

[Music playing in the background]

[No other audio]

[Image of a textbook that reads "Divorcing an Addict 101"]

Divorcing an Addict - The Ultimate Guide

Learn the steps to success when divorcing an addict in California

Presented by: farzadlaw.com

[Image of a woman power posing]

[Image of a game plan strategy]

"Divorcing an addict takes planning, preparation and courage" - B. Robert Farzad

[Image of a gavel and broken heart]

This video contains tips for divorcing a spouse with a drug addiction.

Drugs include illegal drugs and abuse of prescription medication.

We will show how you can thrive and get a successful result when divorcing your addict spouse. These are not vague tips. They come from decades of combined experience by our family law firm's attorneys.

[Image of a character icon]

A five-star testimonial by S.M. that reads, "Like most parents, I really only care about the safety and well-being of my children. My ex was an addict and was a direct threat to himself and my son, though no one seemed to listen to me! Once I retained Robert Farzad things changed. I had a lengthy custody battle that lasted for years, but Robert and his team were there with me every step of the way, always keeping the safety of my son as the main focus."

[Images of a syringe, cannabis leaf, and prescription pills]

Categories and Types of Drugs

The following are the most common drug categories we see when divorcing an addict:

1. Opioids
2. Cannabis
3. Stimulants
4. Depressants, and
5. Hallucinogens.

The most common drugs we see are the following:

1. Marijuana, regardless of its legality for recreational use,
2. Methamphetamine
3. Cocaine,
4. Heroin,
5. LSD,
6. Valium,
7. Vicodin,
8. Morphine,
9. Hydrocodone, and
10. Oxycontin.

[Image of three people gathered around a table]

There Are Three Types of Addicts You Can Divorce

Let's go through them...

[Image of a man multi-tasking]

Divorcing the Functional Addict

The functional addict is often able to hold down a steady job, make good income and generally present themselves as a normal, functioning adult. Such addicts often binge in their drug use, between episodes of sobriety. Sometimes, they build a tolerance, which is, in part, genetic. Most important, unless you live with the functional addict, you may never know they are a drug addict.

Some functional drug addicts hold a powerful position in large companies and even State or Federal government positions.

Divorcing the Dysfunctional Addict

[Image of a man's online criminal record]

The dysfunctional addict is the opposite of the functional type. He or she bounces from one job to another and is unable to hold down a job.

Dysfunctional drug addicts often have a criminal record, including those for possession and/or use of illegal drugs, and driving under the influence. The dysfunctional addict may also have a record of attending and falling out of rehabilitation.

Divorcing the Junkie

[Image of someone injecting heroine into their arm]

The junkie is an extreme version of the dysfunctional addict. This goes beyond dysfunction and reaches a level of use that may cause the addict to end up in a body bag on any particular day. The drug addiction is often long-term. Such drug addicts also associate with known criminal elements. They may have an extensive criminal record. They are an ongoing danger to themselves and anyone around them.

### Essential Steps When Divorcing an Addict

[Image of a man working]

Everything we write here applies to functional addicts, dysfunctional addicts and the junkies. For the last two types, the strategy may change and become more elaborate. We note that in this video.

### Electronic Journaling of the Addict's Drug Use

[Image of a woman working]

Journal the drug addict's use before and during the divorce. You can maintain a Microsoft Word document or any other software program that you feel comfortable to use.

### Gathering Documentation and Photographs of Drug Use

[Image of a man carrying boxes]

You should document the drug abuse. Do not steal passwords, provide false information to gain access to computers or engage in other potential criminal conduct. Ensure you act in compliance with the law.

[Image of a character icon]

A five-star testimonial by E.C. that reads, "They are real hard working people who know the law, have excellent courtroom skills, and are respected by their peers and the bench. I personally observed this. They communicate with client and court at the highest level. They were prepared and even anticipatory of courtroom proceedings and maneuverings. When they spoke in court, Robert and Matt were erudite, excellent communicators who didn't stutter, hem or haw."

### Examples of Documenting and Photographing the Drug Abuse

[Image of a man sorting out documents]

## Electronic Transactions of Drug Purchases

These are usually electronic receipts, credit card statements, and activity statements, including those on PayPal, as one example.

## Paper Transactions of Drug Purchases

These may be prescriptions, including fraudulent prescriptions or those that do not belong to your spouse.

