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With Your Host

Lauren Fair

Ep #30: Master Your Divorce Budget: Expert Tips for Reducing Attorney Expenses

You are listening to the Sensible Split Podcast, episode 30. Today, I'm sharing my top tips for saving money on attorney's fees.

The Sensible Split is a podcast for smart but overwhelmed women in search of a roadmap to a successful separation and divorce. If you are looking for guidance in navigating the practical, legal, and emotional aspects of divorce with confidence, this is the show for you. Here's your host, Master Certified Life and Divorce Coach, Divorce Attorney, and Mediator, Lauren Fair.

Hi there. Welcome back. How are you? I am doing well. Things have been quite busy in the law firm in January. When I'm recording this, we're actually almost at the end of January already. How that is, it always amazes me. I don't know. Time passes so quickly.

But January is divorce month. We get a lot of new cases that come in in January and both the law firm and also on the coaching side of the business too, we have lots of people moving forward with a decision that they've been thinking about for a while. Maybe they put it off until after the holidays and they're ready to get going now. So there's been lots of new clients coming into my life in the last month, which is really great for me.

And I was just thinking about, on the law firm side of things, how busy it has been, and how I think it's important that people have an understanding of how they can work to minimize their attorney's fees. Because this is just really an aspect of the divorce process that can add a certain level of stress to what is already a stressful transition.

The way that attorney's fees are billed for family law cases is generally, not always, but generally and in most situations an hourly rate still. So how that works essentially is you put a retainer deposit down, which is like an advance for security. Like you start with a credit on your bill in a certain amount that is quoted by the attorney based on the scope of how much work they anticipate having to do just in the beginning of the case. Okay, it's not an estimate of the total cost, but, you know, what's a good chunk of money that would make sense in relation to the work that I need to do in the short term that we want to have already on hand so we can get started.

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So in San Diego, as at the time of this recording, I would say that the average retainer for a new divorce case ranges between \$5,000 and \$10,000 depending on the situation. And then once you pay the retainer deposit, the attorney starts work on an hourly basis and those hourly charges are deducted from the retainer deposit.

And then how much that total case ends up costing is a big question mark at the beginning of the case because there are so many factors that play into the ultimate level of attorney's fees that one incurs in the process. You just cannot know that information at the beginning because you are only one part of this process. Your spouse is the other part. Your attorney is one part. The other attorney is another part. And then the court is yet another part of this. So this is why family law cases are still billed hourly.

Also, in most jurisdictions, if not all in the United States, taking a family law case on a contingency basis is not allowed under state bar rules. So when I say contingency, I mean the attorney getting paid as a percentage of what they get you in the divorce settlement. Those types of fee arrangements are not allowed because they're considered promotive of divorce. And so we're left with this hourly arrangement and nobody likes it.

The attorney has to keep track of everything that they're doing. They have to bill you in varying amounts every month. And sometimes that creates conflict between the attorney and the client because these bills come in an amount that the client's not aware of in the beginning. You know, they don't know how much to expect every month. It varies from month to month depending on how active the case is or it isn't. And it's just a front where there can be the development of conflict between the attorney and a client and also just, you know, added stress on a client who's already going through potentially a financially stressful transition.

But this is what it is. This is what it is when you have an attorney who is doing an attorney led process or really is doing any sort of legal work for you, unless it's specifically a flat fee arrangement, which usually is not the case for divorces. Those are usually fee arrangements that are reserved for other more predictable scopes of work.

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So the client experience of this is something that I like to help clients make the best of. And so I want to share with you some tips on how you can minimize the attorney's fees that you have and use your resources most wisely to be able to get the type of input from your attorney and the services that you need from the attorney as effectively as possible so that your money is going the furthest that it can toward your ultimate goals.

All right, so the first tip is get clear on the role that you want the attorney to play as early on as you can. And this might be a new concept for some of you, but when we think about hiring an attorney in divorce, I think the usual thought process around that is, I go hire an attorney and then they take over the case for me, and that is an option for you, absolutely. But it isn't the only option.

So intentionally determining what you want the attorney to do for you and making sure that you hire an attorney who is willing to do that scope of work for you is a really important decision early on. So you have to ask yourself at the beginning, am I looking for them to provide full representation for me? And full representation is that traditional path of becoming an attorney of record for you. They are sort of the face of the case between you and the other side, whether that looks like your spouse or your spouse's attorney, and the court. So they come on as the attorney for you on paper and otherwise.

Or are you just looking for occasional legal guidance? Are you wanting some questions answered here or there? You wanting some help with some paperwork, but you don't really want them to take the lead on the case.

