

Divorce Advice (And It Won't Cost You a Thing)

By Louise Rafkin

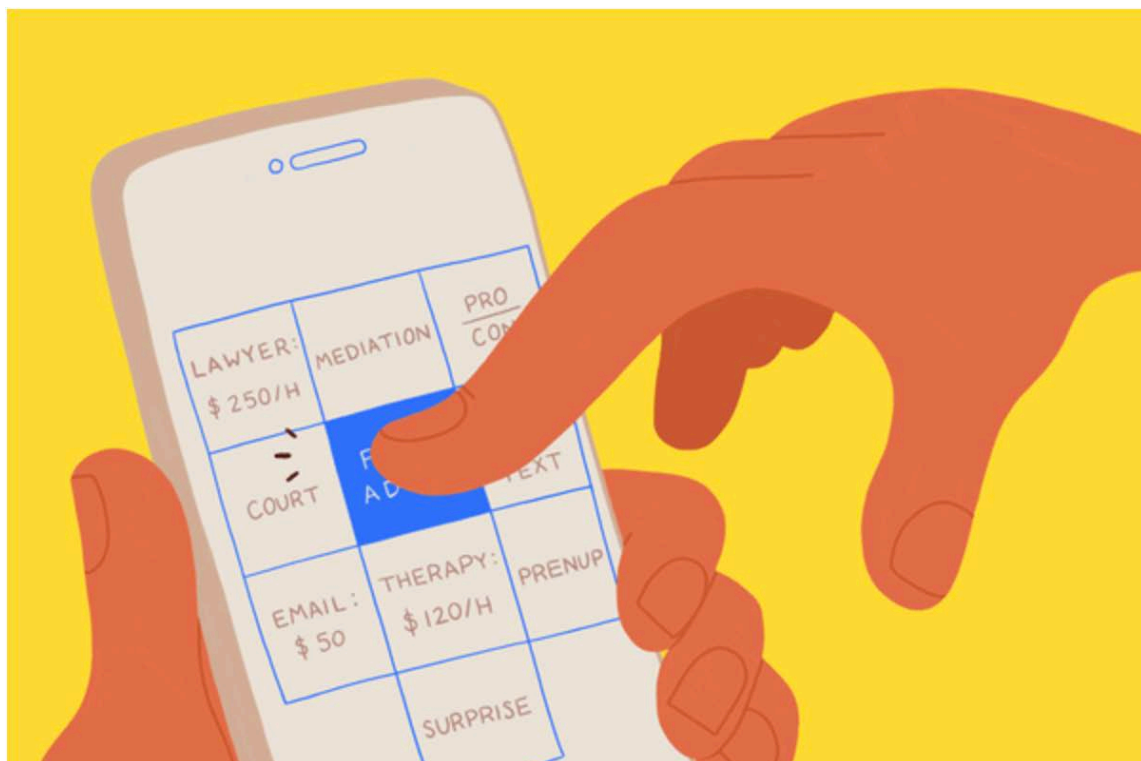
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Divorce can be costly, as most people know, with each side expected to spend, on average,

\$15,500, during the process, according to Nolo, a publisher of legal books and software. Many spouses spend a whole lot more.

The bulk of these expenses are for lawyer fees, which are typically around \$250 an hour, but can easily run as high as \$900, or more. And as Brendan Hammer, a partner in Berger Schatz, a prominent matrimonial law firm in Chicago, notes, “We get paid win, lose or draw.”

But he and other family lawyers say there are ways to keep costs down, and maybe minimize your heartache, too. Here is some of their advice — right now free of charge.



Choose the right course.

Opting for arbitration, collaboration or mediation may help you avoid the costs of a lengthy court battle, but each of these paths has its pros and cons. A lawyer can point you in the right direction, but be sure you agree on the path.

Morgan Stogsdill, a partner in Beermann, a Chicago law firm, often advocates mediation, where a neutral third party helps a couple work through issues and come to a resolution. (In arbitration, a third party arbitrator makes the final decision.) But Ms. Stogsdill acknowledged that mediation doesn't always work out. She once mediated a case for two years before it came to a halt and ultimately ended up in court. Your lawyer has to be ready to change tack, she said, if things go south.

In a collaborative divorce, both parties commit to creating a shared agreement. They may share a financial expert (called a financial neutral) or a divorce coach in the collaborative process.

This approach comes with an effective incentive, but also a harsh penalty for failure. "If you get stuck, the case restarts but with new representation," Ms. Stogsdill said. "It's a costly do-over, so be realistic upfront about whether you can truly work together." She also cautions against lawyers who come out with "guns blazing," even if there might be cause for a showdown. And — though it may sound crazy — if your soon-to-be ex has already hired a lawyer and you're still looking, she recommends asking the other lawyer for a referral. "We are committed to the best deal for our clients but a good working relationship with the other counsel saves everyone time and money," Ms. Stogsdill said.

Spend wisely and talk freely — to someone else.

"Lawyers are not therapists, plus they are way more expensive," said Gabrielle Hartley, a lawyer based in Northampton, Mass., who is also a divorce coach and the co-author of "Better Apart: The Radically Positive Way to Separate" (Harper Wave, 2019).

A therapist's hourly fee typically is between \$120 and \$250, yet many people use their lawyer, who may charge twice that amount, to complain and lay blame.

"Find a way to retell your life story that recognizes that there are many perspectives about the end of your marriage," Ms. Hartley said. "Stop being a victim. You are

right and so are they and the law will typically divide assets and child custody without judgment as to who behaved the worst.”