Examples Continued...

## Photographs of Drugs and Paraphernalia

If you see the drugs and paraphernalia, photograph it. You should also speak with a criminal law attorney about how to avoid liability to you for allowing drugs or paraphernalia at your residence.

## Photographs of Your Spouse's Drug Use

This may be difficult and you should not do this if it potentially places your safety in danger.

Examples Continued...

[Image of text messages]

## Text Messages and Emails

### 1. Gathering existing text messages and emails

If you have electronic communication between you and your spouse that shows your spouse's drug abuse, secure that communication. Do not delete it. Maintain it in its native format.

### 2. Ongoing text messages and emails

Use ongoing communication. If your spouse admits to his or drug abuse, keep that record.

Examples Continued...

[Image of an email]

If you have a reasonable opportunity to document your spouse's drug abuse, consider doing so. This may be an email or text message that expresses concern about something your spouse did or

failed to do. It can be as simple as expressing concern over your spouse's drug abuse. It can cite to an incident that just occurred.

No matter what it is, it must be truthful and come across as normal communication.

Examples Continued...

[Image of a man reading through computer files]

Rehabilitation Records

If you have records of your spouse's attendance at a drug rehabilitation facility, save it.

Narcotics Anonymous Records

Save these records as they may prove useful on start and stop dates.

Examples Continued...

[Image of a private investigator conducting research]

Records of Criminal Actions

Much of these are public record. You should still save all of the records you have, especially since some people expunge their criminal record. Expungement may make it difficult to obtain the records from the Court.

Retaining a Private Investigator

A private investigator can set up surveillance and find information to which you and a family law attorney do not have easy access.

Safeguarding the Documentation and Photographs You Gathered

[Image of a man protecting his computer files]

There are several ways to safeguard the documents and photographs.

Safeguarding Documentation and Photographs

[Image of a woman carrying documents]

1. Upload the information to the Cloud and password protect the access.

2. Keep a backup flash drive of the documentation and keep that flash drive in a place where your spouse does not have access.
3. Provide the information to your divorce attorney.

## Gathering a List of Friendly and Potentially Hostile Witnesses

[Image of a man reviewing a list]

We break up witnesses into two categories.

### Types of Witnesses

[Image of a witness providing testimony]

### Friendly Witnesses

These witnesses provide information to you and your retained professionals, including your divorce attorney and/or private investigator. They are also witnesses who have facts that support your position that your spouse has a serious drug addiction. Maintain each friendly witness' name, address, phone number and email address.

### Types of Witnesses Continued...

[Image of a man crossing his arms]

### Hostile Witnesses

Hostile witnesses are those who have personal knowledge of your spouse's drug addiction but will likely not testify voluntarily. Your divorce attorney can subpoena such witnesses. These usually include one or both of the following.

1. The addict's friends and family, and
2. The addict's dealer.

[Image of a character icon]

A five-star testimonial by N.D. that reads, "I feel as though Robert has always been completely honest with me in managing my expectations and timelines and keeping them realistic. He has always taken the time to make sure I understand the law and the situation without ever talking down to me or making me feel uneducated."

## Developing a Strategy with Your Divorce Attorney

[Image of a client meeting with his attorney]

You and your divorce attorney must put together a specific strategy. The strategy should, at a minimum, address the following issues.

#### Planning the Exit Strategy

##### The Addict Who is Not a Threat to Your Safety or the Children's Safety

This is an easier transition to divorce. You likely will not need a restraining order or urgent child custody orders.

##### The Addict Who is Also a Threat to Your Safety or the Children's Safety

This may require a restraining order and emergency child custody orders. You must have the evidence to support your position of this threat.

#### Planning the Exit Strategy Continued...

##### The Addict Who is the Breadwinner

You will need immediate child support, spousal support and/or property control orders. Property control includes access to financial accounts. You may also need an order for your spouse to contribute toward your attorney's fees for the divorce.

##### The Addict With the Inconsistent Work History and Questionable Income

If the addict is the family's financial support but has an inconsistent work history or does not report his or her income, the "timing" for the divorce becomes more important.

#### Planning the Exit Strategy Continued...

##### Planning for Temporary Custody and Support Orders

The more unstable your spouse is, the more time sensitive temporary custody and support orders become. When divorcing an addict, no two situations are the same. You and your attorney should customize the timing strategy to your specific situation.

