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help for generation "ex"

# On the CASE



## How to Choose the Best Lawyer for You

by Pamela Weintraub and Terry Hillman

If you had a sizable wedding, you probably followed these traditions: You listened to various bands before choosing the music; you tasted food from different caterers before hiring a chef; and you studied portfolios before selecting a photographer. When you go through a divorce, it's equally important to surround yourself with individuals who offer the services you need. In this article, we'll tell you how to find and retain an attorney who's right for you.

### Good Referral Sources

Many people find a divorce lawyer through a professional's recommendation. Clergy, therapists, and marriage counselors may all be able to suggest divorce attorneys.

Probably the most common way to get the name of a matrimonial attorney is through another attorney. You might already have a business lawyer, or maybe the lawyer who drew up your will is a friend and can recommend someone. Suppose you've gone to see one matrimonial lawyer, and you want the names of a few others. He or she will not be reluctant to give you some, especially if you explain that you can't afford the quoted fees.

Another source of referrals is friends who have been divorced. Sometimes they will recommend their ex-spouse's lawyer over their own, particularly if they thought they got the short end of the stick in the settlement. This, too, is a good way to get started.

Your local bar association might also have the names of attorneys who do matrimonial work, but that's a step away from using the Yellow Pages. Remember, lawyers can generally make it into the bar association list simply by joining the association, not by showing any particular level of expertise. Still, many of those lawyers will provide a consultation at a low fee or for free, and you might find one who meets your criteria.



Some state bar associations have formal specialty certifications. If you can afford it, look for a certified family law or matrimonial specialist if your state has such certifications. If you are on a tighter budget, try to find a lawyer recommended by people you trust. Last but not least, the Yellow Pages can help. After all, you're only looking for an attorney with whom to have an initial consultation at this point. You're not actually hiring anyone blindly through any of these sources.

### Your First Meeting

When you're with an attorney for the first time, he or she will ask you for some background information about your situation. You should be told, briefly, how the laws work in your state and what that will mean for your own case. The lawyer can also tell you which court will handle your case. Is the court in your jurisdiction backlogged? Knowing this could determine your strategy in resolving your case—; is it helpful to drag out the divorce or to end it quickly? A lawyer who

knows the judges and their individual biases and personalities will be ahead of the game. Unfortunately, a carefully weighted decision by a judge can be less common in some jurisdictions. Some for instance, may see all mothers as overprotective or all fathers as bill payers. Sometimes a decision can be made simply on the basis of whether the judge had a fight with his or her own spouse that day! A savvy attorney who has been around will be able to maneuver around a judge's personality or bias with more agility than someone who is new to the field or to the area.

### Fees and Billing

During this first consultation, the lawyer should also explain his or her fees. Does she take a *retainer*—a lump-sum payment—up front? That practice is common. As the lawyer works on your case, she subtracts an amount equal to her hourly rate from the sum you have prepaid. For example, if you paid Attorney Greenfield \$1,000 and her hourly rate is \$100, you would have bought 10 hours of work in advance. Most will quote a flat rate for the retainer. Other lawyers do not take a retainer and simply bill you every month as the case moves along. Some lawyers require that a cushion remain in the retainer until the case is concluded—for example, a few thousand dollars to cover the closing of a matter or to refund to you at the conclusion of the case. Whatever the arrangement, determine the details now. Remember, never sign on with a lawyer unless you have these financial details in writing. Be sure to read the fine print in your retainer agreement.

### A Look at Legal Styles

There are as many different legal styles as there are attorneys. Some attorneys are tough and aggressive and give you an immediate feeling of confidence or dislike, depending on your perspective. Others seem too nice or too soft-spoken, and you can't imagine them standing up to your spouse, let alone a judge. Your attorney's legal style has to make you feel confident and comfortable. Of course, you want someone who will deftly help you negotiate and win power points in court. By the same token, if your lawyer is such a shark you're afraid to speak up and voice your concerns, all that aggression won't do you much good. In the end, it's a huge plus if you simply like your lawyer. Are you compatible? Can you be straightforward without feeling he or she is judgmental or condescending? Is your attorney genuinely concerned about you and the outcome of your case? Some lawyers act one way when they are with clients, another when they're in front of a judge, and still another when they're with your spouse's lawyer. That's not always inconsistency; sometimes, it's just smarts. The best thing you can do is to watch prospective attorneys perform in court; this is difficult, of course, because legal schedules change at the drop of a hat. Some lawyers are skilled negotiators, and others ace litigators. Some will take a case only if they are hired to handle everything. Others earn a living by selling a menu of services—one motion, settlement agreement, and counseling session at a time. At the opposite end of the spectrum from sharks are the lawyers we refer to as "peacemakers" who specialize in mediation and Collaborative Law. With Collaborative Law, a relatively new practice, attorneys work together to provide clients with a structured, non-adversarial alternative to the adversarial system of dispute resolution. The collaborative movement grew out of the realization that "some litigation, like nuclear war, is unwinnable," according to the Collaborative Law Center, based in Cincinnati. If you require that counsel attend to your rights with more vigilance than could ever happen in mediation, but at the same time you want to avoid conflict, a collaborative attorney could be for you. (Of course, a collaborative attorney can only sign on if your spouse hires a collaborative attorney. For a peacemaker to step in, you will both need to be on the same page this one last time.) No matter what kind of lawyer you hire, you should request a client reference. Some attorneys might feel uncomfortable with the request because of confidentiality issues, but others might have clients who would be willing to talk.

