

In Search of a Sensible and Dependable Divorce Attorney

The best divorce attorney shares two qualities with all good professionals: perspective and humility. The best heart surgeon isn't simply the one with the best surgical technique. Before unleashing that splendid technique on his patient, he knows to ask (1) whether diet, exercise, or medication would work better, (2) what the likely outcomes are for each treatment option, and (3) whether the patient fully appreciates the advantages, disadvantages, and risks of each option.

And so it is with better family attorneys. The trouble is that while several factors prompt restraint in the doctor-patient team, quite different factors can prompt aggression in the attorney-client team. While medical students and doctors study the Hippocratic duty to do no harm, law students and attorneys often aspire to the professional standard called "zealous advocacy." And while medical patients tend naturally to shun the pain and risks that go with aggressive and invasive medicine, many divorce clients are driven by hurt, anger, and fear to seek and demand the most aggressive representation.

But the most aggressive representation is almost universally disastrous, at least in divorce cases. Judges are rarely (if ever) impressed, families (and particularly children) are decimated, and fortunes are wasted as personal hurt gets mischaracterized and acted out as a collection of supposed legal disputes.

Interestingly, when the devastation is complete, the lawyer and his client often blame each other. The lawyer will say **with some justification** that he was only doing what his client wanted. But the client will say that her lawyer **or at least her lawyer in tandem with the opposing one** made the divorce unnecessarily bloody.

The good news is that in virtually every community there are attorneys trying to offer the help that actually helps. For professional advocates trained in the art of combat rather than healing, this is not an easy thing, and many well-intentioned attorneys can revert to the destructive paradigm of combat on little provocation.

But here are some insights you should discuss with a potential divorce attorney. If the attorney feels at home with these insights and promises to observe them, you probably have one of the more thoughtful and capable legal representatives available.

1. No spouse ever wins over the other in divorce, and almost all hoped-for victories in competitive divorces are empty, expensive, and destructive.
2. It is important not to fantasize that legal battles will produce personal vindication, an end to parents' squabbling if the parents have not committed to stop squabbling, or better decisions than parents could agree to themselves.
3. In fact, a great deal of harm can come from legal battles, including the opportunity for parents to build a cooperative relationship, serious damage to children, and delay in the time when real healing can occur for families.
4. Children are in especially serious danger from divorces with conflict (legal or personal), and it is everyone's responsibility to protect them, including by sensibly cooperating to resolve all issues.

5. The more families use legal hearings, trials, and adversarial maneuvering, the worse off they **and particularly the children** will be. Those competitions destroy the very ability to trust and cooperate that families most need and, therefore, cannot possibly promote well-being.
6. The energy that divorcing parents might unwisely put into personal and legal strife must be rechanneled into such things as:
 - ⇒ Listening to and reassuring their children
 - ⇒ Seeking the counseling they and their children need to make the transition to a cooperative family under two roofs
 - ⇒ Communicating and cooperating for the children **including** in ways the children see
 - ⇒ Supporting each other's relationship with the children
 - ⇒ Placing limits on the children's roles so that they don't become whipping boys, witnesses, allies, spies, messengers, counselors, or confidants in the divorce
 - ⇒ Enlisting positive cooperation from family, friends, and others, and
 - ⇒ Deciding together what to tell the children about the future.
7. Before even thinking about referring a divorce matter to court, or even arms-length negotiations, parents should be given **and should take** the opportunity to think of win-win resolutions, either by themselves or in mediation.

Finding out how comfortable a prospective attorney is with these insights will tell you a lot. Notice that several of them point out just how much power lies with you **the parents** to make things better. Draw hope and renewal from this fact that your well-being and that of your family are largely up to you.

For parents who want to see themselves as helpless victims in divorce, this message is an uncomfortable one. (It echoes George Bernard Shaw's maxim that freedom means responsibility and that's "why most men dread it.") But for those willing to accept the responsibility, the awareness of one's enormous power to protect children and make things better for the family is a refreshing one indeed.

Beware of any attorney telling you how right you are and how, if only you have enough zealous representation, vindication and victory await you. Divorce done right is work for parents, not a quest for vindication or victory, and certainly not a deferral to the legal system to make things better.

And for just a little final guidance, consider these things that good, sensible, and dependable divorce attorneys will **not** be heard saying to their clients.

Top 19 Things Never Said by a Good Divorce Attorney

19. "You're lucky I'm here to take care of you."
18. "What I got, you need."
17. "The more I do, the better off you'll be."

16. "You say the kids see a lot of fighting when you're together? Don't worry. I'll take care of it. I'll get the judge to order that you drop them off and pick them up at the police station."
15. "We're going to win this case."
14. "We'll get experts to evaluate both you and your kids; it's expensive, so you know it's got to be good."
13. "Under no circumstances leave the home. I don't care about the turmoil, you can't jeopardize your claim to the house."
12. "Don't worry about the cost; I'll get it from your ex."
11. "We'll ask for the moon in negotiations and then come down a little at a time."
10. "Sure all our motions have blown up and things have gotten ugly. But this next motion I'm working on I know is a winner."
9. "Make a list of the worst things your spouse ever did. Memorize it."
8. "Listen, those kids belong to you when the visitation order says so; screw your ex's special plans."
7. "You can't go to counseling or mediation with your spouse; it could hurt you legally."
6. "Whatever you do, don't say anything nice about your spouse, **especially to your kids**, it'll come back to haunt you."
5. "I can't wait until the judge hears you on the stand. He's really going to be impressed with this case."
4. "This is about **your** needs, the kids will adjust, they always do."
3. "We'll have the kids tell the judge where they want to live."
2. "Could we have dinner sometime?"
1. "You poor thing."