

7 Things You Need to Know Before Hiring a Divorce Lawyer

1. **Know that you really need a lawyer and for what purpose.** In some very simple cases, you might not even need a lawyer. If you have no substantial assets, no children and have been married less than five years, you can easily file for a 'Summary Dissolution.' You can obtain information on this special type of abbreviated divorce, as well as other credible information on California divorce by clicking on to this site. <http://www.courtinfo.ca.gov/selfhelp/family/>

Determine the **extent** of services you need. Gone are the days when you plop down a blank check to an attorney to 'do it all.' Recently the California Legislature approved the concept of "**Limited Representation.**" In Limited Representation cases, you can hire a divorce lawyer to represent you for certain issues, such as custody and visitation, property division, support, or to help you conduct discovery or achieve settlement with your spouse. This arrangement **allows you to manage the aspects of your case that you believe you can handle**, such as going to court for a Case Management Conference--a routine hearing before the judge to report the status of your case (for which a lawyer would charge hundreds of dollars to appear.) Limited Representation may be applicable in cases involving **simple property division, routine support and child custody or visitation disputes** and would be an option for people who would be **comfortable representing themselves** before a judge. Warning: Although this route could save you thousands of dollars, it is frequently not a smart choice, depending on the circumstances. You should carefully *review all the issues* of your case with an experienced family law attorney before you make the determination to enter into Limited Representation.

In many cases, such as **high conflict** or **complex divorce**, you will need to retain full representation, also known as having an "Attorney of Record." You should only choose a lawyer who is **experienced and knowledgeable about family law** in San Diego County. Otherwise, you could compromise your rights to your children, property or payment of support. Your lawyer sets a divorce strategy, advises you, counsels you, files all court paperwork and is responsible for arguing your case to the judge, including taking it to trial, if necessary. This is the **ideal situation if you can afford a lawyer**, as the lawyer is directly involved in all planning, negotiation and procedural aspects of your case. Even if your case is not necessarily complex or high conflict, you may be better served by having full representation if you **are in an emotionally vulnerable place** or if you believe your anger or dislike for your spouse could impact your decision making.

2. **Know that you and your spouse have the option of using the same lawyer for mediation, instead of each of you hiring your own.** Attorney mediated divorces are often the best way to resolve a divorce. You can save a tremendous amount in legal fees if you are hiring one attorney, as opposed to each of you having your own counsel. Mediation **works best in cases where the spouses have come to terms** with the emotional aspects of the case and have the **ability to speak civilly** to each other about the day-to-day issues of their lives, such as the sharing of their children, financial concerns and the like. You and your spouse do not need to be in complete agreement, but you do need to have an attitude of willingness to work toward an efficient resolution of your divorce issues.

The term '**mediation**' is used in many different ways in the Family Court system. Parents with custody disputes are court ordered to attend 'mediation' with Family Court Services, which is very different from attorney mediation. Additionally, if you are using a psychologist or mental health professional to help with divorce counseling, this is different from the lawyer that helps you arrive at a mutually agreeable divorce settlement, then draws up that agreement and files it with the court. Be careful that you **do not hire a mediator unless that person is an attorney licensed to practice** in California.

3. **Know the lawyer you choose has the experience and expertise to handle your case.** This is very important, because you want to ensure that your lawyer's skill level fits the type of case you have. If you have a fairly simple or straightforward case, you could do well with a lawyer who has been practicing family law for only a few years. However, as you interview a prospective lawyer, be careful. A **lawyer with less than five years experience should be carefully screened**. Even if your case seems simple and non-complicated, an inexperienced lawyer could harm you. If you do hire a lawyer with less than five years of experience, **find one that is working in a family law firm or has an experienced mentor** they can access easily.

