



Presents

*A
Special Report*

How To Hire A Lawyer And Lower The Costs Of Your Divorce

By
Tom Norton, CPA, CDFA

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www.DivorceAndMoney.org

Once you are faced with the reality of divorce, hiring the right lawyer will be the most important decision you make. It can affect the outcome of your divorce both financially and in terms of quality of life for you and your kids.

So hiring the right lawyer is obviously an important job. And while you want the best lawyer for your circumstances, you don't want to break the bank in the process. You'll want to keep your costs down, without sacrificing the quality of your representation or the final outcome of your case.

Let me make it clear up front that I am not a lawyer, so I don't have any hidden agenda to steer you in one direction or another. I am a CPA and Certified Divorce Financial Analyst who works with divorcing clients—and their lawyers—on a daily basis. I have also had the "pleasure" of hiring a divorce lawyer twice (once for my original divorce, and then five years later for a modification to the original agreement).

So I'm in a position to give you an unbiased recommendation on how to hire a divorce lawyer and lower your total costs of getting divorced.

It's Still Going To Be Expensive

I don't want to give you the false impression that I'm going to magically make your divorce inexpensive. I'm not. It's still going to cost you a pretty penny, probably a couple of thousand dollars at the low end, up to hundreds of thousands of dollars on the high end.

I always tell my clients that divorce is two things: 1. Expensive, and 2. A lot of work.

It's probably going to be more expensive than you think it is, and it's almost certainly going to be more work than you think it is.

But what if I can lower your costs by 25% to 50% or more, saving you thousands of dollars? Would that be worth taking a few minutes to read this report?

The Right Divorce Method Could Save You \$10,000 Or More

The number one thing that will determine how much your legal and other fees are is the method you choose to get divorced.

If you go to "war" in court, it will likely cost you at least 10 times as much than if you choose mediation, for instance.

Does that mean mediation is right for you, and you shouldn't go to court?

Not necessarily. Your individual circumstances will dictate that. If you'll get a better outcome by spending more money, then that might be the best way to go.

Which method you choose will also help you determine which lawyer to hire. For instance, some lawyers are great if you're doing a collaborative divorce, but not as good if you're going to trial.

With that in mind, following is a summary of the various methods of getting divorced, roughly in order from least expensive to most expensive.

Do-It-Yourself

Truth is, there's no law that says you have to hire a lawyer to get divorced. You can represent yourself. As a matter of fact, you and your spouse can each represent yourselves. Once you agree on a settlement, you simply fill out the paperwork and submit it to the court. There may even be people at the courthouse who will help you fill out the forms, though they cannot give you legal advice.

While this is certainly an option, rarely is it a good idea. I never recommend this option, though I could tolerate it under a very narrow set of circumstances, summarized as follows:

1. You have a short-term marriage (no more than two or three years, tops).
2. You have no children together.

3. Neither you nor your spouse owns significant property, such as a house, a business, a large investment account, retirement account, etc.
4. There is not a large disparity in income between you and your spouse (i.e. you make close to the same amount of money).
5. You agree on who owns what assets, and who owes what debts ("what's mine is mine, what's theirs is theirs").
6. You and your spouse have approximately equal "power" in the relationship. You can stand up for yourself without being physically or emotionally threatened.

Under these circumstances, I would still recommend getting a lawyer to look over the final terms of the agreement. This will prevent you from doing something totally foolish, or at least let you know if you are.

But if you ignore my advice and decide to go it alone, then it's probably not the worst mistake you'll ever make.

Your only costs under this method will be court filing fees, which may be up to a few hundred dollars, depending where you live.

"Kitchen Table" Divorce

One step up from do-it-yourself, is a "kitchen table" divorce. This is where you and your spouse sit across the kitchen table (figuratively or literally) and work out the details of your property division, child support, child custody and alimony. You then take it to a lawyer to have it written up and filed.

This can be fine for a relatively uncomplicated divorce, with one caveat: make sure you hire a lawyer to represent **you**.

What I mean is, don't just have one lawyer, have two: One to represent you, and one to represent your spouse. Or at the very least, if you have just one lawyer, make sure it's a lawyer you chose and hired.

