

If You Decide to Go It Alone: A Guide for Working with Your Spouse's Lawyer

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If you have made the decision to represent yourself without a lawyer, you are a brave soul. But your decision is understandable. It may be based on your desire to save money, take control of your own legal matters, or both. This guide is designed to help you avoid or minimize problems you may face in dealing with your spouse's lawyer and to help you achieve your goals to the greatest extent possible.

First, you need to know that the path you are taking will not be a bed of roses. Research has shown that people who represent themselves in court do not do as well as litigants who are represented by counsel. You can also expect the same challenges outside of court—in drafting documents, working out disclosure of information, and negotiating all manner of issues.

You will find even greater roadblocks when you deal with an attorney representing your spouse, rather than with your spouse directly. It just will not be a fair fight. A family lawyer has had years of focused education and training. In addition, a practicing lawyer will be able to draw from a wealth of experience with situations similar to yours. This may be your first (and hopefully, only) case, so everything will be new. Yours will be the case of *Novice versus Experience*—the definition of the imbalance of power! Here, however, are some tips to balance the scales a bit more in your direction.

Get a Little Bit of Legal Help: Unbundle!

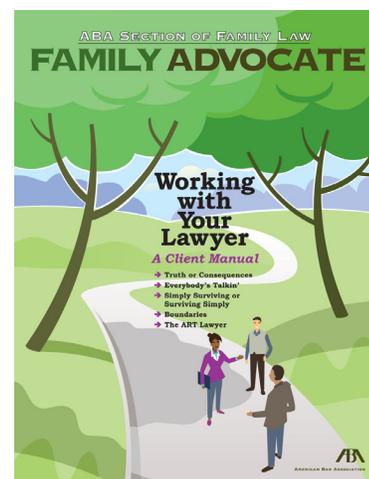
You can go it completely alone or you can get *some* help from a licensed attorney on discrete tasks of your divorce. This is called “unbundled” or “limited scope” legal representation.

Here's how it works. You stay in control. You can decide what you will do and what a lawyer will do. This is called the “allocation of legal tasks.” For example, you might draft the initial court documents all by yourself, or just do the initial draft and ask a lawyer to look it over and make necessary edits. Or you might ask a lawyer to draft these documents and you will do all the negotiation yourself.

You can make these decisions on your own or, even better, in consultation with a lawyer. Remember that experience. A lawyer trained in unbundled legal services can help you decide how to use a lawyer just like an experienced physician can help you decide how much self-medical care you should try on your own. This will be a matter of consumer choice and informed consent.

Here are two possible checklists to help you work with your lawyer. The first focuses on tasks such as drafting documents and investigating facts. It apportions the tasks between you and your lawyer. The second concerns legal issues that may arise in the context of your divorce, issues such as child custody or division of pensions. It outlines which issues your attorney will handle from start to finish and which issues you will handle.

If you do decide to use an “unbundled” lawyer, be prepared to pay for that lawyer's time. Even nonprofit organizations that offer drafting or court coaching



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**Tasks to Be Apportioned:
A Checklist for Working with Your Lawyer**

Task	Attorney to do:	Date Completed:	Client to Do:
Draft papers to start divorce			
File and serve papers			
Draft motions			
Draft affidavits and declarations			
Analyze case and advise of legal rights			
Procedural advice			
Formulating strategy and tactics			
Investigate facts; which issues?			
Obtain documents; which ones?			
Draft correspondence			
Review correspondence and pleadings			
Appear in court			
Run computer support programs			
Prepare subpoenas for documents			
Take depositions			
Review depositions and documents obtained from others			
Legal research and analysis			
Contact witnesses			
Draft or analyze settlement proposals			
Contact expert witnesses			
Draft orders and judgments			
Outline testimony			
Trial or negotiation preparation			
Review orders and judgments that client drafts			
Draft orders			
Draft disclosure documents			
Advise regarding appeal			
Enforce orders			
Draft other papers as necessary			
Other tasks:			
Dated:	Dated:		
Attorney signature	Client signature		

← These checklists were developed by California unbundled law expert M. Sue Talia and are reprinted and adapted with her generous permission.

