

## A Solid Relationship

**How to work with your lawyer to achieve the best possible outcome.**

By Diana Shepherd

Before you hire an attorney to represent you in your divorce, you need to learn this important truth: you and your lawyer will become partners, for better or for worse, during and perhaps for years after the divorce process. And how well your partnership works can have an enormous affect upon the process and outcome of your divorce -- and how much you'll have to spend in legal fees along the way.

So you must make every effort to hire the right lawyer from the outset. " If you pick the wrong lawyer, your future, your assets and your children could be in jeopardy, " says Forrest Bayard, an attorney in private practice in Chicago. " You should examine your goals and attitudes before going to see a lawyer, " he continues. Do you want to be generous, or nail your ex to the wall? Do you want an amicable or an adversarial divorce? " Look to your future. Determine what you want for yourself, your kids, and your ex in six months, one year, and five years, " advises Bayard. " Then choose a lawyer who will support you in realizing that future. " Attorneys have different styles and biases, he notes, so you should look for one who's " compatible " with you: who understands and respects your thoughts and feelings -- and who will support you to be the best you can be in realizing your goals. "

### Finding a lawyer

Start by asking for recommendations from close friends or family members (your friends and your family -- not your spouse's) who have been through divorce themselves. If you can't get any personal recommendations, there are professional organizations that offer lawyer referral services.

After your initial conversation with a lawyer, you should be able to answer these questions: " Does this lawyer listen to me when I talk? Is the lawyer interested in what my goals are, or only with his or her own goals? " Look for someone who:

- Practices matrimonial or family law.
- Has a lot of experience.
- Is a skilled negotiator.
- Is firm, but reasonable.
- Is compatible with you and your goals.
- Is totally candid.
- Is not in conflict with your best interest.

Don't share a lawyer with your spouse; don't hire your spouse's best friend (even if she's a friend of yours, too), business partner, or any member of your spouse's family to represent you -- even if you're on good terms with them. Aside from the obvious conflict of interest involved, you'll have created enemies -- and probably a whole new family feud -- before your divorce settles.

Your choice will be partially dictated by your spouse's choice: if the divorce is relatively easy and friendly, you can probably agree on what kind of representation you need. If the divorce is very bitter; if there's money, assets, or children at stake; or if your spouse is just plain " out to get you, " consider hiring a well-respected individual or firm.

As in any profession, there are good lawyers and bad lawyers. It's up to you to do your homework -- and to ask the right questions -- to determine which group your attorney falls into.

Sometimes, despite their best efforts, people end up choosing the wrong lawyers. " Normally, a client will gravitate to the lawyer who will fulfill his or her needs -- whether that be for a tough litigator or low-key negotiator, " observes David Wildstein, who heads the matrimonial practice at Wilentz, Goldman & Spitzer. If it's clear that you've chosen the wrong lawyer, he says, don't compound the problem by sticking with them to the bitter end. " You'll either prolong the process unnecessarily, or end up with an unacceptable settlement, " says Wildstein.

### What your lawyer needs to know

Once you've chosen a lawyer, you'll need to provide information and direction to him or her. When your attorney requests information, respond as quickly, completely, and concisely as you can -- don't waste your own and your lawyer's time by writing a 24-page document when all that was required was a " yes " or " no " answer.

Of course, every case is unique, but the following checklist will give you an idea of what information your lawyer will need. You need to disclose:

- Why you are seeking a divorce. What caused your breakup? Are you sure you want to end the marriage, or is the visit to a lawyer meant to be a wake-up call to your spouse? " The client needs to be sure that he or she actually wants a divorce, " says Wildstein. " If he or she's secretly hoping for a reconciliation, then the client and lawyer are working towards different goals. "
- Personal data about you, your spouse, and your children (if any). Write down your names (maiden name, too, if applicable); your home and work addresses and telephone numbers; your ages and places of birth; your Social Security Numbers; your states of health -- both mental and physical; your Green Card(s) and immigration papers (if applicable).
- Facts about your marriage. When and where did you get married? Did you sign a prenuptial agreement? If so, bring a copy of the agreement with you. Have either of you been married before? Provide details of your previous divorce(s).
- Whether there will be issues involving your children -- such as custody or access.
- Financial information. What assets and debts did each of you bring into the marriage? What are your incomes and what are your expenses -- jointly and individually? What are the names and addresses of your employers? How much money do both of you have invested: in the bank, the stock market, etc.? Has either of you invested in insurance, a pension plan, a Pension and Profit Savings Plan? What property do you own (a house, car, boat, income property, etc.)? Was the property purchased before or after the marriage? Do you have a mortgage, and how much is still owed? Prior to seeing your lawyer, create a budget detailing how much you spend every month on items such as housing, food, clothing, personal grooming, gifts, vacations, etc. If you have children, and expect to be their primary caretaker, make sure you factor their costs into your budget.
- Legal documents. Bring copies of prior or pending lawsuits, bankruptcy suits, judgments, and garnishments.
- Your divorce goals. Be very specific about your goals in terms of realizing your future and have your short term goals for property, other assets, custody, visitation, and support be consistent with that future.