Other than full representation, some other options that exist are things like consulting for you during mediation. So if you decide to go to mediation with your spouse and a mediator, you have the ability to hire an attorney to provide you consulting services if you want them. And what that looks like is having an attorney answer questions for you in the background, help in the preparation for mediation and review a settlement agreement. If you reach an agreement in mediation and the mediator prepares a settlement agreement. Or in the event you have a mediator who won't prepare the actual settlement agreement, but will just give you a memo of what you tentatively have agreed upon, then the

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attorney could draft the settlement agreement at that point for everyone to review and sign.

Maybe you want an attorney just to help you with paperwork. Maybe you and your spouse are gonna sit down at the kitchen table and work things out directly and you just want help with taking care of the paperwork and putting the agreement into a form that the court requires in order to, you know, close the case. Think about what is going to be most important for you for the attorney to do.

Is it the full suite of services or are there really just parts of the legal process that you need help with? Because the narrower the scope, the lower your legal costs. If you can handle some tasks on your own, such as negotiating smaller issues directly with your spouse, you'll reduce attorney's fees significantly. One of the things that people do that creates a high degree of attorney's fees when they are hiring a divorce attorney is expecting the attorney to handle everything. They're gonna turn everything over to the attorney and they're just gonna run with it. But the more you delegate, the higher the fees. So if that's what you want, you want an attorney to run it and you're willing to pay for that, great, not a problem. But if cost is a concern, then this is something you might want to slow down and think about, what do I really need them for? And let's pay them for that.

All right, the second tip is you want to efficiently communicate with your attorney. The frequency and content of your communications with your attorney can have a significant impact on your legal bills. Here is how you can keep it efficient. Be mindful of how often you reach out to the attorney. Every email, phone call and meeting when you have a billable hour fee agreement is billable to you. So any email that you're sending to the attorney and they're responding to, they're likely billing you for that. Anytime you call them to talk about what happened with your spouse today, you're getting billed for that most likely. And that extends also to communications that the attorney has with other people involved in the case, such as your spouse or the court. And you can't control all of those things, but what you can control is the extent to which you require communication as a client.

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Now you definitely want to have consistent communication with your attorney. You want to stay informed about what's going on. You want to be making key decisions in how your case is handled. So this is kind of, there's a little tension in this issue, right? Every time you reach out, you get billed, but at the same time you want to be involved in this process and you shouldn't be involved in this process actively. So you've got to strike a balance there. You want to be involved and you want to contact the attorney in a way that is most cost efficient and effective.

An important part of doing this is understanding the minimum billable amounts that come with a billable hour arrangement. So many attorneys charge in increments of an hour, particularly in tenths of an hour. So you hear something like a 0.1 or a 0.2, and we're talking about there is, that is a 0.1 is a tenth of an hour, a 0.2 is two tenths of an hour. You'll want to carefully read the fee agreement with the attorney because they will explain in there how precisely they determine how they bill you hourly. But typically it's in this fashion of tenths of an hour.

It varies from attorney to attorney if they have a minimum in terms of the minimum amount of time that they will charge you anytime they pick up your file or they do something on your case. So for example, the lowest tenth of an hour billable rate is .1 and a .1 covers services rendered of up to six minutes.

So let's just say that you send an email to your attorney and it takes them two minutes to respond to you. If your attorney charges \$500 an hour, that is a .1 because it's two minutes less than six. You get up to six minutes for a 0.1. And if your attorney charges 500 an hour times 0.1, that two minute email can potentially cost you \$50. If you're sending your attorney 10 emails a day, this is going to add up really quickly.

Let's just take a 0.2 as an example. Some attorneys have a minimum billable of a 0.2 every time they are doing something on your case. I have seen this in different fee agreements with different law firms. Some have a minimum of a 0.1, some have a minimum of a 0.2. But if they have a minimum of a 0.2, then that same two-minute email potentially is going to cost you \$100 instead of \$50.

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Because if that's their minimum, every time they do something, they're charging you a minimum of .2. It's a two-minute email. It could cost you up to \$100.

Now the hope is that they at some point might be not charging you, we call it, which is technically a billable service, but maybe they're choosing to put it on the bill, but then ultimately not charge you for that so that you get a little break here and there. And the hope is that they're doing that with some frequency for little things, you know, small quick calls that really aren't too substantive. But that is under most billable hour attorney fee agreements. That's permissible to charge in that way.

