



#1 Free Legal Website

FindLaw.com is the leading and largest online resource for legal information. For basic legal issues to more complex ones, you'll find thousands of helpful articles, a legal community to get answers to your specific questions, an attorney directory, blogs, news, DIY forms, and much more.

Do You Need a Divorce Lawyer?

Do you really need a divorce lawyer?

These days, there are certainly plenty of divorce stories that sound more like war stories. However, you have also probably heard of divorce stories that turned out pretty well. What really makes the difference between these two divorce situations?

The short answer is that it depends on a number of factors, such as the personalities of the people involved in the divorce, how much is at stake in the divorce, and even how much the parties rely on the court and attorneys to solve the problems that show up during divorce. As a general rule, the less that you have to rely on the courts and divorce lawyers to solve your problems, the more smoothly the divorce will run. But, how are you going to avoid the courts and lawyers?

You May Not Need a Divorce Lawyer -- Make Decisions on Your Own

When you make decisions about your divorce on your own, you can save yourself a lot of anguish and money. As it usually turns out in the law, if you are able to work with your spouse on issues such as the children, support, or property by yourselves, or with the help of a neutral third-party mediator, you will probably turn out better in the long run. By doing this, you will be able to control the vital issues that will be raised during your divorce instead of leaving these issues to be decided by your attorneys or the court. In addition, if you are able to make these decisions about your divorce on your own, you will end up saving quite a bit of time and money by not having to hire a divorce lawyer. Finally, and perhaps most importantly, children going through a divorce often have an easier time of the situation if their parents can work out the divorce quickly.

If you and your spouse are able to come to terms regarding the bigger issues in your divorce, you can generally ask the court to grant you a divorce in writing. This has become a popular option for many couples and the court systems in many states have responded favorably. Depending upon the state you live in, you may not even have to appear in court, or hire a divorce lawyer, to have your divorce finalized if you can show that the divorce is uncontested.

Keep Tensions Low -- Divorce Lawyers Often Fan the Flames

Because of their very nature, divorces tend to get emotions high and conflicts often erupt. You may think that you need a divorce lawyer or that by hiring one you can stay at arms length from any emotions you may be dealing with. However, hiring a divorce lawyer may not give you the solution you are looking for, and may even fan the emotional flames higher.

If you do decide to hire a divorce lawyer, it is important that you take your time and hire the right divorce lawyer for your situation. For example, if you do want to hire an attorney to help you with your divorce, but you want to minimize any time that needs to be spent in court, be sure that your attorney will work with you towards that goal. Be sure to ask any potential attorney many questions during your consultation. For example, would your attorney support a decision to seek settlement outside of court, or does your attorney have a track record of battling out even the most minor issues in front of a judge. Lawyers are charged to be the zealous advocate for their client's interests, so you need to be sure that you make your interests clear to your attorney at the outset.

However, there are some divorce lawyers that take the zealous advocacy too far, often fighting battles for their client that seem trivial to all but the attorney. If your spouse has hired such a lawyer, you may need to fight fire with fire instead of simply giving up. When this happens, your divorce may end up turning ugly and lasting quite some time. You and your spouse may end up running out of money for your attorneys and could quite possibly end up back at the settlement table.

What can make these divorces even worse is if there are children involved. Indeed, many sources now find that a child's sense of security often goes down in direct correlation to how long a divorce proceeding lasts. In addition, it often appears that the longer a divorce lasts, the longer it will take to develop a good relationship with your child when the proceeding is over.

A Couple Using One Divorce Lawyer

In general, a couple that is seeking a divorce cannot use the same attorney. This is because of the many ethical rules that an attorney must abide by during his law practice. However, joint representation may be allowed when:

- The spouses agree on the major issues in the divorce;
- The spouses are confident that they will be able to resolve the minor issues;
- The spouses are informed and understand that the divorce lawyer will not be able to fully represent both of them during the divorce;
- The spouses have agreed to the joint representation in writing; and
- The spouses just want the lawyer to draw up the necessary paperwork.

There are a few occasions where joint representation will often work at the start of a divorce, but later on an issue develops that the spouses fundamentally disagree on. When this happens, the attorney that is representing both spouses must transfer at least one client to another attorney. Additionally, if the lawyer learned something during his representation of both spouses that would make it unfair for him to continue to represent one spouse, then the attorney must transfer both clients to other attorneys.