Here's why: A lawyer has a duty to only one client—the one who hired them. No matter how nice she is or how accommodating, she has a duty only to one person. So if you're going to have only one lawyer, make sure that one person is you.

If your spouse tries to convince you to just use their lawyer in order to "save money," don't go for it. It's well worth spending the extra money to have someone representing your interests. Remember, your spouse may be aware of this, and their real motivation in encouraging you to go along with their plan may not be to save money at all—at least not **your** money!

If your case is at all complicated, or if there is domestic violence or one domineering spouse, a kitchen table divorce is not the right answer.

As for the cost, you should each expect to pay a lawyer \$500 to \$2,000 dollars, plus up to a few hundred dollars in filing fees.

Mediation

The next step in our cost ladder is divorce mediation.

In mediation, you and your spouse meet with a neutral third party who helps you come to an agreement. The mediator is not an arbitrator, however, which means they won't make decisions for you. Rather, they help the two of you structure your own mutually acceptable divorce settlement.

To find a mediator, the best source is a referral from a friend or a divorce attorney. As an alternative, your county court may have a list of approved mediators in your city. You can also go to www.mediate.com to look for a mediator in your area.

You typically meet with the mediator in a series of meetings over a period of one to six months. Each meeting is about two hours long and can be scheduled weekly, every other week, or on any other time table that works for you, your spouse and the mediator.

Sometimes courts will require mediation in a divorce. Usually only two to four hours is mandated, though, which is almost never enough time to get the job done. But what those sessions can do is let you sample the mediation process to see if it is right for you.

In addition to the mediator, you should hire a divorce lawyer. While the lawyer will not usually attend the mediation sessions, they will be a resource for you in between meetings, and will look over the final agreement to make sure you're not agreeing to something foolish.

Speaking of agreeing to something foolish, the biggest knock on mediation is that an assertive, domineering personality can sometimes take advantage of a passive, obedient spouse. That's why having a good attorney is important, as is knowing yourself and your spouse.

By increasing the amount of time negotiating directly with your spouse (with the mediator's help), you automatically reduce attorney's fees for both of you. You also avoid much of the nastiness involved in a trial. That makes mediation a lower-stress, cost-effective alternative to a traditional litigated divorce.

You should expect to pay your mediator \$400 to \$600 per two hour session, plus another \$500 to \$1,000 for their time to draft a tentative agreement. So if you have six sessions, you're looking at \$2,900 to \$4,600. That cost can come out of marital assets, or you and your spouse can make any other arrangement you wish. In addition, you will have to pay court costs, and you will each have to pay a lawyer about \$500 to \$2,000, depending on the complexity and how much they have to do.

Collaborative Divorce

Some people do not feel comfortable negotiating in mediation sessions, because they do not have an attorney with them. At the same time, they want to settle things amicably, without the cost and stress of going to trial.

Collaborative divorce may be just what they are looking for.

Collaborative divorce is relatively new, having been invented less than 20 years ago. In many areas, collaborative divorce has only been practiced for a couple of years. It is based on the reality that 95% of all divorce cases settle before going to trial. So why spend the time and money preparing for a trial that's probably never going to happen anyway?

In collaborative divorce, you, your spouse, and your attorneys are committed to staying out of court. It has been described as "representation without litigation." You and your spouse each have an attorney at all times, but the attorneys commit in writing that they will not go to trial.

You or your spouse can decide to go to trial at any time. But if you do, you'll both have to hire new attorneys and start over. Neither of your attorneys will be able to represent you outside of the collaborative process. That gives everyone involved a strong incentive to settle the case.

Much as in mediation, you will meet with your spouse in a series of two hour meetings; however, instead of having a mediator in the room, you will each have your attorney. These are sometimes called "4 way meetings." It's much like a kitchen table divorce, except you each have your attorney present. Since everyone is committed to settlement, the process is usually much friendlier and less hostile than a traditional divorce.

The advantage over mediation is that your attorney is always with you, making sure you don't give in just to avoid a confrontation. The disadvantage is that instead of paying one mediator, you'll be paying two attorneys. Still, the cost is significantly lower than battling it out in court.

Collaborative divorce might not work if you and your spouse are very hostile toward each other, or if there has been physical abuse involved.