You can imagine particularly at the beginning of the divorce transition, the emotions can be extra high. If you're reaching out to your attorney multiple times a day, this is gonna add up really quickly. So I'm gonna just give you a couple more examples of the tenths of an hour. So 0.8 is up to 48 minutes and 1 is up to 60 minutes. So you're only gonna see the tenths of an hour up to whole numbers, right? So if they spend two hours on something, you're gonna see two hours. If they spend two hours and six minutes, you're gonna see a 2.1 for that line item on your bill.

If the attorney is in a full representation capacity with you, so say they're your attorney of record and they're taking the lead on the case, you're not going to be able to control how all of these fees are spent, but you can minimize the cost that is being spent in communications directly involving you. So Instead of sending multiple emails, write down your concerns and your questions and send a weekly email. Decreasing the frequency of the emails that are going to the attorney and having them be as organized as possible is going to help you keep your fees more under control.

Now, if there is an emergency situation, obviously you don't want to wait a whole week for that. Okay. You'd have to use your best judgment here. But a lot of the comments and the questions and things that one receives as an attorney, although they certainly feel like emergencies sometimes to the client because their brains just going wild, wondering about all of these scenarios, that may or may not be something that's happening anytime soon. You wanna try to slow down a little bit and ask yourself what might be able to wait a little bit.

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How could I just incorporate this maybe into a weekly email to my attorney and ask them a few questions at a time and let them answer those few questions at a time? Maybe that fits in nicely to the minimum 0.1 or 0.2 instead of them charging 0.1 or 0.2 for each of these emails coming individually. If it's an emergency, you're going to just have to make that exception and reach out to your attorney as soon as you feel you need to.

When you write that email that you're going to send, you want to use bullet points and clear language. So one of the complaints that I hear sometimes from clients who are working with other attorneys and I'm working with them in a coaching capacity is that they send emails to the attorney and the attorney doesn't answer the questions that are in the emails.

Attorneys who practice family law usually get a lot of emails and they're splitting their time between court and the office. And also they just have different individual abilities and capacities to communicate well. So you want to make your communication as clear as possible to them and if you can make that email as concise and organized and call out your questions as much as you can, this is going to help you get quicker responses, clearer responses from the attorney, and it's going to reduce the amount of time that they're taking reviewing your email.

It is very difficult to be on the receiving end of an email that is a very emotionally charged email that maybe lacks punctuation, maybe lacks capitalization and is sort of like a rant. And that's one area where attorneys can get into spending a lot of time reading that type of correspondence, trying to figure out what the client wants. And this is just something that could be better handled for your benefit, not just in saving money, definitely that, but also in getting the answers in a timely manner and making sure that they're addressing exactly what your concern is.

And then you also wanna use attorney staff for communication as much as possible and as appropriate. So your attorney is going to have one billable hour rate, and this is in your fee agreement, what their specific hourly rate is. And then you're also going to have staff most likely. Some attorneys don't have staff

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in family law, but it's on the rare side. Usually they have at least some kind of staff. And the staff typically are billed at lower rates than the attorney.

Paralegals and legal assistants certainly are billed at less than the attorney rates. And you should be able to look at the fee agreement and determine what those rates are. So if it's the type of issue that can be addressed by a paralegal or legal assistant or someone else in the office who's not the attorney, such as a question about paperwork or scheduling, take advantage of that and utilize the staff members to communicate with you because it's going to save you money. The hourly rate is going to be less. However, you have to understand if you have a question that requires legal advice, the paralegal and the legal assistant are not going to be able to give you that. It's going to have to be given to the attorney to respond to.

All right, the third tip is get organized and follow instructions to save money on fees. Your attorney's gonna give you lots of tasks in this process, like gathering financial records or filling out forms. The faster that you complete forms, but more importantly, the more completely you fill them out, the smoother the process will go. Also in gathering the financial records, the more complete you can be in gathering the scope of what you've been asked for. And the more organized you can be in creating folders for those, whether that's hard copy or electronically and labeling those folders and presenting the records in an organized fashion, that's just going to translate into less fees for you.

Delays on your end can mean extra back and forth, which leads to higher costs. So the longer that takes, the more followup the attorney is doing. Also, no matter how clear the instructions are from the attorney, which again is going to vary depending on your attorney's office, even with instructions that are very clear, there's the likelihood that you're not going to fill out the forms completely. And you know if you don't, if that's you, it's okay. This is a tough transition and it can be hard for some people to focus during it. And for some of you, just might not be great at paperwork. You know, there are different reasons that these forms tend to come back, not completely filled out, but to the extent that they're not, that just generates more work for the attorney's office, whether it's the attorney or the paralegal, either way, somebody is going to have to follow up on this. And the more followups with you, the more questions about what you've submitted,

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the higher the cost. So you just want to follow instructions carefully to avoid unnecessary corrections, additions, additional meetings and phone calls and things that need to happen because the instructions were not followed.

