

10 Ways to Keep Divorce Lawyers From Ruining Your Life

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Everyone has heard the story (from friends, co-workers, and family members) of the divorce from hell; the one that grinds on for years, costs untold thousands of dollars, and frustratingly plods its way through the court system. It costs people not only their marriage, but often their children, their savings, and their emotional well-being, as well. Unfortunately, many people going through a divorce end up hating their lawyer, and more commonly, hating their spouse's lawyer. It doesn't have to be that way. You can get a divorce without letting lawyers ruin your life. Using the ten tips outlined below will make a huge difference in the way your divorce progresses. It's hard to behave rationally as you navigate this painful process, but the vast majority of people find the strength to get through a divorce without losing control of their emotions or finances. You can control the process and guide the matter to a successful solution, leaving your financial situation intact and allowing you to meet your needs now and in the future.

The reality is that lawyers are people, and like people, there are some awful ones out there and a few wonderful ones. When you hire an awful lawyer (one who creates conflict rather than resolving it, one who makes your divorce worse, rather than better) everybody involved suffers. You suffer, your spouse suffers and your children suffer. Well, not everybody suffers. The awful lawyer doesn't suffer, so it's important to do everything possible to avoid hiring that lawyer, because that's the only sure way to keep divorce lawyers from ruining your life. Here's how:

- 1. Don't hire the wrong lawyer.** The lawyer you hire makes a tremendous difference. Use common sense in the selection process. Be observant, ask questions, and don't hire someone if you don't feel good about your interaction with him or her. Here are some things to think about in an initial meeting with a lawyer: 1) does the lawyer have a direct dial phone number? You can assume that if you have to go through a secretary or paralegal to reach your lawyer, you will have a harder time reaching him or her; 2) watch out for a messy office; if the lawyer is disorganized you can assume your case will be disorganized. If you see other clients' documents sitting out in public view, you can know that your documents will soon be sitting out in public the same way; 3) make sure the lawyer has a written client agreement that ensures that you understand your fees, rights and obligations; 4) don't hire the dabbler – someone that does a traffic ticket case in the morning, a real estate closing in the afternoon and squeezes your case in somewhere in the middle; divorce is complicated enough that you should hire someone who does it all day long, every day; and, 5) don't hire a lawyer taking on more cases than s/he can handle; ask the lawyer what his or her average caseload is. Handling more than 15 or 20 cases at one time causes most lawyers to become overwhelmed and ineffective. Thinking about these issues when you meet with a lawyer for the first time will help you make the right choice.
- 2. Don't let a judge decide for you.** The minute you (or your spouse) go to court and ask a judge to decide your divorce for you, you give up nearly all of the control you have over the process. If you want to keep your money instead of giving it to a lawyer, and if you want to maintain control over your life, DO NOT LITIGATE. Go to court only as a last resort, only if all else fails. Try negotiation, try mediation, try collaborative divorce, try settlement conferences but do not litigate. You may win at trial, but at what cost? Will you be able to dance with your former spouse at your child's wedding? Probably not. Litigation is destructive, expensive and gut wrenching. Litigate only if you have no other option.

Litigation is, unfortunately, necessary in some cases. There will always be people that just can not agree no matter how hard you try. Reserve litigation for the most desperate situations.

