

Ten Tips on Hiring a Divorce Attorney

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For most of us, our divorce attorney is the only attorney we will ever hire. So where do you begin? What questions do you ask? How can you tell a good attorney from a bad one? Below are some suggestions to help you in the process:

1) Ask for recommendations. Most of my clients come to me through my website. That's great, and I do recommend you do a web search and review the websites of any attorney you're considering. But also ask friends, relatives, and colleagues for recommendations. It's especially helpful to ask people who've been through a divorce what attorney they used, and what their impression was. I like to ask attorneys who practice in a different area whom they recommend - often they know each other through the local bar association, and can point you in the right direction.

That being said, take all recommendations with a healthy dose of perspective. Everyone's divorce costs more and takes longer than they want it to! So keep that in mind.

2) Check with the State Bar. In Texas, go to the State Bar of Texas website and you can look up any attorney by name or state bar i.d. number. That will tell you whether the attorney is in good standing, and if any grievances have been filed against him or her.

3) Find a specialist. You wouldn't ask your dermatologist to deliver your baby; don't ask your tax attorney to handle your divorce. Find a lawyer who does a lot of family law cases on a regular basis. There are wonderful attorneys who practice in more than one area - family, criminal, wills, etc. But make sure they do frequently handle your type of case. The law is complex and wide-ranging, and none of us can claim to be competent in all areas.

4) Go local. Most of us have a geographic area we usually practice in, where we know the judges, the courthouse staff, and other attorneys. While we're licensed to practice statewide, we usually are more familiar with the local practices and rules in the courts we appear in most often. Also, you may end up paying travel costs for an attorney to appear far away from his or her location.

5) Read the fine print. Most attorneys will have you sign a contract to formalize their representation of you. I go over mine with the client every time, so they understand what they're agreeing to. Don't just sign what's put in front of you without reading and understanding it.

6) Understand the terms "retainer," "fee deposit," and "flat fee:" People talk about "retainers" all the time when hiring family law attorneys, but the use of a true retainer in a divorce case is very rare. A *retainer* is an amount of money paid to an attorney, usually on a regular basis, to assure that the attorney will be available when the client needs him. It's usually paid whether the attorney does any legal work for the client or not. For that reason, it's common only with large companies and very wealthy individuals.

Most family law attorneys ask for an amount of money up front, as a *deposit* for future fees and expenses. In Texas, the attorney must put the money you give her in a trust account (the interest on those funds goes to legal aid). Then as she does work on your case, she tracks her time, and bills you for those hours. She takes payment out of the trust account, and transfers it into another account. She can't touch your money until she's actually done the work. And if she completes her work on your case and there is money left in your trust account, she must refund that money to you.

Some attorneys (understandably) find it simpler to just charge a *flat fee* for services - \$2500 for a divorce, \$500 for a name change, etc. That way they don't have to deal with the complications of trust account billing. It's a bit of a gamble on both sides - if your divorce ends up taking a lot of attorney time, you come out ahead; if your matter turns out to be very simple and quick, the attorney comes out ahead.

7) Don't just go for the "cheapest" lawyer. We all want our attorney to be "cost-effective," but cost won't make a difference if the attorney is not effective. A more experienced attorney is going to charge a higher hourly rate, but will likely be more efficient in performing your work.

8) Match the attorney to the job. If you have the simplest divorce in the world, you don't need the best-known, most powerful litigator in the county. On the other hand, if you have extensive assets or complicated issues, you don't want to hire someone who's just out of law school.

And think about the tone you want to set in your divorce - do you want to scorch the earth, or handle things as amicably as possible? Different attorneys have very different styles, and none of us are right for every case. If you want someone to nail your ex to the wall, ask around and find a lawyer with a reputation for being aggressive. If you want to build a good co-parenting relationship with your ex, you probably want to look for someone with more experience in collaborative law, mediation, and other relationship-building techniques.

9) Staff or no staff? In some larger law offices, most of your contact will be with an assistant, and not with the attorney. This is not necessarily a bad thing - it saves you money, since the assistant's hourly rate will be much lower than the attorney's, and many legal assistants are wonderful. A sole practitioner with no staff will likely answer the phone herself, but then again, when she's in court or a mediation, you won't be able to reach anyone. I like to deal directly with my clients - that's why I chose this area of the law - but it is hard to be the attorney, legal assistant, receptionist and courthouse runner all at once. In this case, it's a matter of preference, both the attorney's and the client's.

10) Ask questions. Here are some to get you started:

- How long have you been practicing law?
- How much do you charge for an initial consultation?
- How much do you usually ask for as a fee deposit?
- What is your hourly rate?

-Do you charge for travel time?

-When I call your office, will I speak to you or a staff member?

-Where do you usually practice?

-What percentage of your practice is family law?

-How would you describe your style? Aggressive? Cooperative?

-Do most of your cases settle or go to hearing?

-Do you routinely send out formal written discovery in every case?

-What increment of time do you use for billing? Tenths of an hour (6-minute) or quarter-hour (15-minute) increments are common. The smaller the billing increment, the better for you.

Good luck to you in your search for counsel!