

Three Important Questions to Ask When Interviewing Divorce Attorneys

By Leigh Noffsinger, JD

Maybe the cause is New Year's resolutions, or finally getting past the family expectations around the holidays, but divorce attorneys' phones ring more in January and February than other times of the year. Despite my profession, I'm certainly no proponent of divorce in general. No matter the circumstances, it's usually a heartbreaking decision and a painful process. No one gets married with the expectation that divorce will follow.

But, after the decision to divorce has been made, the next most important decision centers on which attorneys are hired to help.¹ For most people, divorce is the biggest "negotiation" of their lives, impacting everything that's most important: children, homes, retirement, careers. And people facing divorce might not realize how much the lawyers will set the tone of the divorce process. When looking for an attorney to represent you through a divorce, I believe there are a few important questions that, if answered honestly, will reveal a lot about the professional you're thinking of hiring:

(1) How often do you go to court?

This might seem counterintuitive, but the better divorce attorneys I know actually do NOT go to court often. Most divorce attorneys would agree that going to court is almost never good for clients -- though it can be quite lucrative for the attorneys. Our judicial system has certain procedural rules and formalities that make court a very expensive option for resolving disputes. Any court hearing requires significant hours of attorney prep time, and the outcome (at least for the client) is rarely worth the expense. Judges' heavy caseloads prevent them from exploring the nuances of individual cases or crafting creative solutions. Court also escalates the adversarial tone between divorcing spouses. That's why, in my opinion, the best divorce lawyers are those who have focused on honing their skills to keep clients out of court.

There are a few top-notch divorce lawyers I know who specialize in going to court. Certain types of people simply need a stranger in a black robe making orders before they will accept an outcome. On the rare occasions I've encountered someone like that, I'm happy to bring in an expert litigator to take the lead on the court process. But too often, divorce lawyers who frequent the courthouse lack the skills to help clients find resolutions in more cost-efficient, less destructive ways. (Or maybe those lawyers at court have kids to send to college.) Either way, if I'm referring friends and family to divorce lawyers, it's NOT to the ones who go to court regularly.

(2) How would you help improve the communication between my spouse and me during the divorce process?

The idea of finding a "hired gun" who will do all of the talking and negotiating for you probably sounds pretty appealing to a lot of people facing divorce. It's an emotional time, and avoiding communication with your soon-to-be-ex might seem like a good (and easier) approach. That might work fine, if you have no children and no reason to ever see each other again once your divorce is done.

¹ Although some divorces can be handled without attorneys, such as when a couple has no children and the assets are insignificant, I always advise people to pay for at least an hour or two of attorney time to review final agreements before they become binding. It's worth some money to make sure things are done right.

But most divorcing couples do have children, or friends in common, and the need to communicate almost certainly will arise in the future. With some good coaching, people going through a divorce can learn some skills that not only will make their divorce process go more smoothly, but also will serve them well in the future when issues arise. (If you share children, even grown ones, trust me – issues WILL arise!) In my experience, it seems that clients whose lawyers speak for them throughout the divorce process more often need the lawyers regularly even after the divorce is done. Any little conflict means returning to the “professionals” who can work it out. That gets expensive.

I believe good divorce lawyers work constantly to build their repertoire of resources and skills to help clients improve communication with their exes. That can come in a lot of forms: a library of self-help books on co-parenting, solid referrals for experienced therapists, and perhaps most importantly, the lawyer’s own skill set. Divorce lawyers should be open to (and good at) facilitating meetings that include both spouses. It’s much easier to be greedy and demanding when you can hide behind your lawyer, but a “four-way” meeting with both spouses and each of their attorneys can lead to a productive conversation and some creative problem-solving.

Good lawyers also can walk that fine line between showing empathy for a client’s emotional reactions while simultaneously coaching the client to de-escalate issues. Experienced divorce lawyers often see the landmines before their clients step on them. A little proactive work with clients to normalize the challenge but necessity for improving communications with their exes can go a long way toward future peace.

(3) What do you like most about your job?

Maybe this is obvious, but lawyers who have a hard time answering this question probably should not get your business. Divorce is stressful enough, without adding a stressed-out unhappy lawyer to the equation. Or, if a divorce lawyer says he most enjoys going to trial, or making sure people “get what they deserve,” or “winning” more money for his clients, those answers illuminate the tone your case will have if you hire that lawyer.

When you’re going through one of the most stressful times in your life, I believe most people want a lawyer who feels a calling to that supporting role. While being a divorce attorney can present some hard days, the lawyers I most respect truly love their jobs. Helping people plan for the future, giving compassionate calm advice, makes for a pretty fulfilling day. Sitting with a divorcing couple to come up with a creative solution to a complex problem feels good. Seeing former clients months or years later, jointly celebrating a child’s birthday with an ex-spouse, seems like success.

Other considerations...

Of course there are many other questions to ask, and factors to consider, when hiring a divorce lawyer. A lawyer with a fancy office in a high-rise downtown building has a lot of overhead to cover. A lawyer who can’t schedule an initial consult for many weeks out might not have the bandwidth to give you the quick response you want. Sometimes these aspects matter to clients, sometimes they don’t. But look for a lawyer you feel comfortable with, whose language about divorce resonates with how you want to feel as you’re going through the process. And don’t be hesitant about asking other questions that are fair game for any lawyer:

- What is your typical range of fees for a case with facts similar to mine?
- How long do you expect my divorce process to take?
- What recent continuing education have you done? Do you have any special training?

By the time your case is done, your divorce lawyer will know almost as much about you as some of your closest friends. Choose carefully, and find a professional whose values reflect your own.