The biggest problem with doing a collaborative divorce is getting your spouse to agree to it and hire an attorney who is willing to participate. Since it is relatively new, many attorneys don't know much about it, and will therefore steer you away from it out of fear of the unknown.

The best remedy for that is to speak to your spouse about it up front, and for both of you to consult with a local group of independent attorneys who practice collaborative law. You can find a group near you by going to www.collaborativepractice.com.

As for the cost, figure that each lawyer will spend 20 to 30 hours on the case. At \$200 to \$350 per hour, each lawyer's fees could be \$4,000 to \$10,000. Obviously, a more complicated case could cost more, and a less complicated case could cost less.

Cooperative Divorce

Recently, there has been a movement to something called "cooperative divorce." This is a new name for a process that has been around for a long time.

Much like collaborative divorce, you each hire a lawyer, meet in 4 way meetings, and work toward a settlement. The difference is, there is no contractual commitment not to go to court. So if you or your spouse decides to go to trial, you can use the same lawyers.

The cost is similar to collaborative divorce—unless you end up going to trial. And since it is much easier to go to court, it is also more likely to happen. If you end up going to court, you will be faced with the expenses of a traditional litigated divorce.

Traditional Litigated Divorce

In a traditional litigated divorce, you each hire a lawyer and start posturing for trial.

Most (95%) cases don't end up actually going to trial. Many settle at the last minute, meaning you've spent a whole lot of money to reach a settlement. Many attorneys, however, feel that the threat of a long, expensive trial is the very best way to get a favorable settlement. It's a "peace through strength" philosophy.

There are times when this approach is necessary and/or unavoidable. If your spouse is completely uncooperative or "out for blood," you may have little choice but to battle it out in court. If domestic violence, child abuse or substance abuse is involved, going to court may be the only way to protect you and your children.

With this method, you may have to endure subpoenas requesting documents, interrogatories requesting answers to particular questions, and depositions, where you are questioned under oath by your spouse's attorney.

If you end up at trial, you will have to testify, and you may have to ask family, friends, teachers, etc. to do the same.

The biggest risk of a trial is that you never know what the judge will decide. It truly is a roll of the dice. You and your attorney may be convinced that you have a rock solid case, but that doesn't mean the judge will agree. It's that risk that convinces 95% of people to settle without a trial.

The cost can range from expensive to outrageous, depending on just how complicated your case is, and whether and when it settles. Your lawyer will likely spend 25 to 150 hours on the case. At \$200 to \$350 per hour (or more), you're looking at \$5,000 for a simple case that settles early, to \$50,000, just for your lawyer. Your spouse will pay about the same.

And if you go to trial, you will likely be hiring experts to testify on your behalf, such as appraisers, child psychologists, CPAs, etc. That could cost you another \$5,000 to \$25,000. Again, your spouse will have similar costs.

While it's not the norm, it is certainly not unheard of for well-to-do couples to spend \$100,000 *each* on their divorce. All of the horror stories you have heard have been about these litigated divorces.

Making Your Decision

As I mentioned before, your decision on how to get divorced will be the single biggest determinant of how much you end up spending.

So do not make this decision lightly. You need to step back and be objective enough to consider the big picture: While it might be emotionally satisfying to "win" in court vs. your spouse, it might also bankrupt you in the process. And there's no guarantee (not even close!) that you will win anyway. You might also find that the emotional "negatives" outweigh any "positives" you might experience by "winning."

On the other hand, if you need to go to court to protect yourself, your children, or your assets, then by all means do so. Just realize up front what's involved.

If you're not sure which route is best for you, you will want to ask several attorneys during your selection process, which we'll discuss next.

Finding The Right Lawyer

How do you find a good divorce lawyer? First, let's talk about what *not* to do.

Don't go out and hire a lawyer you know just because you know him. He may be great for doing your will or getting that speeding ticket reduced to a loud muffler charge, but how much divorce experience does he have? You want someone who specializes in divorce, which means they spend at least 40% of their time on family law cases.

I can't emphasize this enough. There is simply too much to know (or not know) in a divorce case, and your lawyer's ignorance could literally cost you tens of thousands of dollars.

