

Your Divorce Team

How to find and choose the best possible advisors to help you.

DIVORCE is a complex process that affects just about every aspect of your life, from financial to emotional, physical to legal. Unless you've been married for only a short time and have no property, assets, or children, you'll probably need some professional help to get on track to a healthy, happy post-divorce future. The central figure in your divorce process, aside from you and your spouse, is probably your lawyer, but other professionals can help to smooth the road ahead of you.

If you're still on speaking terms with your spouse, consider the services of a mediator, who will give you the opportunity to negotiate the terms of your divorce settlement outside of a courtroom setting. In addition, some lawyers and other professionals are now using a collaborative process, in which both parties' professionals work together towards a common settlement goal. Ask prospective lawyers what options might best suit the circumstances of your particular case.

Accountants and financial planners can handle most of the financial aspects of your divorce prior to, during, and after your divorce is finalized. A therapist can see you through your "emotional divorce," enabling you to start creating a new life for yourself.

While each of these professionals can help you through a stressful transition period, finding the right person can create its own stress. Here's a guide to help you choose a good lawyer, a reliable financial professional, a competent mediator, and the therapist who's right for you.

The Lawyer

Choosing which lawyer will represent you may be the most important decision you'll make during your divorce proceedings. As in any profession, there are good lawyers and bad lawyers. It's up to



you to do your homework and to ask the right questions to determine which group your lawyer belongs to.

Finding a Lawyer

Look for someone who:

- **Practices family law.** A lawyer who specializes in taxation isn't going to be much help to you.
- **Has a lot of experience.** If your lawyer is fresh out of law school, make sure he or she has an experienced mentor with an excellent knowledge of relevant law to go over his/her cases.
- **Is a skilled negotiator.** If your case can be settled without a protracted court battle, you'll probably save a great deal of time, trouble, and money.
- **Is firm.** If you do end up going to court, you don't want your lawyer to crumble at the first obstacle.
- **Is reasonable.** You want someone who'll advise you to settle if the offer is fair, and not have the case drag on and on to satisfy your need for revenge or the lawyer's need to "win."
- **Is compatible with you.** You don't have to become best

friends, but you must be comfortable enough with your lawyer to be able to tell him or her some of your secrets. If you can't bring yourself to disclose information relevant to the case, you'll be putting your lawyer at an extreme disadvantage. Your lawyer isn't your therapist or confessor, but he or she does need to be aware of all pertinent facts in order to do a good job. Trust your instincts; make sure your lawyer is somebody you can talk to, who knows that there is no such thing as a stupid question.

- **Is totally candid.** Your lawyer should be up-front about what he or she thinks your divorce will cost, if there are holes or problems with your case, and whether or not you have any aces up your sleeve.
- **Is not in conflict with your best interests.** Don't share a lawyer with your spouse; don't hire your spouse's best friend (even if she's a friend of yours, too), business partner, or any member of your spouse's family to represent you even if you're on good terms with them. Aside from the obvious conflict of interest

volved, you'll have created enemies and probably a whole new family feud before your divorce settles.

- **Is more than a pretty face.** This may seem painfully obvious, but don't choose a lawyer based on physical attractiveness. You're looking for competence, not for a date on Saturday night.

Questions to Ask a Prospective Lawyer

The outcome of your divorce proceedings will change the course of your life forever, so invest the time and money to find the lawyer who will do the best job for you. Here are the questions you should ask during your initial interview:

- **Do you practice family law exclusively?** If not, what percentage of your practice is family law?
- **How long have you been practicing?**
- **What is your retainer** (the initial fee paid or the actual contract you sign to officially hire a lawyer)? Is this fee refundable? What is your hourly fee?
- **What is your billing technique?** You should know what you're paying for, how often you will be billed, and at what rates.
- **Approximately how much will my divorce cost?** The lawyer will only be able to provide an estimate based on the information you provide and your realistic estimation of how amicable you and your spouse are. If you think your case is extremely simple, but your spouse's lawyer buries your lawyer in paperwork, you can expect your costs to increase.
- **What do you think the outcome will be?** Remember, you're looking for truthfulness here, not to be told a happy story.
- **If your spouse has retained a lawyer, ask your prospective lawyer whether he or she knows this lawyer.** If so, ask: "Have you worked with him or her before? Do you think the lawyer will work to settle the case? And is there anything that would prevent you from working against this lawyer?"