In most cases, you will want your lawyer to have **at least five to ten years experience**, even if the case is not overly complicated. **California's family laws are far more complex than any other state's divorce laws.**

If you have a marital estate worth over a million dollars or you are a professional, executive, or own your own business, you will need an attorney who is experienced and skilled in a number of ways, with a superior knowledge of the procedural issues that challenge HNW (high net worth) and complex cases. You need an attorney with **minimum 10 years experience**. You want to ensure the attorney you hire has already handled cases like yours successfully and is **not 'cutting his or her teeth' on your case**. Hiring an experienced attorney will also allow your case to move quicker through the court system. You will benefit from the relationship or **respect the judges**, special masters and other professionals have for your lawyer.

4. **Know your lawyer has a strategy for your case that you can live with.** This is a key point, **because many lawyers don't actually plan a strategy** with a potential client.

The initial interview between attorney and client is usually a conversation where the potential client tells the lawyer the essential facts of the marriage, i.e., the assets, debts, situation with the children and what the clients wants to get from the divorce. The lawyer listens and **responds with generic comments such as: "Yes, I'll get you the best deal."** "We'll show him/her they can't do that to you." "Well, we can do that, but it's going to cost you." The **only value these comments have is to the attorney** to close the deal as the client now feels better, even though no real strategy or course of action has been suggested.

A good attorney will be organized, respecting both your time and theirs. The attorney's assistant should provide you with a brief (one page) questionnaire before the initial phone consultation so you can list your assets, debts, income, expenses, child custody issues, any requests you have or questions you want the lawyer to answer. The attorney should provide you with **a 15 to 20 minute consultation at no charge** to discuss your concerns. At the end of this brief phone consultation, you should have a general idea of the amount of any child or spousal support payments, and a direction for achieving your divorce objectives or goals. Your lawyer should go over a **'best case scenario'** with you as well as a **'worst case scenario.'**

If you are not a well organized person, then you definitely need a lawyer who is organized and who has a **'game plan'** for getting your goals accomplished within the time frame you desire. It is important that you understand the **court procedures and how they will work, for or against you**. It is sometimes a good strategy to stall while at other times you can gain an advantage by expediting matters. Your lawyer should be advising you as to how each event encountered in the court system will impact your case, including your judge's preferences and what to expect from your spouse's lawyer.

After the phone interview, you will have the opportunity to meet with the lawyer. This meeting usually lasts one hour and is paid for by you at the lawyer's hourly rate. The meeting should be in the lawyer's office and you will be asked to bring all your relevant documents, i.e., paystubs, tax returns, copies of bank statements, etc. **It is important that you see this as a fact gathering and strategy setting event.** You should have all of your questions ready for

the lawyer. At the end of the hour, you should be 100% certain you feel comfortable hiring the lawyer. Do not ever feel obligated to hire a lawyer because you have already spent a few hundred dollars on the hour long consultation. The lawyer you hire should **give you a clear sense that you know where your case is going** and the possibility or probability of obtaining your divorce goals.

5. **Know you can effectively communicate with your lawyer.** Most people who come to see a divorce lawyer do not really want to be there. They often feel **vulnerable** and they may have a great deal of anger or **anxiety about getting the divorce**, especially as it involves disclosing most of their financial, and some personal information to a stranger.

The lawyer should show sensitivity to you and your issues. If you do not immediately feel comfortable with the lawyer, **state your concerns**. Many lawyers lack empathy for their clients and simply see the client as another 'case.'

A good lawyer is an **effective listener**, assisting you in telling the relevant parts of your divorce story. You need to feel comfortable enough to share all important information about your case, even things you may feel embarrassed about or wish you had not done. Although California is a 'no fault' divorce state, your **admission of any wrongdoing to your lawyer is essential** to getting the best protection and advocacy from your lawyer.

The lawyer should clearly explain the best way for the two of you to communicate throughout the divorce case. Nowadays, most good divorce lawyers use **email as the primary method of communicating**, because it is extremely efficient. Following up with phone calls or office meetings can also help eliminate any communication problems between attorney and client. As divorce lawyers charge by 'tenths' of the hour (or every 6 minutes), effective communication with your lawyer will also **save you attorney's fees**, plus give you peace of mind.

