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## Order

Client	steve sleeper
Ref #	Attorney Bradley Litchfield
Order #	TC0188525454

## Audio

File URL	<a href="#">Attorney Bradley Litchfield.mp3</a>
Length	20 min

**Announcer:** Welcome to Ask the Expert with noted radio host, Steve Sleeper. Each week Steve interviews entrepreneurs and professionals, and shares their intriguing stories of success and service. Now, here's radio veteran Steve Sleeper.

**Steve:** Welcome to another edition of Ask the Expert. Today my guest is Brad Litchfield. Brad is an attorney with Hutchinson Cox in Eugene, Oregon.

**Steve:** Tell me about Hutchinson Cox and yourself as well.

**Brad:** Hutchinson Cox is a law firm in Eugene, Oregon, been around a long time, since 1970. We have a fairly diverse practice in Eugene. I've been at this firm since 2003. I was admitted as a lawyer in 1993 in British Columbia, believe it or not. I practiced up there for a few years, and then my wife and I decided to move down to Oregon. We've been here ever since, and I practice family law here. I've helped a lot of people in tough times in their life. I love helping people figure out some of the most challenging questions in their lives.

**Steve:** Family law is, to a large degree, handling divorces. You and I spoke for a while offline, and one of the things you mentioned is most folks wait longer than they should to get a divorce. Tell me about that and what should folks be looking out for?

Brad: Yeah. I think it is true that people wait longer than they should to get a divorce most of the time. It's not always, but most of the time they do that. A lot of time, they say, "Oh, I want to stay together for the kids," or, "Is it right? Is now the right time?" The inertia is significant on doing something like this, a divorce. It's a very difficult decision, and it's packed with so much emotion. People generally wait longer than they should.

What my experience is, people have a triggering event. Somebody clears out the bank account or somebody moves out or there's an incident of physical violence. Even though they've known for a long time the relationship is not positive or productive, they wait too long. I think that's something people need to think about. However, when you're contemplating this, be prepared to brace yourself. It's a very emotional situation and a very difficult process to go through. It is important to figure out what your priorities are and you maintain those priorities. Foremost priority is not messing with your kids.

Steve: I went through a divorce 35 years ago. I got custody of our a 2 year old daughter and I thought - how do I do this? I might have been a little bit of an unusual situation in that I ended up being a single dad. What do you typically see with custody?

Brad: That's a really important question. That was the '80s when you got divorced. It's different in 2016. There is not a presumption that moms are always the primary caregiver. Judges, good judges, will select the parent that's the better parent, and sometimes that's dad. We have changing roles in society. Dads are more regularly staying home with kids, but even if a dad doesn't stay home with the kid and mom does, that does not mean mom is going to get custody.

Custody is different in different jurisdictions. I practice in Oregon. Custody means, who is the person that makes the key decisions for the child? Medical, religious, educational. Sole custody or joint custody. Sole custody is where one parent makes those decisions to the exclusion of the other parent, and joint custody is where both parents in theory make those decisions together. Yes, custody is important, but it's not as big a deal as you think it is.

A lawyer I respect always talks about the crown of custody. How much are you going to pay for that crown of custody to say, "I dominated. I squashed the other person like a bug and I got custody"?

Joint custody is good. Moms and dads who have joint custody are generally more involved with the children. But that comes at a cost. Can you joint parent with this person? Some couple can't do joint custody. They can't talk with the other person. The other party has made bad decisions. They are in a dangerous situation. You don't want to push upon your child a joint custody arrangement with a crazy person. Joint or sole is a very difficult decision that you want to talk to your lawyer about. But where the rubber hits the road with kids is not custody. It's parenting time. Some jurisdictions call it visitation. When are you with your kid? Is it 50/50? Is it weekends for dad or weekends for mom? I think courts are moving more towards 50/50 parenting time, and away from the every other weekend parent, alternating weekends and 2 weeks in the

summer. That's uncommon in the jurisdiction where I practice, and that may be surprising to some.

Steve: It's about the kids first and foremost.

Brad: That is absolutely so true. Again, a person I respect, a local judge here in Eugene, will often lecture people and say, "Your kid did not choose to get divorced. Your kid did not choose to fall out of love with your partner. Don't penalize your kid." I think that's the best advice. Don't pollute your child's relationship with you or with the other parent by talking trash, by the subtle jabs, the trying to get the kid on your side. That is the worst thing you can do for your child, because even if your divorce is amicable, it's traumatic for your kids. They'll remember it for the rest of your life and they'll hold it against you for the rest of your life if you make it horrible for them. Children's brains are not developed to the extent that adults' brains are. They perceive things differently than adults. They'll blame themselves for mom and dad splitting up.

In a perfect world, mom and dad sit down with the kids and say, "We love you and you're the light of our lives, but mom and dad think it's healthier for mom and dad, and for you as kids, if we change our structure a little bit so that mom and dad live in different places so everybody can be happy." Divorce cases I work with are least damaging for children where parents approach the divorce in a way as to not penalize the children.