##### Planning the Filing and Service Date

The date your attorney files and serves the divorce papers depends on each of the above issues. Many divorce attorneys do not speak with their clients about this issue. They do not plan or prepare. That is a mistake.

Planning the Exit Strategy Continued...

[Image of a man filling out his to-do list]

Planning for a Drug and/or Child Custody Evaluation During the Divorce

A drug evaluation is different from a private child custody evaluation although a drug evaluation may be part of the custody evaluation. An addiction expert (typically a Ph.D.) conducts a drug evaluation. A forensic psychologist often performs the custody evaluation. Some forensic psychologists also perform drug evaluations.

Planning the Exit Strategy Continued...

[Image of a man reviewing a report]

The CURES Report

CURES is the acronym for "Controlled Substance Utilization Review and Evaluation System." Learn more about CURES by visiting the State of California, [Department of Justice website](#).

Planning the Exit Strategy Continued...

[Image of a man preparing legal documents]

Planning for Attorney's Fees When Divorcing an Addict

If your spouse makes significantly more income than you make and/or has far more access to money than you, consider an attorney fee request.

[Image of a character icon]

A five-star testimonial by Elisa that reads, "They talked me through everything. It was a very comfortable process thanks to them. It was a great feeling knowing they had mine and my children's best interests at heart. They gave me their time wholeheartedly which mattered to me the most. This office proved to me that professionalism and a caring attitude can and do go hand in hand."

Presenting Your Evidence for the Temporary Child Custody Orders

[Image of a man organizing documents]

Family Code 3011

Family Code 3011 States the Following:

Pay Special Attention to Section (d) in a Few Slides

"In making a determination of the best interests of the child in a proceeding described in Section 3021, the court shall, among any other factors it finds relevant, and consistent with Section 3020, consider all of the following:

- (a) The health, safety, and welfare of the child.
- (b) (1) Any history of abuse by one parent or any other person seeking custody against any of the following:
  - (A) A child to whom he or she is related by blood or affinity or with whom he or she has had a caretaking relationship, no matter how temporary.
  - (B) The other parent.

Family Code 3011 Continued...

(C) A parent, current spouse, or cohabitant, of the parent or person seeking custody, or a person with whom the parent or person seeking custody has a dating or engagement relationship.

(2) As a prerequisite to considering allegations of abuse, the court may require independent corroboration, including, but not limited to, written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. As used in this subdivision, "abuse against a child" means "child abuse" as defined in Section 11165.6 of the Penal Code and abuse against any of the other persons described in paragraph (2) or (3) means "abuse" as defined in Section 6203.

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

Family Code 3011 Continued...

(c) The nature and amount of contact with both parents, except as provided in Section 3046.

**(d) The habitual or continual illegal use of controlled substances, the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances by either parent. Before considering these allegations, the court may first require independent corroboration, including, but not limited to, written reports from law enforcement agencies, courts, probation departments, social welfare agencies, medical facilities, rehabilitation facilities, or other public agencies or nonprofit organizations providing drug and alcohol abuse services. As used in this subdivision, "controlled substances" has the same meaning as defined in the California Uniform Controlled Substances Act, Division 10 (commencing with Section 11000) of the Health and Safety Code.**

Family Code 3011 Continued...

(e) (1) When allegations about a parent pursuant to subdivision (b) or (d) have been brought to the attention of the court in the current proceeding, and the court makes an order for sole or joint custody to that parent, the court shall state its reasons in writing or on the record. In these circumstances, the court shall ensure that any order regarding custody or visitation is specific as to time, day, place, and manner of transfer of the child as set forth in subdivision (c) of Section 6323.

(2) This subdivision shall not apply if the parties stipulate in writing or on the record regarding custody or visitation."

Your Requested Relief

[Image of a client meeting with his attorney]

You and your attorney should collaborate and strategize on each of the following issues before you file a request with the court on custody and parenting time.

Requested Relief

[Image of a woman organizing her calendar]

Parenting Time

What parenting time makes sense when divorcing an addict? Should it include overnight parenting time? Should it be limited to professional supervised visitation?

Requested Relief Continued...