6. **Know you can trust your lawyer.** Trust is a key part of the attorney-client relationship. Finding an attorney you can trust will give you **greater peace of mind** and it will also allow you to **save money** on your divorce. Not only should you trust that your attorney is competent and experienced enough to carry out the legal end of the divorce, you should know your lawyer is ethical. **Unethical behavior in divorce lawyers takes many forms**, from 'churning' a case (generating unnecessary fees,) to not being properly prepared to go forward on the case, generating unnecessary continuances, delays and the exposure to client paid sanctions. Alcohol and substance abuse is very high in lawyers. In San Diego County, there are a number of **practicing divorce lawyers who have been disciplined** by the State Bar for a variety of ethical violations.

A smart person seeking a divorce lawyer will ask for at least three names of divorce attorneys from a **trusted therapist, accountant, friend, neighbor or work colleague**. If someone refers you to a divorce lawyer, ask them how long they have known the attorney and in what capacity. Do not be shy about trying to find out as much about the prospective lawyer, as you can. If you hire an attorney, you want to feel confident you have found someone who is trustworthy, reliable and can work hard for you. Check the California Bar Site to find out any **disciplinary problems** or gaps in employment. Go to www.calbar.org and click into the far right tab, "Attorney Search."

The **Internet is not a credible source** to determine a lawyer's trustworthiness. The lawyer will usually have a website (or should, unless they are stuck in the Dark Ages.) The **lawyer's own website** will usually have **claims** of all the wonderful things they can do for you. Some sites offer helpful information on child support, property division and the like, which is a plus. Look at the **attorney's bio** to see what kind of hobbies, awards, public service or other activities the lawyer is involved with. If you are a user of **LinkedIn or Facebook**, these sites can also give you an additional perspective on the lawyer. The Internet has a number of self proclaimed '**consumer' websites**. These sites, as they are **not regulated, are extremely unreliable** and have become a favorite tool for unhappy people to retaliate against lawyers and other professionals, irrespective of whether they have used their services or not.

7. **Know you can be a good client to achieve the best results.** People on the search for divorce lawyers sometimes forget that 'water seeks its own level.' If you are **seeking the highest and best quality** lawyer, be the highest and best quality client. Being a good client simply means **being professional** about your divorce. An experienced divorce lawyer understands **you are likely going through a difficult time emotionally**, but should not be subjected to excessive crying jags or impulsive demands. Learn how to **effectively manage your emotions**. If you are having difficulty with this, as most divorcing people do, then seek out a divorce or transitional therapist. Have a good support system of family, friends and others who can support you, so you aren't tempted to seek emotional comfort from your lawyer.

A good divorce client **stays in touch** with their legal counsel, by **timely responding** to emails, phone calls and providing requested information and documentation. Your lawyer may understand that you simply 'do not want to deal with' your divorce, but by not cooperating, you could be compromising your legal position and creating unnecessary frustration for your lawyer.

A good divorce client is **realistic and objective** about what results can be obtained through the court system or through mediation. The good client understands the important importance of having a **positive attitude, focused on his or her future life** and makes divorce decisions based on the 'best case scenario' as outlined by the lawyer in the beginning of the case.

This article was written by Iris McKay, veteran divorce lawyer and owner of The McKay Law Group, APC. Our firm practices family law exclusively; we have over 30 years experience in the family law court system. Our lawyers are skilled at providing consultation (limited representation), mediation and litigation services to qualified clients. We have also represented clients in fee dispute proceedings against their former divorce counsel. We are committed to the fair practice of law by obtaining excellent results in the most cost effective manner.

Each of our lawyers possesses the highest degree of ethics and integrity. We have also demonstrated a commitment to San Diego County by the hundreds of hours of pro bono legal services rendered to individual clients and to the Superior Court of San Diego.

Please visit www.irismckay.com for more helpful information.

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