As I mentioned earlier, the lawyer you choose will also depend on whether you may be going to trial, or if you're going to try an alternative solution. One size does not fit all when it comes to divorce lawyers.

When trying to find a lawyer, you'll want a "pool" or list of people to choose from. When developing your list, you will want to consider a few things in advance, so you know what qualities you are looking for before you start your search.

Ask yourself the following questions:

What Qualities Do You Want In An Attorney?

1. What method of divorce might I like to pursue? Mediation, collaborative, litigation? Lawyers may specialize in one or more types, so knowing your preferences up front is useful.
2. Do I want a man or a woman? There are excellent lawyers on both sides of the gender line, and in family law, there are plenty of each to choose from. If you are more comfortable with a lawyer of your own gender, then by all means that's who you should hire. If you think your spouse might react better if your lawyer is the same gender as they are, then you might want to hire a lawyer to match your spouse. My only caution is that you should talk to at least one man and one woman lawyer, as you

might be surprised to find you're actually more comfortable with the gender opposite of your first instinct.

3. Do I want an aggressive "shark," or a more laid back, cooperative lawyer who will work toward a settlement? This is somewhat related to question 1 above, but should also be considered on its own.
4. Do I want a young lawyer who will give me their full attention and effort but may lack experience, or a more experienced lawyer who may be very busy and difficult to get in touch with? A middle ground might be hiring a young associate who reports to an experienced partner.
5. How much am I willing to pay on an hourly basis? Fees vary greatly depending on where you live, and the lawyer's experience. You may find a lawyer for as little as \$125 per hour, and you may find one who is \$425 an hour. The more experienced and well known the lawyer, the more you are likely to pay.

Now that you have a general idea of who you're looking for, you'll want to come up with some candidates. Here are some ideas for developing your list:

Nine Sources For Potential Divorce Lawyers

1. **Personal Referral**—The best way to find a good lawyer is from referrals from family and friends *who have actually been through a divorce*. They may recommend their own attorney or even their spouse's, but either way it can be a great source of good lawyers.
2. **Attorney Referral**—Another great way is to ask that attorney friend of yours for a referral to an attorney who specializes in family law. They will usually know who the best divorce attorneys in town are. You should feel even better about their suggestion if they ask you a few questions before giving you a referral. As I said, different lawyers have different styles, and are better in some situations than others, so a referral customized to your circumstances is the best kind.
3. **Therapist Referral**—If you have (or know) a psychologist, therapist or marriage counselor, they will likely know several

good divorce lawyers. Since they probably already know your circumstances, they can provide a referral to a lawyer who is right for both your situation and your personality.

4. **CPA/CDFA Referral**—Certified Public Accountants and especially Certified Divorce Financial Analysts work with divorce attorneys and should be able to give you a referral. Call and ask who they recommend.
5. **Private Investigator Referral**—Private investigators routinely work with divorce attorneys. Even if you don't plan on hiring a PI, call a few from the Yellow Pages and ask who they recommend. My only caution here is that they are likely to refer you to the more litigation minded, "shark" type of attorneys, since that's who typically uses a PI.
6. **Collaborative Law Association**—If you are interested in mediation or collaborative divorce, you can find an attorney by checking with your local collaborative law association. This is a group of independent attorneys who practice collaborative divorce. They will also be great if you decide to go with mediation, and many are mediators themselves (in addition to being attorneys). To find an association in your area, go to www.collaborativepractice.com.
7. **Bar Association**—Your local bar association may have a list of attorneys who practice family law. You can often find the listing online, or call and ask for a list to be sent to you. Obviously, this is not as reliable a source of names as the previous methods, but it may be useful in some circumstances.
8. **Internet Search**—You can also do an Internet search for divorce lawyers in your area. Again, this is not the most reliable way to find someone, but you can at least get a feel for how much family law they do by checking out their website. Does it just promote divorce work, or are they also promoting criminal, traffic, wills and trusts, personal injury, etc.?
9. **Yellow Pages**—Finally, there is the Yellow Pages. I don't recommend it, since the most successful divorce lawyers work primarily on referrals and therefore don't need a big Yellow Pages ad. But I include it for the sake of completeness.

If you can, get a list of 5 or more names. You'll then want to work on narrowing it down to 2 or 3 names. You narrow it down by calling the attorneys and interviewing them on the telephone.

