

The Firm's Divorce Philosophy

I am often asked if a lawyer is really needed for divorce. Is it really possible to accomplish a "do-it-yourself" divorce? While the short answer is that while it is possible, it may not be very efficient. It may be more practical to look at all available options so as to minimize legal fees and make the best use of a lawyer's expertise.

Many divorces involve two spouses carrying on expensive litigation with the "assistance" of their respective lawyers. In 15 years of divorce practice, I have seen an incredible amount of family assets wasted on legal fees paid for fighting over issues that could have been resolved between the parties with early guidance. I, for one, would rather see a divorcing couple spend their hard-earned money on the children's college tuition rather than needlessly financing a greedy litigator's boat payment. Sometimes fighting is necessary, for example when one party is absolutely obstinate and is unwilling to compromise; but your legal budget is more often than not used more efficiently when true legal analysis and research of the law is required in a case. Usually, the parties can save a great deal of money if they can agree to alternative dispute resolution, or if they simply come to settlement terms themselves.

Much of the problem (and solution) lies in the attitudes of the estranged couple. Minimizing the need for lawyer time often results from cooperation between the parties. If husband and wife both agree that separation and divorce is inevitable, then there should be no fight over the issue of separation and divorce. The couple should draw a straight line from agreement to the final decree of divorce in the shortest time possible. That would mean a "no-fault" divorce, which is essentially a matter of the attorney filing the necessary papers with the local court, minimizing lawyer time and, therefore, minimizing legal fees. This is the "easy" case.

But not all cases are without complications. Marriage is a legal relationship and comes with obligations as well as rights. Sorting through issues such as the division of marital property, or deciding on custody, support and visitation of the children can often be more effectively handled (if there are disputes between who gets what or whom) by a third-party neutral called a "mediator." The mediator's job is to facilitate settlement of disputed issues through a conciliatory process whereby the parties efficiently decide what's good for themselves, rather than allowing a judge to make (sometimes lifelong) decisions that have a huge impact on the family. Whenever a judge is involved in decision making, it inevitably means lawyers are racking up long hours putting their cases together to present to the judge. And despite the lawyer's best efforts and presenting a case, not many people are satisfied with a judge's decisions.