

Peter W. Daniel

DIRECT DIAL:  
(650) 482-3039

E-MAIL  
PWD@HANNIGLAW.COM



CORNER OF SELBY LANE/ATHERTON  
AND EL CAMINO REAL/REDWOOD CITY

[www.hanniglaw.com](http://www.hanniglaw.com)

2991 EL CAMINO REAL  
REDWOOD CITY, CA 94061-4003

TELEPHONE (650) 482-3040  
FACSIMILE (650) 482-2820

PARTNERS:  
TED J. HANNIG  
JOHN H. BLAKE  
ELLEN B. HAAS  
WILLIAM R. WARHURST\*

ASSOCIATES:  
JESSICA ALVARADO  
PETER W. DANIEL  
DAVID M. WOOLFE

\*ADMITTED IN NEVADA &  
CALIFORNIA

## Ten Situations That Call for A Family Law Attorney: By Peter Daniel

---

The Practice of Family Law in California generally covers circumstances arising from the breakup of a marriage, registered domestic partnership, or a relationship with shared children. Such cases may include a combination of child custody, child support, spousal support, property, and personal conduct issues. Family Law matters can often be highly emotional and complex, whether or not the financial stakes are high.

This is a short list of situations in which a person should seriously consider retaining a Family Law attorney. Many of these situations overlap. This is not a list of ALL such situations, as there may be many more; certainly, one of the most interesting aspects of Family Law is the wide variety of facts and issues that may apply in every case. The term 'party' as used below may mean a spouse, domestic partner, or parent, and the terms 'marriage' and 'domestic partnership' have the same meaning.

### 1. You Are In A High Conflict Situation With Your Spouse Or Partner.

The breakup of a relationship is often accompanied by conflict, which can impede progress and negatively affect quality of life. High emotions can keep a conflict going far longer than it should. An experienced Family Law attorney can employ procedural and substantive elements of the law to efficiently position the case for resolution by settlement, so the parties can get on with their separate lives.

If a trial is necessary, a good Family Law attorney is essential because they can obtain and organize the admissible evidence and present it persuasively, employing knowledge of the Family Code, the Evidence Code, the Code of Civil Procedure, and other pertinent legal authorities.

### 2. Your Marriage Or Domestic Partnership Is Dissolving And The Parties Do Not Share The Same Version Of Reality.

The parties to a breakup often have widely divergent life goals and priorities (this may be a cause or symptom of the breakup). A good Family Law attorney will advise their client as to what are realistic goals in a given situation, and will also assess the goals of the other party. This may lead to common ground and a settlement, or is at least good preparation for trial.



If the other party is acting in a way that appears to be irrational, it may be because that person is scared and without a plan. An experienced Family Law attorney will recognize this and provide insight and incentives (carrots and sticks) for the other party to act more prudently.

### **3. There Are Serious Disputes Or Potential Disputes About The Children Of The Relationship.**

Many parties take their custody disputes through the court system without attorneys, and this often works fine. However, if there are serious negative parental behavior issues, or a severe lack of trust between the parents, then an experienced Family Law attorney may be necessary to create and enforce a parenting plan in the best interests of the child or children. Sometimes, complex or high-conflict child custody matters will also require the appointment of a trained evaluator, and an experienced Family Law attorney will know how to deal with such an expert. A Family Law attorney will also provide essential assistance if either parent might want to relocate to another area.

### **4. One Spouse or Domestic Partner Is Not Sharing Financial Information With The Other.**

Spouses and Domestic Partners are required by law to act in a fair and open manner to each other on marital property matters during the marriage or domestic partnership. This duty continues on after separation, and the parties are required to fully disclose financial information up to the date of trial or settlement and Judgment of final dissolution. However, many parties are unwilling to share such information voluntarily. An experienced Family Law attorney can use the law to compel such a party to disclose what they should. Once all of the facts and documents are 'on the table' the case is well positioned for settlement or trial.