Therapy can help the legal process run more smoothly, she said. Often the conflicts in divorce proceedings — money, children — are not the real issues. Anger, resentment, or even fantasies of revenge, often come into play.

“People often feel broken during divorce, but the legal process doesn’t award wholeness to anyone,” Ms. Hartley said. “You have to find that on your own.”

Disclose, disclose (and forget about fairness).

“If there’s even a tiny question of whether you will ‘get away’ with something, think again,” said Samantha Bley DeJean of Bley and Bley in San Francisco. She is currently Angelina Jolie’s child custody lawyer in her divorce from Brad Pitt.

“There are very high penalties for hiding assets, and if you don’t disclose up front, you’re buying problems down the road,” she said.

Ms. Bley DeJean recalled a case in which intellectual property was either hidden (or inadvertently not disclosed, depending on who you asked) only to be greatly monetized later. When a disgruntled spouse casually heard about an ex’s windfall, this turned into a mess and landed everyone back in court.

“The law is the law, and it’s not always fair,” she said. In her office, “fair” is the F-word best left out of conversations.

Ms. Bley DeJean tells her clients, especially those complaining about spousal support guidelines, to “take it up with the legislature.”

Pace yourself.

In cases where there have been cheating or deceit and emotions are high, find a way to slow the process.

“Divorces have lives of their own,” Mr. Hammer said. “They get bad when the emotional levels of each party are at different boiling points.”

He recommends slowing the process and letting time do its job of healing the wounds by, for example, pacing discovery or using the court’s calendar wisely. Resolving smaller issues as they arise can also help, he said.

A client with a “just win” mentality often portends problems. “Those people are

thinking short term and have set themselves up for obtaining a fast victory, but are quite likely losing what truly matters long term: peace and healing,” he said. “People who divorce well understand that their family isn’t ending it is simply entering a second act.”

Mr. Hammer says personal property can be a money drain. “Hold your power for the valuable and irreplaceable,” he said. “Judges hate personal property issues and will likely assign most low-monetary value items randomly if there is disagreement.

“Clients should be active and thoughtful consumers and consider the cost-benefit of arguing about rewards points, or who has access to what club,” he added. “Legal bills run up quickly.”

Use technology wisely.

Emails, texts and photos can all turn up in court, so be careful when posting on social media or firing off an electronic message.

Yet technology can also be your friend. Laura Wasser, a divorce lawyer in Los Angeles whose clients have included Stevie Wonder, Maria Shriver, Johnny Depp and Heidi Klum, started an online service last year called It’s Over Easy, which can steer you through divorce proceedings for as little at \$750.

With an hourly rate of \$900 and a required retainer of \$25,000, Ms. Wasser said her motivation for the site was not money, but to change the approach to divorce. “There is a healthier way to do this, it’s insane to me that we still use the Kramer versus Kramer fight model,” she said.

It’s Over Easy provides a do-it-yourself template for dissolution, and also referrals for off-line help should the process get stuck. So far, 450 couples have used the service, but many thousands access the site’s free resources, including Ms. Wasser’s lively podcast called “Divorce Sucks” where boldfaced names like Kris Jenner and Kate Hudson talk frankly about splitting.

Ms. Wasser said the gap between her high-end clients and those who divorce online is just one of zeros in their bank accounts. “Divorce is the great equalizer, we all have the same feelings — mainly fear and sadness.”

She also recommends parenting apps for those mired in complicated or acrimonious child custody cases. Coparenter and Our Family Wizard are two that provide online

calendars, expense tracking and scheduling requests.

“In the event that you end up back in court, the apps provide a cohesive records of payments and communications that are very helpful,” she said.

Look for team players.

Susan Myres, the president-elect of the American Academy of Matrimonial Lawyers, said clients often require help with complicated financial matters like family trusts or assessing and dividing family businesses and properties.

“Make sure your lawyer doesn’t think they have all the answers and is very well-connected,” she said. “Life after divorce is going to be different and knowing what that looks like often requires additional people and resources.”

Ms. Myres said she often suggests clients seek the help of financial planners, divorce coaches and other professionals who are knowledgeable about family law. A well-connected lawyer can make recommendations. Clients should ask detailed questions and take notes of all phone conversations when communicating with these professionals, as well as their lawyers. Lawyers bill for email and phone calls, so unless the chatter moves the case forward, keep it to a minimum.

“At \$50-\$100 per question you’d be surprised how often I am asked the same questions to which I give the same answers,” Ms. Myres said.

Keep it out of the courtroom.

Natalia Wilson, a Washington lawyer who specializes in complex cases involving businesses and assets, has litigated cases that run weeks — and into the hundreds of thousands of dollars. “I never want clients to spend that much money,” she said, “but it happens.”

To avoid costly subpoenas and depositions, she recommends clients provide complete records of all financial dealings, including tax returns, real estate documents and even handshake deals like consulting gigs.

She notes the unpredictability of litigating, even with a familiar judge. “You never know what is going to happen and no one is completely satisfied with the results that come down in a courtroom,” she said. “It’s crazy to put your life in the hands of someone who only has a snapshot of your story.”

“If someone is hiding assets, you have to go find them, “ she said. “But best to avoid hours of depositions and, if possible, settle out of court.”

Forever and beyond.

A sound prenuptial agreement may be the best cost-saving measure in divorcing, said Barry Wayne, a partner in Bluestein and Wayne of Coral Gables, Fla. Often a prenuptial is prepared as the wedding planning is ongoing, and many times at the behest of wealthy relatives.

Consulting with an estate planning lawyer can help draft a prenuptial and also work to protect and assure assets for surviving spouses in the event of death.