- **What percentage of your cases go to trial?** You actually want to choose a lawyer with a low percentage here: a good negotiator who can settle your case without a long, expensive court battle. A good trial lawyer may be necessary if every indication is that nothing could possibly be settled outside of a courtroom.
- **Are you willing and able to go to court if this case can't be settled any other way?**
- **How long will this process take?** Again, the answer will be an approximation.
- **What are my rights and obligations during this process?**
- **At a full-service firm, ask who will be handling the case:** the lawyer you're interviewing, an associate, or a combination of senior and junior lawyers and paralegals?
- **Should I consider mediation?** Ask whether your case at least in the initial stages might be a good one for mediation.
- **What happens now?** Do I need to do anything? And when will I hear from you?

Finally, if there's something you really need to know, or if you don't understand something the lawyer said, don't be afraid to ask for clarification. There's no such thing as a stupid question when it comes to decisions that will affect the rest of your life. Bring this list of questions with additions, if necessary, to suit your individual circumstances with you to the initial interview; that way, you'll know if all of your concerns have been handled.

The Mediator

Mediation has become a popular way to settle a divorce. You and your spouse, with the help of a third-party mediator, work together to negotiate how to live successful lives apart. Mediation can save time and money and is usually less emotionally damaging than a full-blown court battle. Together, you and your spouse work out an agreement you can both live with from the same side of the mediation table rather than from opposing sides of the courtroom.

Mediation isn't an option in all divorce cases, but when both parties are

willing to look at the issues instead of the emotions that cloud the issues, mediation is worth a try. Statistics show that when a case is negotiated through a mediator, the parties tend to stay out of court in the future. Another benefit of a mediated settlement is that you and your spouse will learn powerful new communication techniques, which is particularly important if you have children or share business interests.

Finding a Mediator

Mediation doesn't normally eliminate the need for a lawyer: your lawyer will have to approve any agreements made by you and your spouse before they become legally binding. However, the mediation process can speed up negotiations because you and your spouse communicate directly instead of through a "broken telephone" chain from your spouse to your spouse's lawyer to your lawyer to you. Many family-law practitioners are also trained mediators, so finding a mediator may simply be a question of asking your lawyer about his or her own qualifications. When selecting someone to mediate your case, scrutinize the individual's qualifications. Ask to see a resume, and ask how long he/she has been practicing, and whether he/she has ever mediated a case such as yours.

The following organizations can point you in the direction of a qualified, competent mediator.

In the U.S.: Association for Conflict Resolution

www.acrnet.org
(202) 464-9700

In Canada: Family Mediation Canada

www.fmc.ca
(877) 362-2005

Questions to Ask a Prospective Mediator

Look for someone you can trust and communicate with, and who is empathetic to your concerns. Don't pick someone lightly, or based on the cheapest rate, because he or she will be helping you settle on terms you may have to live with for a long time. Before you meet with the mediator for the first time, you should prepare some well-thought-out

questions. Here are a few suggestions of what to ask:

- **What is your training and experience?** Ask about direct experience dealing with cases like yours, especially if there are aspects that make your case unique. Does the mediator have any special skills you may need, such as the ability to speak another language? Since mediation is based on clarity of communication, it may be important for you to conduct your mediation in a language other than English.
- **What is your approach?** Some mediators may want to meet separately with you and your spouse before sitting down with the two of you together; others may want your children involved and attending the mediation sessions. Find out what techniques will be used and how your mediation will be conducted.
- **Do you have any biases?** We all have certain viewpoints which cloud our judgment, and mediators are not exempt. You should ask if your mediator has any strong views about the role of mothers or fathers, or about the care of children.
- **Should we have our children involved in the mediation process? If so, how?**
- **Should a new partner(s) be involved in the process?**
- **What leads to unsuccessful mediation?**
- **How much is it going to cost?**
- **How much time will the process take?**
- **What is the role of my lawyer?**