### **5. There Are Complicated Financial Issues.**

Most of the time, property acquired during the marriage is considered to be 'community property' and will be divided equally. However, the parties may disagree about the title or value of real estate, financial accounts or a business. This may be due to unequal contributions during the marriage, or the existence of property prior to the marriage, or several other reasons. The accounting can be challenging, and the proper application of legal principles adds another layer of complexity. On top of this, there are often strong emotions relating to property, which can stand in the way of settlement. A good Family Law attorney knows how to obtain the necessary financial information, and then analyze and present the information pursuant to applicable laws, for settlement discussions or trial.

### **6. There Is A Dispute About How Much Child or Spousal Support, If Any, A Party Should Pay.**

If both of the parties are employed with steady paychecks, child support is relatively straightforward. There are a number of situations that are not so clear-cut, however, and this is



where a good Family Law attorney is essential. One party may be out of work, or be under-employed, and there may or may not be a good reason. These are often highly emotional matters. When a party owns a business or is self-employed, questions may arise concerning just how much that party earns. Sometimes, a party hides their income. A court ordering Spousal Support must consider a number of factors, including the length of the marriage and standard of living during the marriage, and the earning capacities of the parties. Here, too, is an opportunity for high emotion. An experienced Family Law attorney will know how to get the necessary information and present it for a fair resolution.

### **7. There Is A Question Concerning A Financial Agreement Between the Parties, such as a Pre-Nuptial Agreement or a Marital Settlement Agreement.**

The parties may want a Pre-Nuptial Agreement before the marriage. This is a critical period in which expert advice and assistance from a Family Law attorney is crucial.

Sometimes a party changes their mind after signing a Pre-Nuptial Agreement, or a financial agreement signed during the marriage. Whether and to what extent such agreements are legally enforceable depends on the terms and circumstances of the agreement. Disputes in this area have high stakes. An experienced Family Law attorney can assess these issues and effectively achieve their client's goals.

Most cases end with a settlement by written agreement, and sometimes one of the parties must enforce that settlement agreement at a later date. This means going back to Court, and a good Family Law attorney will be able to reconstruct the case history and use the legal means to keep the parties true to their word.

### **8. There Are Domestic Abuse Allegations Of Any Kind.**

A Family Law attorney can provide valuable assistance to a party who is the victim of domestic abuse and also to a party who has been accused of domestic abuse. Such allegations can have a profound impact on child custody issues.

For the victim, the Family Law attorney knows how to obtain restraining orders which require the abuser to stop contact, under penalty of arrest. If properly done and where appropriate, these restraining orders last up to five years and sometimes longer.

For the person who has been accused, the Family Law attorney can provide a defense in Family Court to defeat unfounded or inappropriate allegations.

Domestic violence allegations, if sufficiently serious, may result in criminal prosecution and even jail time. If such charges are brought by a prosecutor against a party, then that party should seek the immediate assistance of a criminal defense attorney.



Family Law Attorney  
Page 4 of 4

### **9. You want to Mediate your Dispute.**

Mediation is a voluntary process in which the parties discuss the matter with a mediator, in the hopes of reaching a settlement through mutual compromise. This process is a great option if both parties are equally motivated to settle and share enough common goals and priorities. Mediation may or may not include attorneys. An experienced Family Law attorney, working for one party, will help to organize the facts, documents and issues for mediation. In some cases, the other party needs some encouragement to begin or to carry through with mediation in good faith, and a Family Law attorney has the tools to properly motivate that party.

### **10. You Want To Save Money.**

It seems counter-intuitive to state that hiring an attorney can save a person money. However, an ongoing conflict can be a huge waste of money, time and emotional resources. A good Family Law attorney can create a structure to efficiently resolve a complex and emotional set of problems. Such an attorney should suggest the most cost-effective plan to achieve the client's goals. Results are different in every case.

Thank you for your attention. Please feel free to contact me with any questions.

Peter Daniel

*For more information, with a "QR Code Reader" App which you can download to a smart phone for free, you can see my web page on your smart phone by scanning the code below:*