"Collaborative Practice"

There is a new and growing trend in divorce lawyer called "collaborative practice." In short, collaborative practice is where all the spouses and the attorneys agree not to go to litigation for the divorce and will try everything to settle. Generally speaking, collaborative practice lawyers will only agree to represent a client when the other side has hired, or agrees to hire, a collaborative practice attorney. In addition, when both spouses have hired their attorneys, an agreement must usually be signed that states that if a settlement cannot be reached and the divorce is headed towards litigation, the spouses must find new attorneys. Such an agreement negates any financial incentives for attorneys to prolong discussions or push for litigation and generally expedites settlement.

When You May Need a Divorce Lawyer

There are certain situations when hiring a divorce lawyer makes sense and you should probably do it. If there is a problem with abuse, whether it is spousal, child or substance abuse, you should probably hire an attorney. They can help get you the protection you need during the divorce.

In addition, if you think that your spouse is lying about certain issues in the divorce, or is being vindictive, you may want to hire an attorney that can help you cope with the situation and also protect your interests.

Generally speaking, it can also be wise to hire an attorney if your spouse has already hired a divorce lawyer. Especially if your divorce involves children or complicated financial issues, it can be hard to deal with these complex and emotional issues when you are faced against a seasoned divorce attorney.

If you are not financially able to hire a divorce lawyer, you should contact your local legal aid office or a local bar association. You may be able to qualify to get free or reduced costs legal representation. If you do not qualify, you may still be able to ask questions of an attorney throughout your divorce proceeding. When you do call the legal aid office, you should ask if they have a list of attorneys that are willing to work on a reduced costs or *pro bono* basis.

Fearing Violence

Many spouses that are going through a divorce often fear, with justification, violence, either to themselves or their children. If you think that your spouse may harm you or your children, or take your property, you should take out a temporary restraining order against your spouse immediately and take yourself and your children to a safe place. If you take your children away for their safety without getting a temporary restraining order, your spouse may accuse you of kidnapping.

In addition, if you need money in order to get to safety, you can take money out of any joint accounts that you have with your spouse. However, be sure not to take more out than you need, and try to keep it below half of what is in the account. Also, file a court action for immediate spousal support.

Divorce Mediation

Mediation has become a popular option for many couples that are seeking divorce. Mediators are trained at getting both sides to set aside emotions and focus down on the facts that are essential to a successful divorce. Unlike lawyers, mediators have the advantage of working with both spouses at the same time, which can cut down on unnecessary communication delay. Lastly, mediators have the advantage that they are not advocating for either side. Because of this, mediators can often reach successful settlements in divorce cases much faster than lawyers.

FINDLAW.COM EMPOWERS PEOPLE WITH TRUSTED, TIMELY AND INTELLIGENT LEGAL INFORMATION

BLOGS – FindLaw Blogs present timely news that has real-life implications, deliver important information and discuss law-related entertainment.

FINDLAW ANSWERS – A vibrant, interactive online community where everyday people can ask legal questions and get real-time answers from legal professionals and others with similar experiences.

NEWS & NEWSLETTERS – Updated throughout the day and night and covering a wide range of legal topics, FindLaw.com's News page presents current legal news, keeping people informed and educated.

FIND A LAWYER – An easy-to-search database of more than one million lawyers and law firms. It provides detailed information, enabling people to contact a qualified lawyer when they are ready.



DO-IT-YOURSELF FORMS & CONTRACTS – FindLaw.com provides accurate legal documents for common legal matters. Choose from a library of easy-to-use, low-cost, accurate legal forms for everyday legal issues.

FINDLAW VIDEO – On FindLaw.com, you'll find an online directory of more than 1,500 short videos dedicated exclusively to legal topics and attorney and law firm profiles.

Connect With Us

FindLaw.com has an entire social media team dedicated to providing our users with as many options as possible to join, participate in, and learn from the FindLaw community. Some of the social key channels are the following:



[FindLaw for Consumers on Facebook](#)

Making the law easy to access with interactive legal updates aimed at starting conversations, informing followers of their legal rights and providing a forum for questions and resources



[@FindLawConsumer on Twitter](#)

Tweeting interesting, entertaining and informative legal news everyday

HAVE A LEGAL QUESTION?
NEED TO FIND AN AFFORDABLE,
QUALIFIED ATTORNEY?

Protect yourself, your family or
your business with a legal plan
or form from LegalStreet

www.LEGALSTREET.com

Copyright © 2013 FindLaw, a Thomson Reuters business. All rights reserved. The information contained in this article is for informational purposes only and does not constitute legal advice. The use and distribution of this article is subject to the Creative Commons BY-NC-ND license, which can be viewed at <http://creativecommons.org/licenses/by-nc-nd/3.0/>. You must attribute the article by providing the title of the article, FindLaw copyright notice and link to the original work. You may not use the article for commercial purposes and you may not alter or transform this article in any way.

FindLaw[®]
A Thomson Reuters Business