3. **Do hire a collaborative divorce lawyer (and get your spouse to do the same thing).** Now you know you want to stay out of court. Do you want your situation to be resolved as efficiently, effectively, and successfully as possible? Of course. That's the way collaborative divorce lawyers handle divorces. In a collaborative divorce, everyone involved (lawyers and clients) signs a written pledge to keep your case out of court. This keeps everyone involved truly focused on reaching a mutually beneficial agreement, without threatening costly and destructive litigation. Watch out for phony collaborative divorce lawyers: these are the lawyers that say in their pledge "we promise not to go to court but we can still be your lawyer if you arbitrate the case". This is misleading, because arbitration is nothing more than going to court with a private judge. It's almost as slow, expensive and painful as using a state paid judge in a state run court. These lawyers want you to think they are working collaboratively but they aren't. If the lawyers won't pledge to be disqualified from going to court (including arbitration) then they aren't really making the mindset shift required to collaborate effectively. Then all you have is the same old fashioned divorce lawyer you were afraid to let ruin your life in the first place.
4. **Don't hire a mediator without getting legal advice first.** Often, people think that hiring a mediator is a substitute for hiring a lawyer in trying to resolve their divorce. The critical mistake these people are making is this: mediators can not give legal advice. Their role is only to help people agree; the drawback is that they may help you agree to something that you would not have agreed to if you had sought legal advice first. Timing is everything here: using a mediator can be effective in resolving a divorce, you should never, ever hire a mediator without first obtaining legal advice from a lawyer whose only role is to represent your best interests. In fact, any good mediator will insist that you go and get legal advice before any agreement is reached, anyway. If you choose to mediate your dispute, get the legal advice before you begin mediation. It is more efficient and safer.
5. **Don't sign a blank check.** Signing an agreement with a lawyer that calls for hourly billing is like signing a blank check. Be careful. Let's face facts – hourly billing encourages what? Billing! Find a lawyer who can tell you what your case will cost. The only way to be certain of your attorney fee is to get a firm commitment on a fixed fee. Short of a fixed fee you need frequent updates on the costs that you have incurred (if it were our money we would want daily, real-time, updates over the internet) and we would want the authority to accept or reject any action that would result in our paying more money. It just doesn't make sense to give someone the economic incentive to make your life miserable by dragging things out. Doctors don't bill hourly – they charge you a fixed fee for your office visit or your surgery. Lawyers want you to believe that they can't predict your fee. If they won't tell you how much it costs then don't buy it.
6. **Do a cost-benefit analysis.** In divorce, it is easy to get caught up in the emotion and make all of your decisions from that vantage point. This can be a mistake though; spending some time analyzing your case from a logical, cost-benefit perspective can pay dividends. Keep your eye on the ball and stay focused on getting the divorce finished so you can move on with your life. It is not uncommon for divorcing people to do things like spend \$500 to get a \$100 microwave oven. Don't do it. If you can't see a clear connection between your actions and achieving a final resolution of your case, then don't take that action.

7. **Do know your priorities.** Frequently people going through a divorce find that their priorities change throughout the process. The things that they thought were most important when they began the process are not necessarily the same things that are most important at the conclusion. It is important that you review your priorities regularly, with your lawyer or on your own, so that you are always mindful of things that matter to you most. Staying on top of your own priorities allows you to keep your lawyer informed and better use the divorce process to obtain the results that you care most passionately about.
8. **Do remain flexible.** One of the most common mistakes people make when they begin a divorce is to decide that they absolutely, positively must have A, B, and C, and nothing else will be sufficient. Remaining flexible in the divorce process allows you to critically and impartially analyze all of the issues as they arise. This is especially true for people who have reviewed their priorities throughout the process (see # 7 above). Knowing what you want, and being flexible in your approach to getting it, can often mean the difference between success and frustration.
9. **Do stay involved.** When you hire your lawyer, don't simply hand control of your life over to him or her and walk away. Your divorce is critical to you, and it's too important to be delegated away and ignored. Stay abreast of developments on a daily basis. Find a lawyer who wants you to be as involved as you do. Two things to look for in a lawyer who wants to keep clients involved: same day delivery to you of all documents that come in or go out of the lawyer's office (email is a great option for this) and 24/7 access to your case file. Ideally, your file will be available on an extranet on your lawyer's website. If you can access your credit card and bank statements online, your divorce file should be online, on your lawyer's website, as well. Many lawyers use technology to make your life less stressful and more convenient; find one who uses the latest technology to help you stay involved. Involved clients are able to maintain control, reduce anxiety and make better judgments about their future, which helps them to reach positive outcomes in their divorce.
10. **Do educate yourself.** Knowledge can be your greatest ally. Research the divorce laws of your state, whether through a local law library or the internet. RosenDivorce.com is the most comprehensive divorce website in North Carolina. The site features a discussion forum with questions answered by lawyers, a child support calculator, the latest cases from the North Carolina Courts, numerous essays and information on all divorce issues, seminar videos, and lots more. Reading the information on this site will dramatically improve your effectiveness and efficiency in interacting with your lawyer and negotiating with your spouse.