Your Accountant

A Certified Public Accountant (CPA) can handle many of the financial matters of your case. His or her responsibility is to calculate your and your spouse's net worth and to produce figures that are agreeable to both you and the courts. There are a number of different accreditations given to accountants, and you'll find these designations after their name. Wading through the differences between someone who is a CFE (Certified Fraud Examiner) or a BCFE (Board Certified Forensic Examiner), or a member of the

ASA (American Society of Appraisers), or a member of NACVA, (National Association of Certified Valuation Accreditation) may seem a daunting task to understand all of the distinctions, but by doing a little research, you'll come to understand what you need to know.

Certified Fraud Examiner (CFE)
www.acfe.com
(800) 245-3321 or (512) 478-9000

American Society of Appraisers (ASA)
www.appraisers.org
(703) 478-2228

National Association of Certified Valuation Analysts (NACVA)
www.NACVA.com
(800) 677-2009 or (801) 486-0600

Mediation can save time and money and is usually less emotionally damaging than a full-blown court battle.

Finding an Accountant

Usually, the best and easiest way to find an accountant is through your lawyer. These two members of your divorce team may have to work in tandem from time to time, so it's important to find someone your lawyer is familiar with. You could also ask your personal accountant (if you have one) to suggest someone who has a matrimonial background, but be sure to check his/her prior experience when you do so.

The most important factors are the accountant's qualifications, your comfort level, and how the accountant interacts with your lawyer. Look for an accountant who is honest and forthright and who offers reasonable economic terms.

Divorce Financial Professionals

When your marriage has been dissolved, and even during the divorce process itself, you may want to employ a financial expert who has been specially trained in issues that pertain to separation and divorce.

Certified Divorce Financial Analyst

CDFAs tend to be (American or Canadian) financial planners or accountants who have completed the Institute of

Divorce Financial Analyst's training. A CDFA can help you with budgeting, or assist with tax, estate, or retirement planning. He or she will help you organize your financial future by proposing a personalized plan with a time horizon and a solid investment strategy to help you towards financial stability for tomorrow. They analyze settlements in the context of the client's long-term economic situation and inform them of those that may appear fair and equitable on the surface but will not stand the test of time. A CDFA can reduce the uncertainty about the future by forecasting the economic effects of alternative settlement proposals. For instance, a CDFA can tell you what the economic consequences will be of keeping one asset over another. You can find a CDFA by contacting the

Institute for Certified Divorce Financial Analysts at (800) 875-1760 or at www.InstituteDFA.com.

In Canada, individuals can work with a Financial Divorce Specialist (FDS). This credential was developed to equip Canadian financial professionals with the advanced knowledge they need to guide their clients through divorce. The intensive FDS course teaches advisors divorce-related issues, such as the division of assets, insurance, budgets, and child and spousal support. Only 100 financial advisors hold the FDS designation. You can find a FDS through the Academy of Financial Divorce Specialists (888) 893-7526 or at www.afds.ca.

Questions to Ask a Prospective Financial Professional

Once you've set up an initial interview, there are a number of questions you should ask to make certain you're dealing with a competent professional and someone who's right for you.

- **How many times have you been to court?** They may be testifying on your behalf about all your financial secrets, so you want someone who has experience in the courtroom. If possible, find out how these cases turned out.

- **Have you worked with many lawyers?** Ask for a few references, and call them.
- **How much are your services going to cost?** This is an important question in any situation. Ask about the terms of payment and when and how services will be billed. Remember that once a fee is agreed upon and a contract is signed, any additional fees should be by prior written agreement only. You may want to add this to any contract you sign, if it's not already there.

