to bedtime. The attorneys point out that with a complicated schedule, as they have decided, communication will be critical. The parties decide that at every exchange of the children, the parents will catch up with one another on any information about

the children. In one sense, they both get what they want; in a different and more important sense, they have a Plan to accomplish long-term goals. Their Plan also requires future cooperation and some flexibility with one another, which also enhances the chances of a functional co-parenting relationship.

In both of our examples, the focus was on achieving long-term goals, rather than competing over whose short-term interests would prevail. In Game Theory negotiations, growing the pie has a special meaning beyond creating trade-offs that add value for each of the parties. Rather than a focus on interests, the focus is on long-term goals. Rather than assuming a dispute, the assumption is that people usually have common long-term goals, not only for themselves but also for each other. By addressing issues inductively and incorporating objective and subjective payoff values, negotiations become both selfish and altruistic, resulting in better outcomes for both parties.

**The key for professionals is to listen with a goal-based mindset,  
resist the temptation to compete for positions,  
and develop goal- based Solutions.**

**Magical!**  
**The Convergence of Expectations and**  
**Growing the Pie**

This principle describes what bargaining looks like when Goal Based Planning with Game Theory Principles occurs. When the principles outlined in these Booklets are applied to a specific case, one witnesses what is called in Game Theory a Convergence of Expectations. As bargaining proceeds, the parties and attorneys experience the narrowing of the bargaining process, eliminating agreements and almost magically converging on agreements that no one had in mind at the beginning of the process. Like all decisions, there are incentives and constraints involved. No decision is all positive, and all decisions have some drawbacks, but the best decisions are those that include as much positive as possible with the fewest drawbacks possible. This is, in a sense, what is meant by optimal outcomes. In the last few steps in the bargaining process, parties and attorneys can contribute to optimizing the decisions, by pointing out additions and subtractions to the final decisions. Acceptance of the final agreements can be high, with some regrets but with an understanding that it was the best that could be done under the circumstances.

However, it is often a time of sadness and ambivalence for parties. In the goal-based planning process, they become aware that their marriage is really ending. The bargaining process might even remind them that if they had those skills during the marriage, they might not be divorcing. This brings up ambivalence, because they not only have their painful memories about one another. In addition, they also might be reminded of the positives in one another and even feel some love again. Ken once finished a mediation, using goal-based

planning, and as the parties left the office, the husband reached out for the wife's hand. They held hands as they walked down the hall to the door.

Attorneys might even consider a special moment with their clients at the completion of the bargaining process, not only acknowledging the sadness but also congratulating them on developing a good Plan going forward.