

## TEN WAYS TO SAVE ON LEGAL COSTS IN DIVORCE

By John E. Harding, JD, CFLS

Divorce is wrought with cost. The emotional cost of a failed relationship. The cost to children living in a two home family. The cost of maintaining two households. Then, of course, there is the cost of a lawyer. At hundreds of dollars per hour, legal fees in a divorce can easily be in the tens of thousands of dollars. The fact of the matter is that competent legal representation is expensive. That does not mean that you can't help yourself to save money on attorney's fees and costs associated with divorce. Here are ten tips that can help.

### 1. Always remember that time is money.

First you must understand how lawyers bill. Most of us are comfortable with the idea of a fixed fee. We see an item on the menu, with a price right next to it. Fixed, and straight forward. Legal billing is different. As Abraham Lincoln explained it, "a lawyer's time and advice are his stock in trade." In other words, lawyers bill for their time. The more time the lawyer invests in your case, the higher the legal fees will be. With this basic understanding you will be better able to comprehend and manage legal fees.

### 2. Understand when your lawyer is on the clock.

Time is the commodity. If you are unclear, don't be afraid to ask your lawyer what he does charge for, and what he does not charge for. People don't always know that time on the telephone can be charged. Sometimes lawyers charge for any time spent dealing with the case -- including you taking your lawyer out to lunch. Get clarification so that you don't unknowingly request services that you will be billed for. Also be prudent in your purchase of legal services. The more of your lawyer's time that you use, the more you are going to pay. Appreciate that your lawyer needs to be kept apprised of significant events in your life. However, you do not have to swamp him with minutiae. Making sure your lawyer has knowledge of every hour in your day is not necessary.

### 3. Use your time with your lawyer wisely.

Most lawyers bill in *incremental time*. The concept is not unique. Most service professionals (doctors, dentists, accountants) base their efforts, and prices, on measured units of time. In the case of lawyers those units are typically blocks of minutes. For instance, many lawyers bill in six minute increments. As soon as the work starts, you are charged every six minutes. As an example, at \$200 per hour, one six minute increment has a value/cost to you of \$20. If you have a two minute conversation with your lawyer, that is one six minute increment, or \$20 in fees. If you have a seven minute conversation, that is two six minute increments, or \$40 in fees. To realize maximum efficiency under this system plan ahead before meeting with or talking to your lawyer. Save your questions for one conversation, rather than calling up your lawyer every time you have something on your mind. Four two minute conversations equal \$80 in legal fees. One eight minute conversation equals \$40 in legal fees.

#### **4. Your lawyer is your legal representative, not your psychologist.**

Divorce is stressful. You want someone with whom you can talk through your emotional issues. Your lawyer is not that person. Lawyers are trained in legal problem solving, not mental health. Therapists, psychologists, psychiatrists, and other mental health professionals are better trained and equipped to help you resolve your emotional issues. Most likely their services will also be less expensive.

#### **5. The more work you do for your lawyer, the less work your lawyer will have to do for you.**

Lawyers require information. The lawyer's first, best, most obvious source of information is her client. Skilled divorce lawyers have tools in place to help them gather the information that they must have. Questionnaires, checklists, etc., are all common information gathering devices. If your divorce lawyer utilizes any of these tools, it is a wonderful opportunity for you to save money. Invest the time and energy to complete the homework your lawyer gives you. If you don't, your lawyer will have to invest the time (hence your money) to gather the information elsewhere. Along the same lines, educate yourself. The more information you have in your own mind about your family expenses, assets, obligations, etc., the faster and easier it will be for you to explain your situation to your lawyer.

#### **6. Be your own legal assistant**

Information is a recurring theme in divorce. As we have explained, your own lawyer requires information to adequately represent you. Another frequent component of divorce is sharing of that information with the other side. In fact, California, where I practice, imposes a significant information disclosure obligation on the spouse who files for divorce. Copies of bank statements, vehicle title certificates, investment account statements, loan documents, credit card statements, pay stubs, tax returns all have to be delivered to the adverse party. If you can provide these records to your attorney, he will not have to take the time to get them for you. Another cost saving measure to keep in mind is photocopying. Copy machines are an overhead item for lawyers, that is passed through to the client. The cost of photocopying in a law office can frequently run ten, twenty, fifty cents per page. For large volume copying jobs a cheaper alternative is the commercial copy shop. Ask your lawyer if you can take the originals down to the copy shop, and do or pay for the copying yourself. You will save on per page charges, and the time charges. It is not unheard of for clients to also act as "runners" for the lawyer. Filing documents at the courthouse, delivering documents to the other attorney, can all be cheaper alternatives to attorneys, legal assistants, or couriers doing the work.