How to Work with Your Financial Professional

When you sit down at the initial interview, you may choose not to bring any important paperwork with you. It's important to establish a good rapport. It's a meeting of personalities, and you're looking for respect, understanding, and an ability to talk freely. However, once you start into the financial legalities of the case, there are several important documents your accountant or planner will need to see:

- **Personal tax returns for you and your spouse for the last five years**
- **Books, records, financial statements, and tax returns for any businesses in which you or your spouse has an interest**
- **Banking and credit-card statements**
- **Mortgage statements**
- **Telephone bills**
- **Other records of major expenditures**
- **Stocks, bonds, mutual funds, and equities**
- **Retirement plans**
- **All insurance policies**
- **Descriptions of your and your spouse's employee benefits**
- **Your latest pay stubs**

You'll also need other paperwork detailing property you and your spouse own together or separately, from the contents of a safety deposit box to the car to your home. Although you'll be dealing mainly with "big ticket items", if something is important to you, make sure it's on your list. If a business is involved, brokerage statements or corporate minute books will also be required. Basically, your accountant or planner needs to see any major

paperwork that involves the transaction of money for both you and your spouse.

Your Therapist

Until you achieve your "emotional divorce," you won't truly be free to create a fulfilling new life for yourself. A qualified therapist can help you work through the issues that are holding you back — and keeping you stuck in the past.

Finding a Therapist

The process of finding the right therapist can be a frustrating one. Anyone can call him or herself a "therapist" regardless of background or training, so do your due diligence to find someone competent. A therapist with an "MD" after his/her name is a psychiatrist; one with a "Ph.D." is a psychologist. If you see the letters "MSW," it means this person has a Master's degree in social work; an "LCSW" is a Licensed Clinical Social Worker. If possible, choose a therapist who specializes in marriage and divorce.

A good place to start your search is with your family doctor or another health-care professional you know and respect. You could also ask a friend, or a member of your divorce support group.

Setting realistic limits and goals is an important part of the therapist's services. Good therapists are willing to listen but don't always have to agree with you.

Questions to Ask a Prospective Therapist

Here are some important questions to ask your prospective therapist:

- **What are your credentials/affiliations?**
- **How long have you been practicing?**
- **How does therapy work (in your practice)?**
- **Do you have any experience working with separated/divorced people? Do you "specialize" in a particular area (e.g., stepfamily issues, domestic violence, children and divorce, etc.)?**
- **What is your fee (hourly rate, sliding scale, etc.)?**
- **Will my insurance cover my sessions with you?**

- **What are your hours? Do you work any evenings or weekends?**
- **How long do you expect my therapy will last?**
- **Will you try to get my spouse and me to reconcile?**
- **Will you keep our sessions confidential? Can I call you between sessions? If so, do you charge for these calls?**
- **How accessible is your office (close to parking, public transport; wheelchair accessible; etc.)? Is it located in a safe neighborhood?**

A good therapist will encourage questions that indicate you're interested in your own recovery. As you glance around the therapist's office, try to imagine yourself coming here every week for several months. Do you feel relatively comfortable here? During and after your initial consultation, ask yourself these questions:

- **Is this person listening to me? Is he/she speaking at me, down to me, or with me?**
- **Is this a caring person I can trust?**
- **Does he/she seem professional (in terms of manner and appearance)?**
- **Does he/she interrupt my session to take phone calls or pages?**
- **Does he/she touch me in ways that seem inappropriate, or suggest we see each other socially?**
- **Does he/she just plain give me the heebie-jeebies?**

Remember, it can take three to five sessions before you have a clear idea of whether this therapist is the right one. But if you don't like your answers to these questions, then trust your inner voice, thank the counselor for his/her time, and interview the next candidate.

American Psychological Association
www.APA.org
Phone: (800) 374-2721

Canadian Psychological Association
www.Cpa.ca
Phone: (613) 237-2144

American Association for Marriage and Family Therapy
www.Aamft.org
Phone: (703) 838-9808 ■

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