

Firing your Divorce Lawyer?



If you are unhappy with your attorney, talk to him or her. If you don't like the way your attorney is handling the case, say something!

Legal: What to Do when You and your Divorce Attorney Aren't Getting Along

Hiring a divorce attorney to help with one of the most frustrating ordeals of your life should ease that frustration, right? Unfortunately, this usually is not the case. Often, people feel frustrated and taken advantage of by the very attorneys who are supposed to be on their side. So what should you do if you're not happy with your divorce attorney? The following advice takes us through three important stages of dealing with your divorce attorney: problem-solving, firing and finding a new attorney.

1. Speak Up when You're Disatisfied.

"I think that a lot of people feel dissatisfied with their attorneys; it's a common problem and one I think stems from a lack of communication," says [Brette McWhorter Sember](#), a former divorce attorney, mediator and author of "The Complete Divorce Handbook." "If you are unhappy with your attorney, talk to him or her. If you don't like the way your attorney is handling the case, say something! Don't just keep your mouth shut and fume. Express your concerns and see if they can be worked out. One big complaint people have is that their attorney does not return their call. When you leave a message, say why you are calling or what it is you need. A message just to call you will likely be ignored, but a message that says my ex hasn't paid me child support in three weeks and can you do something will get a response."

2. Another important point to remember is to manage your expectations.

"People need to remember that their divorce attorney is NOT their friend and that they have a business, the purpose of which is to make money," says [Belinda Rachman, Esq.](#), divorce mediation attorney. Try not to rely on your attorney for moral support. Keep the relationship as professional as possible, as it will only cost you time, money and frustration if you rely on your attorney for more than strict legal work.

3. And, in order to avoid any confusion, keep your own records of all communications with your attorney.

Keeping a written record of all communications and requests between you and your attorney will help you down the line if there are any discrepancies or if you do decide to petition the court for a change of attorney.

"Never make a phone call that isn't followed up with a written note beginning: 'To recap our conversation of such and such date where you stated you would commence discovery, file a motion for contempt, etc.,'" says Bonnie Russell, a licensed psychotherapist and couples' counselor. "This will be useful later in both tracking requests and deciding whether or not the attorney is doing his or her job."

If those tips don't help and you have reached the point where you want to fire your attorney and find a new one, there are a few words of caution and four tips to help as you decide what to do next to protect your legal rights in your divorce.

1. Understand the cost.

"First of all, it's going to end up costing you more since the new attorney will need time to get up to speed, so you will essentially pay twice for some things," warns McWhorter Sember. "Also, it is not entirely up to you if you can change attorneys. Your attorney has to get permission from the court to withdraw from the case. If the court believes a new attorney will cause unnecessary delays, permission might not be granted."

2. Try and work it out.

Keeping all this in mind, it may pay off to try and work things out with your attorney. However, if working it out is not an option, you should ask your attorney to seek permission from the court to withdraw from your case, and with any luck, soon you'll be able to start looking for a new attorney.

3. Be careful when finding a new attorney.

Since you've already had one negative experience with a divorce attorney, you'll want to be very careful when selecting a new one. You can start by looking for trusted references. "The best resource for finding good lawyers is other people who have gone through the experience," says [Dr. LeslieBeth Wish](#), a licensed psychologist.

"Where do you find recommendations? Contact local organizations such as the YMCA, Women's Resource Centers, Catholic Charities or Jewish Family Services. Ask them if they offer divorce support groups and if they have the names of lawyers who have been highly recommended in the past. Make an appointment with these recommended attorneys. Most attorneys will give you free 10 minutes of their time."

Use this consultation time to clearly express your situation and expectations, then sit back and listen. You should walk away from the meeting feeling like you trust this attorney, have a clear understanding of his or her legal strategy and fee system, otherwise you should keep looking.

4. Choose mediation.

Another option to consider is forgoing divorce attorneys altogether and choosing mediation instead. According to Rachman, Esq.: "Eighty five percent of people should divorce with little or no lawyer involvement (other than the mediator they work with). Fifteen percent of the population is high conflict and want to fight, so they will make some lucky shark divorce lawyer rich but the rest of couples need to avoid divorce attorneys if they want to keep their home and maintain any kind of viable co-parenting relationship."

This is only one professional opinion, of course, but certainly an interesting one to consider. The bottom line is that your divorce attorney should be working for you in as timely a manner as possible. Communicate your expectations, and if you're disappointed, express this in writing. If you're still disappointed, let your attorney know you want a change and start looking for a

2/5/2011

print view

mediator or a replacement attorney. Through it all, try to focus on the goal: the best settlement possible for you, your bank account and, if applicable, your children.