#### **7. Get smart, not mad.**

At some earlier point in time you and your spouse exercised the privilege of being adults by marrying the other; and you each committed yourselves to the responsibilities that go along with marriage. Don't think that just because the marriage is ending, the responsibilities of being an adult are abolished. Each spouse voluntarily entered into the marriage, now each spouse must deal with its consequences. In the final analysis, if there are any problems that manifest themselves during the divorce, their ultimate cause can be pinpointed exactly - that being the point in time when the

spouses got married. Look at your divorce as a business transaction. You are after the best economic result. It makes no sense to pay a lawyer a \$1000 to get you something worth \$100.

The frame of mind of the spouses in a marital dissolution action can often be the most significant component of the entire case. If one or both persons carry resentment or hostility to the other, any potential for efficiency that the case may have becomes vulnerable. While the attorney can put forth a valiant effort to maintain control of the case, the effort usually succumbs to the client's hostility. From this come two certainties: first, the action is going to take longer to conclude; second, attorney's fees are going to skyrocket, because more attorney time will be necessary.

#### **8. Compromise, compromise, compromise.**

There is a saying in divorce law with respect to the husband and wife: "No one wins. It's more a question of how well the mutual loss is controlled." Another way of putting it is, "how much money can I stop my lawyer from making?" Regardless of where you live, the divorce system is driven by equity. In other words, the court is going to try and realize fairness. Understanding that this middle of the road approach controls, it makes sense that you help yourself when you get to the middle of the road. Be flexible, be creative, and be willing to compromise. Don't look at it as a "he wins, she wins" exercise. Divorce is not sport. Work toward settlement, rather than entrenchment. The more amicable the conduct between the spouses, the more likely the matter can be resolved quickly. The less time the lawyer spends on the case, the less time the lawyer bills for. By law the spouses must deal fairly and in good faith with each other. It is much easier, and cheaper, to follow the law and bring the matter to a swift conclusion, then it is to pursue some unreasonable objective (i.e., vindication against the other spouse, attempting to come out of the matter better than the other spouse by hiding assets, etc.). The rules exist for a reason. Play by them!

#### **9. Consider alternatives to litigation**

To get divorced you have to go through the legal system. However, the last place you want to find yourself during your divorce is in the courthouse. Court appearances, hearings, and trials all take an inordinate amount of time. And as we know, time is money. It's not uncommon to have to pay a lawyer for three hours of sitting and waiting in the courtroom, just so that she can speak to the judge for ten minutes. Fortunately, there are alternatives. *Divorce mediation* is a very effective procedure for realizing a settlement and completing your divorce. The parties meet with a neutral attorney who renders advice, gives guidance, facilitates a settlement, and processes the paperwork with the court. Typically mediation is cheaper than litigation. Another alternative is *Collaborative divorce*. This is a process whereby the spouses and their lawyers contract to keep the case out of court. Before resorting to war, consider if your circumstances will allow resort to one of these alternative methods of resolution?

#### **10. Ask yourself if you even need a lawyer?**

An acquaintance approached me the other day with the bad news that he and his wife were breaking up. He was bewildered at what to do next. I asked him where things stood between him and his wife. He explained that neither was mad at the other, but that they had simply grown apart, and had come to the realization that their lives would

be better apart, rather than together. They had even been able to sit down at the kitchen table and resolve all of their issues. Property division, child custody, support, all of it. They had put it all down on paper. Now they wanted to make it all right with the courts. Then he asked if I could help? I told him I could, but that I was probably not his best option. I explained that if he was not interested in getting legal advice along with his court proscribed paperwork, that he should consider preparing the court documents himself, or with the help of a divorce paralegal. There are an abundance of self help legal guide books that provide more than enough information for many people to do their own divorce. And paralegals (also called "legal document preparers") are a viable, affordable option for those people who do not want to, or cannot prepare their own legal papers. Just remember, it is against the law for anyone other than a licensed lawyer to give legal advice.

Divorce is expensive. No doubt about it. However, that does not mean that the expense is uncontrollable. With foresight, organization, effort, and practicality it is possible to reduce the legal costs associated with divorce.

John E. Harding, JD, CFLS is a lawyer with Harding & Associates in Pleasanton and Walnut Creek, California. Mr. Harding is a Fellow in the American Academy of Matrimonial Lawyers. He has been certified as a specialist in the practice of family law by the State Bar of California Board of Legal Specialization. His practice emphasizes all areas of California family law including divorce; separation; child custody, visitation, and support; spousal support, property division; and divorce mediation. He can be reached by telephone at 1-800-417-9220 ext. 202, or by e-mail at [jharding@hardinglaw.com](mailto:jharding@hardinglaw.com). The Harding & Associates website is located at [www.hardinglaw.com](http://www.hardinglaw.com).