### The Least You Need to Know

- Hire a competent attorney who makes you feel at ease, who you like, who's on your wavelength, and who your best instincts say you can trust.
- Hire an attorney competent in the kind of representation you seek. For instance, if you are purchasing services à la carte, make sure the attorney has provided unbundled representation or advice before. If you are seeking a peacemaker specializing in Collaborative Law, make sure you are not the first such case to sign on.
- Make sure you can afford the attorney's fees or are able to work out an arrangement for

payment.

- Never pay a retainer fee without a guarantee that the unused portion will be returned.
- Know whether an associate will be working on your case and determine the associate's billing rate. Find out whether you'll be billed for both the associate's time and the primary attorney's time when both are working on the case.

### How to Interview a Lawyer

What exactly do you need to know before you hire a lawyer? Here are some questions to ask before you write a retainer check or sign on the dotted line.

#### Concerning general experience, ask these questions:

- How many matrimonial cases have you handled?
- How many of those cases went to trial? (An attorney who has done a lot of trials might not be a good negotiator. Keep that in mind, especially when the lawyer hasn't been in practice very long.)
- How many of these cases involved custody, support, business valuations, large financial settlements, or whatever issue feels like your major concern?
- Where did you go to law school? (Don't ask if the diploma is staring you in the face.)
- Are you experienced in unbundled divorce (or collaborative divorce, or whatever style of divorce you hope to enter)?
- Do you have the time to take on a new case now?
- Do you know my husband (or wife)?
- Do you know his or her attorney?

#### Ask about day-to-day operations:

- Will anyone (usually an associate) be assisting you on my case?
- What is his or her experience?
- Can I meet the associate now?
- What work would the associate do and what work would you do?
- Which one of you will negotiate the case? (If you want to be sure that the lawyer you are seeing is the negotiator, make that clear. You don't want an intern performing your quadruple bypass surgery, and you don't want an inexperienced associate you haven't met negotiating your divorce.)
- Who will try my case?
- Are you available to take phone calls?
- Is the associate available to take calls?
- What hours are you usually in the office?
- Do you have any time-consuming trials coming up?
- Will I get copies of all papers (letters, faxes, legal papers) in my case? (Be sure the answer is "yes.")

#### Make sure the fees are clear:

- What is your hourly billing rate?
- What is the associate's billing rate?
- If both you and the associate are working on my case at the same time, am I billed at your combined rates? (Some firms do that only if two attorneys are needed, such as at trial. Others do it routinely, and others only bill you at the higher attorney's rate.)
- Is your fee for trial different from your hourly rate? (Some attorneys charge a set fee for every day they are in court.)
- Do you charge a retainer, and how much is it?
- Will the billing arrangements be set out in writing? (Insist that they be.)
- What happens when the retainer is used up?

- Will you keep me informed each month as to how much of the retainer has been depleted?
- What happens if I get behind on the bills?
- Can you collect your fees from my spouse?
- How much am I billed for copies of all relevant documents? (If the fee is too high, you might want to make copies on your own.)
- What extra fees should I expect? (Your retainer will spell out your responsibility for "fees"—what the lawyer charges for his/her time versus "costs"—things like court filing fees, process server fees, excessive postage, messengers, stenographers, or similar out-of-pocket expenses.)
- Are those fees due in advance, and will I know in advance what they are?
- Am I billed for telephone calls?
- Do you have a minimum unit of time you bill me for? (Some lawyers will bill you for five or even 15 minutes when a call takes only four minutes.)

**Ask these questions about handling the case:**

- Will I have input in decisions concerning strategy in my case?
- Will I be kept informed of all developments?
- What problems do you foresee arising in my case?
- What are your personal feelings about joint custody versus sole custody?
- Sometimes a lawyer has strong convictions one way or the other that could potentially affect the outcome of your case despite the fact that your wishes should prevail.
- Based on your experience, how much do you think my case will cost?

Before you make the final decision to sign on with a lawyer, be sure to fill out the following attorney checklist. It will guide you in your decision—and serve as a reminder about your agreement in the months to come.

Attorney Checklist	
Name of attorney:	_____
Address:	_____
Size of firm:	_____
Style of law practiced (e.g. traditional, unbundled, collaborative):	_____
	_____
Recommended by:	_____
Date seen:	_____
Consultation fee:	_____
<b>Office:</b>	
Is it an easy location for me to get to?	_____
Was it relatively neat and clean?	_____
<b>Attorney:</b>	
Education:	_____
Experience:	_____
Was I kept waiting?	_____
Were we interrupted?	_____
Did I feel comfortable?	_____
Did the attorney listen to me?	_____
<b>Fees:</b>	
Hourly billing rate:	_____
Rates of others who might work on the case:	_____
Retainer fee:	_____
What happens when retainer is used up?	_____
How often am I billed?	_____
What happens if I can't pay?	_____
Will attorney agree to collect from my spouse?	_____

Who pays for disbursements and extra services? \_\_\_\_\_

**Handling the case:**

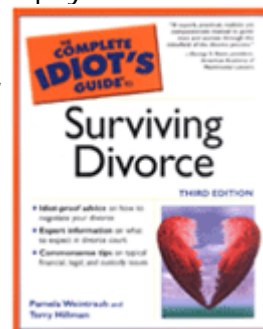
How long does the attorney think it will take to complete the case? \_\_\_\_\_

Has the attorney handled cases like this before? \_\_\_\_\_

## You're Hired!

After you have decided whom you want to represent you, a reputable lawyer will send you his or her written agreement concerning fees and will give you time to ask questions about the agreement before you sign it. If a lawyer asks you to sign an agreement in his or her office without giving you the chance to think it over, look for another lawyer. Sometimes it's worth showing the agreement to your business or personal lawyer, whom you trust. If and when you do return the written agreement, you usually have to include the retainer check required as your initial payment.

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