Drug testing and its use in court includes:

1. The random test
2. The urine test
3. The hair follicle test
4. The different "panels" of testing
5. Consequences of negative, positive or diluted tests
6. Payment for the tests
7. Admissibility of the drug test result
8. Your declaration
9. Your exhibits
10. Declarations from witnesses and securing their presence in court
11. Your witness list

## 12. The hearing and temporary orders

[Image of a character icon]

A five-star testimonial by Kelly that reads, ““The times I felt like I couldn’t fight anymore, the team really stepped up and made sure I didn’t give up. They are about a FAIR divorce, which I respect. I am very appreciative I had Robert Farzad and his team on my side. Thank you for all of your hard work and for not giving up when I wanted to.”

## The Discovery Process When Divorcing an Addict

[Image of a man reviewing information on his computer]

Discovery is the formal request for information from your spouse or another person who possesses information or documents you need. Here is the most common discovery when divorcing an addict.

### Requested Relief

#### 1. Subpoenas for Records

The common subpoena may be for electronic receipts, credit card statements, bank statements and even communication between your spouse and the person who is subpoenaed.

#### 2. Subpoenas for Testimony

Your attorney may issue a subpoena for a witness to testify at a deposition or a hearing.

Requested Relief Continued...

#### 3. The Addict's Deposition

Your attorney should take your spouse's deposition and question him or her about the drug addiction issues.

#### 4. Requests to Produce Documents

This is a request for your spouse to produce documents.

#### 5. Request for Admissions

This is a request for your spouse to admit certain facts. These are a powerful discovery request. A failure to admit the facts may carry consequences to your spouse, including being ordered to pay your attorney's fees incurred to prove the fact he or she denied.

### The Evaluation Report in Your Favor

[Image of a man cheering while reading a report]

Assume the drug evaluation and/or child custody evaluation is favorable to your position. Assume further that the report is admissible in evidence. You now have a significant opportunity to obtain the orders you seek. You should move quickly to put the custody and drug testing issues in front of the court if your spouse does not agree to the recommendations.

### The Evaluation Report Against Your Position

[Image of a disappointed man picking up a report]

If the report does not support your position, you and your divorce attorney should discuss whether the issues are worth further litigation. A report is not the final word. Evaluators make mistakes. You should ensure your criticism of the evaluator's recommendations and work is objective, and not emotion-based.

### Settlement Negotiations When Divorcing the Addict

[Image of a couple in a negotiation meeting]

If you intend to engage in extensive settlement negotiations with an addict, you may find a lot of time and money wasted. Addicts are unpredictable. They are rarely reasonable.

Make reasonable offers consistent with the children's best interest. If you cannot resolve the issues within a reasonable period, it is time to proceed to court.

### The Courage and Financial Ability for Trial

[Image of a client overwhelmed by the cost, time, and effort required of going to trial]

Trial is stressful. Many want to avoid it. It should not be a first resort.

### Trials

Trial is for Those Divorce Cases Where the Spouses are Unable to Resolve the Issues

However, trial also takes courage. You must have the stomach to put the issues in front of the court and let the court decide. You also need the financial ability to take the case to trial. That requires you and your attorney to collaborate on the following issues:

1. Your personal ability to afford a trial.
2. Your spouse's ability to pay for your attorney's fees and the timing and amount of the fee request.
3. The community property resources available to pay for the fees.
4. Your ability to obtain financial help from family or friends and the terms of such a loan or gift.

Ready to Discuss Divorcing the Addict in Your Life?

[Image of a prospective client meeting with an attorney]

Contact us for an affordable strategy session.

A five-star testimony by A.C. that reads, "Client and outcome driven through-and-through..."

Each review was provided by an actual client.

To protect our clients' privacy, we have either used only a first name or initials.

Testimonials are not a guarantee, warranty or prediction regarding the results you may obtain.

But, they do help you see that good people can get reasonable results in family court.

[Image of documents]

We hope you enjoy our written guide on divorcing an addict.

[Image of a Wi-Fi symbol]

Visit us today at [farzadlaw.com](http://farzadlaw.com).

[Image of an outline of California with three office building photos]

We have offices in Los Angeles, Orange County, and San Diego.

[Image of the U.S. Bank Tower]

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[Farzad & Ochoa logo]

California Family Law Attorneys For Good And Honest Men And Women.