Issues to Be Apportioned:
A Checklist for Working with Your Lawyer

Issue	Attorney to do:	Date Completed:	Client to Do:
Custody/visitation dispute			
Set or modify child support			
Collect past-due child support			
Collect past-due spousal support			
Real property valuation and division			
Personal property division			
Business interests			
Bank accounts			
Investments			
Pension rights			
Stocks and bonds			
Stock options			
Value and divide employee benefits			
Health insurance			
Life insurance			
Value or divide other assets/debts			
Enforce orders (describe)			
Pursue an appeal			
Other issues:			
Dated:	Dated:		
Attorney signature	Client signature		

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classes or individual unbundled legal representation charge some fees. However, you are in control of the amount of work the lawyer does, so you will be in charge of the fees. When your spouse has a lawyer, you might strongly consider evening the playing field by hiring a lawyer to do the more difficult tasks such as negotiation, legal research, drafting letters, and representing you in court.

If there is a lawyer on the other side and you unbundle your lawyer (i.e., you employ him or her to address discrete tasks or issues), the amount of your fees may be affected—up or down. Your fees may increase if the lawyers have their own conflict and/or do more legal work than you believe necessary. However, your spouse’s lawyer might also bring realistic and nonadversarial advice into play and encourage your spouse to be more reasonable. This could expedite resolution and have the lawyers work together cooperatively in a way that might lower your fees.

In almost every community, family lawyers are offering unbundled services as an alternative to their traditional full-service package. You can find lawyers who offer such limited-scope services on the Internet or through your local bar association.

Going It Alone

Although fees for an unbundled lawyer may be lower, if you feel that you can handle many tasks, you may still want to be your own lawyer even though your spouse has hired a lawyer. This is your right. In order to help you get the best result, here are a few top strategies that you may wish to consider.

1. Investigate the Lawyer's Background.

Every state has a website listing the licensed lawyers, how long they have been practicing, and whether they have been disciplined by the state bar. Most lawyers have their own websites that will tell you about the lawyer's background and approach to family law. This information will be helpful in giving you clues about how to best communicate with that lawyer.

2. Be Positive, Open, and Accommodating.

Many people hate their spouse's lawyer (just because ...) and do not reveal their best sides when dealing with them. If you are going to represent yourself, be smart. Acting in a businesslike manner will be best, and that means attending to the business of resolving disputed issues and not letting your suspicions or emotions take over. Sanitize your letters so that derogatory or blaming language (particularly against the other lawyer) is removed. Try to say yes whenever possible. "Let it go" is a motto that works in divorce negotiations—you do not need to win every battle. Go for the long game.

3. Be Professional.

Judges will not give you any slack. Neither will your spouse's lawyer. Meet deadlines and follow up on your promises to provide information or to follow agreed-upon guidelines. You do not tolerate tantrums or oppositional behavior from your children—do not expect your spouse's lawyer to understand your frustration. Even more importantly, if your spouse's lawyer goes low, you go high! Be a Teflon negotiator. Do not let the lawyer or your spouse's bad behavior get you off your game.

And most importantly: never take out your frustration on the judge! In litigation, not getting your way happens about fifty percent of the time. Most judicial officers have long memories, so just keep your head down and keep your feelings to yourself (or your close friends).

4. Monitor Your Progress and Be Ready to Change Course.

If going it alone is getting the job done, stay on track. On the other hand, if you encounter roadblocks, you might want to consider at least paying for a consultation with a lawyer willing to unbundle. Or, if you need more help, you can bring on a lawyer for part of the job. Finally, some family law issues are so complex, personally challenging, and important to you, that you may want to consider hiring a lawyer to provide you full service. **FA**

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