Steve: Then as it relates to the parents, there are all kinds of issues of character and emotions.

Brad: Yeah. It's a tough one, because you got to be prepared for the emotional Armageddon that is a divorce. Hopefully not, but you'll be mad at your ex-spouse. You'll be perhaps mad at the judge, mad at the other lawyer, mad at your own lawyer. You've got to approach this by saying, "I need to move to a different part of my life. I need to get this divorce done. I need to do it by maintaining my own character. I need to maintain my own standards, but I'm not going to give away the farm on this one. There are some things that I absolutely will not tolerate."

That's why it's important to have a good lawyer, somebody that can say, "Yeah, I wouldn't tolerate that either. You need to stand your ground on that one." Those are things like child safety issues or anything but a fair division of assets, except there's sometimes where we don't want to do a fair division of assets. You need a lawyer to be able to say, "We're standing our ground on this one, but we're not going to fight over the stupid things. We're not going to fight over the unimportant things." I saw a couple spend maybe \$10,000 fighting over the family roaster for the Christmas turkey. It was such an emotional issue.

So it's good to have a lawyer that can tell you, "Yes, that is something we want to stand our ground on," or at the same time say, "You're being ridiculous. Move on, unless you want to pay me thousands of dollars for something that's unimportant." As I've said, the emotional carnage that comes from a divorce can be made way worse by people taking unrealistic positions.

Steve: Do you ever go to mediation?

Brad: Yeah. That's also a really good thing. Mediation has changed over the years too. You wouldn't think divorce processes would change, but most good lawyers use mediation as a first option as opposed to a last option nowadays. Good, skillful, experienced lawyers will say, "Hey, we can figure this out way better if we craft our own resolution, rather than if we have a judge craft a resolution for us." Judges don't know anything about you or your partner or your spouse, your kids. I had a judge tell me once in court, "I'm going to chop things right down the middle with an ax, but if you want to, if you mediate this, you can do it with a scalpel." It's still painful, but it's much more precise.

You can do an effective division of assets that's more carefully tailored to your needs if you mediate. Good lawyers will mediate at the front end of the case to avoid the cost and uncertainty of a trial. You don't know what the judge is going to do. In some jurisdictions like my jurisdiction, the judge doesn't know anything about your case until the morning of trial. That is the uncertainty mediation can avoid. You can do that. Is mediation a good way to go? 100% of the time, if I can, I'm mediating cases rather than taking them in front of a judge.

Steve: Talk about the importance of having a good lawyer represent you during a divorce.

Brad: Good lawyers are the problem solvers. Bad lawyers stir the pot, or bad lawyers are inexperienced. Capable lawyers are going to avoid the fight except in circumstances where they really do need to fight. Some things you do need to stand your ground on.

Bad lawyers are going to wing it. They're not going to be prepared and know what's going on with your life and with your family and with your finances, because that's a very big part of many divorce cases. A good lawyer is going to take the time to know the facts, know what's going on, and give you experienced advice. I'm not saying you need to hire the most expensive lawyer in town. Sometimes those most expensive lawyers in town are expensive because it's their own ego. Ask around. Find somebody that takes the approach to the case that you want to take.

For instance, if you know absolutely you have to go to trial, get a lawyer that's good in the courtroom. Even though you might think you've got to go to trial, good lawyers can avoid a trial and the uncertainty that comes with that trial. My advice, interview a couple lawyers. Ask around. Talk to people who have gone through this sort of experience before. Say, "Tell me about your lawyer. Tell me what you liked about your lawyer. Tell me what you didn't like about your lawyer." There are resources online with information about a lawyer in your area. I think a local lawyer is better than the lawyer from 50 miles, 100 miles away who's in the big city, simply because local lawyers know the local bench, know the local judges, and they have experience with that judge in that county in that courtroom.

I think it's super important that you find somebody that fits with you, that you like, that you can talk to, but that knows what he or she is doing and can tell you when you're being ridiculous. Most divorce cases honestly should make sense. Most divorce cases

should be reasonable and straightforward that a normal everyday person that's not a lawyer would say, "Yeah, yeah, that's right."

Steve: Good point. Brad, if somebody's interested in contacting you, how do they do that?

Brad: Sure. I'm in Eugene, Oregon. You can give me a call at 541-686-9160. We'll do a conflicts check before we meet with you. Or you can send me an email at [brad@eugenelaw.com](mailto:brad@eugenelaw.com).

Steve: [Eugenelaw.com](http://Eugenelaw.com) is the website.

Brad: Yup.

Steve: Brad, thanks very much.

Brad: Hey, it is absolutely my pleasure. Thank you.

Announcer: Thanks for listening to Ask the Expert with Steve Sleeper. Join us next time as entrepreneurs and professionals share their intriguing stories of success and service.