When you get them on the phone, ask them questions such as:

Telephone Interview Questions For Attorney Candidates

1. How much of your practice is devoted to family law?
2. Do you believe in alternative dispute resolution or do you prefer to prepare for trial from the beginning? (Alternative dispute resolution includes mediation and collaboration).
3. Would I work with you directly, or with someone else in your firm?
4. How much do you charge?
5. Is there a retainer? How much?
6. What sets you apart from all the other attorneys in town?

In addition to their specific answers, you'll want to pay attention to their general demeanor and attitude. This is as much about personality and your ability to work together effectively as it is their knowledge of the law.

You'll also want to note how long it took to get in touch with them. If they called you back, how long did it take? Were they polite and friendly? Did they ask you questions? Did they act like they already know exactly what you need even though they just started talking to you (that's a sign that they treat every case the same, rather than looking at your unique circumstances)? Basically, you want a "feel" for the person and whether or not you think they're right for you.

Usually you'll be able to eliminate a few because they don't call you back in a timely manner, or they're rude, egotistical or just don't seem too interested in your case. Others may just be too expensive, or don't really specialize in family law.

For those two or three you want to consider further, ask if you can meet them in their office. Explain that you won't be looking for specific

advice, but are just interested in meeting them and seeing if it is a good fit. They should be able to give you 15 to 30 minutes for this purpose. If they won't, you may want to consider dropping them from consideration as well.

The In-Person Interview

Once you get to their office, you'll want to ask a few more questions. Again, their demeanor and personality are as much of a concern as their answers.

Remember, you'll only have 15 to 30 minutes, so be as brief as you can.

Start out by letting them know you are interviewing more than one attorney. Then give them a brief background on your case. You'll want to cover things such as:

1. How long you've been married.
2. Number and ages of your children
3. Major assets (i.e. house, family business, 401(k) plan, investments, etc.)
4. The reason for the divorce
5. Your primary concerns (i.e. custody, property division, child support, alimony)
6. Whether you're considering alternative methods to the traditional litigated divorce

Again, you're not paying for this time, so don't expect specific advice. But what you can do is ask if they've handled similar cases, and what their basic approach is. Do they try to settle without court? Do they prefer to posture for court in order to get a better settlement? What's their "philosophy," if you will?

Ask again how much they charge, and specifically how they bill. How much is the retainer? Is there a minimum amount of time billed for every phone call and e-mail? How often will you receive a statement?

Based on what you've told them, do they anticipate your needing to hire any other professionals, such as a CPA, appraiser, psychologist, private investigator, etc.?

Ask why should you hire them as your lawyer? Have them convince you that they're the right lawyer for you. When you're finished, let them know you'll be making your decision soon, and that you'll be in touch with them if you decide to hire them.

If you've already spoken to the others and absolutely know this lawyer is **the** one, then go ahead and retain them right away.

Remember, your lawyer will be your partner throughout one of the most difficult times of your life. Make sure you choose your partner wisely.

Keeping Your Legal Fees To A Minimum

Once you've hired an attorney, you'll want to keep her fees as low as possible, while still making sure you get the representation you need. You already know getting divorced is going to be expensive, but there are things you can do to make it less so.

Use the following tips to drastically lower the costs of your legal bills:

1. **Don't go to trial if it's not necessary**- We've already talked about this, but it bears repeating: Avoid the courtroom if you can. Going to court is the surest way to run up huge legal bills.
2. **Do more yourself**- The more you do yourself, the less your attorney and her staff have to do. This might mean filling out forms, organizing data and documents, researching financial information, etc.
3. **Ask your lawyer what you can do to lower the costs**- This goes hand in hand with number 2. Attorneys will oftentimes gladly have you do work so their overworked staff doesn't have to. Ask them for suggestions. This will also make you more informed and better prepared.
4. **Organize your documents**- I do tax returns, and I can tell you I charge more if someone brings all their receipts and documents in a shoebox or brown paper bag than I do if they are organized.