### What your lawyer expects from you

Your lawyer is hoping you'll be the ideal client: calm, businesslike, competent, and well prepared. " Ideal clients can control their emotions; are organized; are willing to work together with me to

attain their goals; and are willing to listen to my advice -- even if they don't follow it all the time, " says Alton Abramowitz, past-president of the AAML (NY) and head of the matrimonial practice at Cooperman, Levitt, Winikoff, Lester & Newman.

Your lawyer will expect to be paid on-time and in-full. If your financial situation is bad and getting worse, talk to your attorney immediately; he or she may be able to work out some kind of payment plan that works for you. If you're broke because your ex cleaned out the bank account (or did something else equally irresponsible), you should tell your attorney about it right away. He or she can file motions asking the court to grant temporary orders for items such as child or spousal support, custody, control of assets, payment of your attorney's fees, etc. Temporary orders are meant to ensure that certain things do or don't happen; if you suspect your divorce might get nasty, ask your lawyer about filing orders to protect you and/or your kids -- financially and physically.

If you haven't paid your bill because you think it's unfair, speak to your lawyer about it. " If there is a mistake on the bill, the lawyer will usually be quick to correct it, " says Lee Goodman, a professional mediator and arbitrator in Northbrook, IL. If you aren't satisfied after talking to your lawyer, Goodman suggests asking the judge in your case to review the bill. Another possible avenue is your local bar association; find out if they offer mediation or arbitration programs to settle fee disputes. Beverly Pekala is a Chicago-based attorney and the author of *Don't Settle for Less: A Woman's Guide to Getting a Fair Divorce and Custody Settlement*. In her book, she lists five golden rules for being a good client. Here's a synopsis:

Rule 1: Everything is not an emergency; your lawyer is not on call 24 hours a day.

Rule 2: Your lawyer is not a psychologist.

Rule 3: Communicate honestly with your lawyer.

Rule 4: This is not L.A. Law -- don't expect your lawyer to do something just because you saw it on TV.

Rule 5: Your lawyer didn't create and can't change the system.

According to Pekala, " Failure to follow these rules may result in your lawyer 'firing' you. Just as you can discharge your lawyer, your attorney can choose to stop representing you and withdraw from your case. This usually happens if you fail to communicate with your lawyer or consistently fail to follow her advice. It may also occur if you cannot or will not pay your bill. "

### **What you should expect from your lawyer**

From the day you hire him or her, you and your attorney should have a clear understanding of what you will need and expect from each other. Ask for a written agreement that details the terms and length of your attorney-client relationship. If he or she won't provide one, find another lawyer.

After learning about your case, your lawyer should create a strategy for your divorce. Be aware that this plan may have to change along the way depending on what your ex and his or her attorney does.

Your lawyer should clearly explain all your options (again, these may change as your divorce progresses), offer advice regarding the best paths to follow, but respect your wishes if you strongly disagree with a course of action. If you find yourself in constant disagreement with your lawyer, either you've chosen the wrong person to represent you or you're being unreasonable. Take a close look at your motivations and actions to see if you're refusing your lawyer's advice for purely emotional reasons: for instance, you might be very angry with your spouse, and your attorney's suggestion doesn't satisfy your desire for vengeance.

Recognize that even a good attorney will sometimes have bad news for you: that your spouse won't budge on an important issue; that you'll have to give him or her money or other assets; or simply that your expectations are unrealistic, illegal, or not financially feasible.

You should expect your attorney to return phone calls reasonably promptly (24 hours is reasonable if he/she's not on vacation), and to consult you before taking any major actions concerning your divorce.

You should also expect to feel frustrated or disappointed from time to time as your divorce progresses. Don't take it out on your attorney! He or she isn't a magician and can't always pull a great solution out of his/her metaphorical hat.

Finally, if you want to ensure that your divorce agreement reflects your goals -- and doesn't cost you an arm and a leg -- then stay involved with the process, answering your attorney's requests promptly, honestly, and completely.