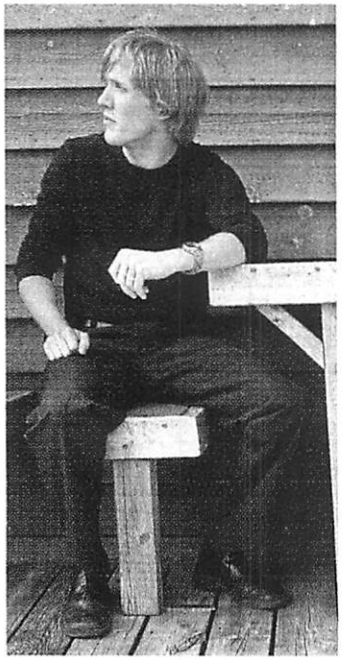
Divorce Gets Down To Business



In the gut-wrenching turmoil known as divorce, some comfort exists in the facts, starting with this: You're certainly not alone. In 2003, Illinois recorded more than 34,000 divorces, according to the National Center for Health Statistics (NCHS). (That number is relatively low, however, compared to other states like Florida, which had over 84,000 divorces in 2003; or New York, with more than 62,000 divorces that same year.)

The other divorcees notwithstanding, you simply and practically shouldn't be alone because you need a good attorney alongside you. But where do you find one?

THE HUNT FOR A GOOD ATTORNEY

Kimberly Anderson, founding partner of Anderson & Boback, a Chicago firm devoted to the practice of family law, affirms the fact that many people find a lawyer through word of mouth. Another route is to turn to associations, such as the Leading Lawyers Network and the American Academy of Matrimonial Lawyers, both of which require their member attorneys to meet strict criteria, recommends Jay A. Frank, a family law attorney with the Chicago office of Aronberg, Goldgehn, Davis & Garmisa.

He strongly advises hiring a lawyer with experience. "There's a world of difference between a lawyer with 5 to 7 years experience, versus one with 15 to 20 years," says Jay. And, look for expertise.

Interview a prospective attorney before you make a decision about who to hire, recommends Kimberly. For example, if you have a custody dispute, be sure your attorney specializes in that area. "Why pay someone to fumble through your case?" she says.

In addition to sizing up whether you like the attorney's personality, ask about rates, including whether you'll be charged for an initial consultation, as well as how often you'll be billed and for what services. The range of client costs varies widely from case to case, but Kimberly says that the more disputes a couple have, the higher the costs. For example, a custody battle can incur significant expenses because therapists or other specialists may need to be consulted to determine what's best for the children. "A custody battle can take three years," she says. "It's always better to reach some kind of an agreement. The more disputes there are, the more a lawyer needs to step up to the judge and ask him to make decisions."

Some women believe that a female attorney will strengthen their case, but that's not necessarily true. "A qualified male attorney will do the job just as well…the judge doesn't care," Kimberly says, emphasizing that a woman should choose an attorney based on his/her area of expertise, not gender.

PREPARATION IS KEY

Once you've chosen your attorney, bring copies of important documents, including bank statements, tax returns, interest statements and any other papers regarding assets, such as a home, to the meeting. One of the biggest mistakes a person can make is not staying abreast of the family's financial matters. "Some women have kept the traditional role of caring for the home and children," Kimberly notes. "They let the husband handle all the money issues, and they know nothing about their financial situation."

Women are most often awarded custody of the children; however, if a woman is going through a divorce and typically puts in long hours at the office, she would do best to cut back a little so she can be more available for her kids. "Make an effort to get more involved in the day-to-day care of the children, especially if you know a divorce is coming," Kimberly advises. The children's living arrangements during the proceedings also affect who gets custody. "Whoever's in possession of the kids temporarily will most likely get permanent custody," she adds.

Divorce is generally a lot harder on women, emotionally and financially. "The man will walk away with at least half of his income, but it's likely the woman will get even less than that," Jay says. A judge follows established legal guidelines when setting the amount of child support. For example, if a couple has one child, the woman will typically get 20 percent of the man's income; if there are two children, the woman will get 28 percent; and so on. In cases where a couple has no children, the woman may still be entitled to receive some financial support from her husband if her circumstances warrant it. The judge, however, can deviate up or down, depending on the circumstances. But the reason for the divorce, such as adultery, has no effect on the final outcome. "The grounds for divorce by and large don't affect property distribution and child support," Jay says.

Although divorce can be an emotionally draining experience, experts advise against trying to use your lawyer as a shrink. "It's too expensive for [the client], and a lawyer isn't qualified to act as a therapist," she says. Instead, seek out a therapist or divorce coach if the need arises. ■ **By Linda Joyce**

LEGAL RESOURCES

American Academy of Matrimonial Lawyers *Visit www.aaml.org.*

American Bar Association *Visit www.abanet.org to learn how family law differs from state to state. The site also includes helpful answers to frequently asked questions..*

Chicago Bar Association Call 312.554.2000 or visit www.chicagobar.org. This website provides information on the CBA's Lawyer Referral Service, as well as general legal information, community service programs and more.

Illinois State Bar Association Visit www.illinoisbar.org. Scroll down to "Public Information" section on the left-hand side of home page.

Leading Lawyers Network The website, www.leadinglawyers.com, is a peer review that lists attorneys specifically within Illinois.

Who Pays?

Illinois law views marriage as a financial partnership, not just a personal relationship. Because of that, the attorney's fees for both spouses should, in most circumstances, be paid for by the marriage, regardless of who earns or manages the family's money. This law—known as the "leveling the playing field law"—effectively puts both spouses on equal financial footing. Payments to divorce lawyers are typically considered as advances from their shares on the marital estate.