- The same idea applies here. Make sure related documents are together (such as having your mortgage, real estate taxes and housing cost and value information in one place). Have things neatly bundled together with rubber bands, binder clips, paper clips, etc. Make it easy for the lawyer and their staff.
5. **Fill out forms**- Your lawyer will give you forms that need to be filled out with income and expense information, as well as assets and debts. Rather than just scribbling some numbers down and handing it to your lawyer on a notepad, go through and fill out the forms, putting the numbers where they belong. This is a big time and money saver.
 6. **Categorize numbers**- This is related to number 5. Put the numbers in the categories your lawyer asks for. This helps them fill out the official forms that need to be filed with the court.
 7. **Research and prepare questions**- You will undoubtedly have a lot of questions for your lawyer. If you go through the *Divorce Financial Survival Series* you will have even more questions. Make sure you have all relevant facts and information your lawyer might need in order to answer the question. Make the questions as clear and concise as possible. Write them down so you don't forget and have to call back another time.
 8. **If not urgent, save up questions**- Many lawyers will charge you a minimum amount for each phone call (or e-mail). So one strategy is to make as few calls as possible. If you don't need a particular question answered right now, write it down on a list so that you can ask several questions at once. This one tip alone can save you hundreds of dollars in legal fees.
 9. **Know what your goals are for every meeting**- You are paying for your lawyer's time, so make the most of it. Have a list of goals and questions for each meeting. Make sure you get through your list as quickly and efficiently as possible.
 10. **Be business-like**- You certainly want to be friendly with your lawyer, but that doesn't mean you should spend 15 minutes chatting about family and personal issues unrelated to the divorce. You are being charged for that time. I remember sitting in one meeting with my ex-wife and both of our attorneys, and the attorneys were gossiping about the pregnancy of another

attorney! We were paying for this time! Put a halt to this type of behavior and get down to the business of your divorce.

11. **Don't use your lawyer as a therapist-** Your lawyer is not trained to give you counseling, and they really don't want to anyway. This is not a joke. Many people unwittingly pay a lot of money to their divorce lawyers by turning the meetings into quasi-therapy sessions. If you need a therapist, hire one. They are much less expensive than your lawyer, and they will do a much better job of helping you with the emotional side of your divorce.
12. **Let your lawyer know you are watching their bills-** Lawyers are human beings, and if they know you are closely scrutinizing your bills, they will be more careful in how much they charge. Ask for frequent bills, and ask questions if you don't understand why something was billed or the amount of the bill.

Except for the first tip about avoiding court, most of these tips will not save you thousands of dollars all by themselves. But I promise you that taken together they can easily add up to several hundred to several thousands of dollars.

Lowering Your Other Costs Of Divorce

Besides legal bills, you may also have bills for appraisers, accountants, private investigators, and various experts. Usually, the best way to hire these experts is by asking your attorney for names of people he trusts. Here are some tips for keeping those costs down:

1. **Hire one instead of two-** There are many times when both the husband and wife hire "dueling experts." For example, you might both hire someone to value a business or your home. Consider agreeing (with the advice of your lawyers) on one "neutral" expert who will work for both of you. If both your attorneys are happy with the person chosen, you can cut your costs in half by hiring just one person, and agreeing to use their opinion.
2. **Shop around-** You would be surprised at the difference in fees for various experts. Ask your attorney for at least three names for whatever expert you need, and interview them on the phone. *Let them know you are interviewing others.* Have them quote

you an approximate fee. Obviously, price isn't everything, and you should choose the best person for the money spent. Still, significant savings can be had by simply shopping around.

3. **Do more yourself**- Just as with your lawyer, there may be certain tasks you can do yourself to keep fees down. This might be gathering documents or data, organizing data, or researching facts and information.
4. **Ask how you can keep costs down**- Again, the expert might welcome the chance to have you do some things they'd rather not do, or to outsource it to someone less expensive. Just ask.
5. **Don't hire them at all**- This is a bold statement, but question your attorney about whether or not you really need the expert. Could you simply come to an agreement with your spouse on an issue rather than hiring an expert to give their opinion? This isn't the answer in all circumstances, but a critical examination of every expert hired and every dollar spent will help you keep your costs to a minimum.

As I said at the outset, I can't make your divorce inexpensive. It's still going to cost you a lot of money. But by following these tips, you can lower your bills significantly, leaving you more money for your life after your divorce.