One way to keep organized is to create a separate email address to handle all the correspondence from the attorney and also utilizing a folder like a Google Drive folder for example in which to organize additional documents and folders so that they're easily accessible, they're labeled clearly, you can easily share them with the attorney, et cetera. So just be mindful about how can I present this information to the attorney in a way that is as clear as it possibly can be to someone who is just learning about the dynamics of my finances, my marriage, et cetera?

All right, the fourth tip for saving money on fees is to work independently to manage conflict and your emotions in the process. Attorneys are legal professionals. They are not therapists and they are not coaches. So managing emotions independently can save you money and make the process smoother than if you are trying to utilize your attorney to help you with emotional issues.

In an attorney role, you get a lot of the correspondence that you get from clients is about emotional issues. And unless the attorney is cross-trained as a therapist or coach, for example, they are just not trained to handle the emotions of this very well. They are there to offer legal opinions and not help as much with the emotional part of it. But nonetheless, the time that you are spending talking with them about the emotional issues, you're still getting billed for.

So you're getting billed at a high rate, most likely, to talk to them about issues that they really are not trained to help you with. So while it can be important for the attorney to have some context, you know, for what's going on and that may necessarily involve some emotional issues, you just want to be mindful about how much am I talking to the attorney about emotional issues? Am I wanting them to help me solve those things? And would this be better addressed with someone else who is specifically trained to help me with these issues and who may also be available at a lower rate?

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What you can also do is figure out what works for you as far as a plan for reducing stress and grounding yourself.

So that's gonna look different for different people, but some general ideas in this regard are things like regularly exercising, eating healthy, getting a good amount of sleep, maybe meditating, journaling, doing yoga. You don't have to do all of these things, okay? But the more you are able to focus on some key elements that help you in reducing stress, the better because it's going to put you in a better emotional space and you're going to have probably less inclination to be using attorney time on those types of issues.

Also, the less emotional decision-making that is happening, because emotions are running around unchecked, the more strategic and efficient the process will be. So whenever we're feeling a certain emotion, oftentimes we just automatically act from that emotion and there's just the potential for a lot of negative emotions to arise in divorce.

And let's say for example, anger. Well, if you're angry at something that your spouse has did, that oftentimes colors your decision making and you may be more likely to make a hasty decision from a place of anger that once you calm down in a couple of weeks, you'll be wondering why you had the attorney spend \$150 to, you know, write an email to opposing counsel about this issue.

So working with a coach or a therapist to help regulate your emotions, to help you manage them and harness them as best as you can in this process, that will translate directly into more strategic intentional decision-making and likely less attorney's fees.

All right, the fifth tip to save money on attorney's fees is you wanna gain clarity on your objectives for the divorce and the feasibility of them as soon as possible. Well, before making legal moves, you wanna be clear on what you want and whether it's realistic. What are your top priorities? Is it keeping the house? Is it a certain parenting schedule? Is it getting a certain amount of spousal support? And are your expectations aligned with legal and practical realities?

So I'll give you an example. Let's say you want to keep the house that you've been living in and you would direct your attorney to fight for the house. Gotta

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keep the house. That's an absolute must in this resolution. But then you ultimately realize later down the road in the process that you don't meet the qualifications necessary to refinance the mortgage on the house in order to keep it and your spouse isn't willing to forego that requirement.

Then you have spent a lot of time and money on pursuing an objective that you probably could have determined sooner you wouldn't actually be able to achieve. And sometimes this is hard because, you know, sometimes assessing the viability of what we want and learning bad news in that regard is something that we'd like to avoid and not accept the reality of. And I think that's just something though that when we put that off or we avoid learning whether something is really feasible or not we're just not using attorneys fees or our own time properly.

If the proper research and preparation to negotiate this issue had been done earlier on to determine your ability to refinance the mortgage, the time and money invested in pursuing that result that ultimately wasn't feasible could have been saved or spent more productively. So there may be some issues that you know there are circumstances evolving around and you might need some more time to figure it out. But you want to get clear input in the beginning about, okay, if this is my priority, for example, keeping the house, what has to be in place in order for me to do that so that you can go to work right away on doing your due diligence to figure out if that is possible.

And if you reach a point where an objective that you have just is not seeming like it is going to be feasible based on professional input, then consider looking at adjusting your expectations accordingly. I'm gonna give you another example of this that I was just thinking about. This is something arguing with reality as I like to call it that really trips people up in divorce.

You know, I have a case right now I'm working on where one spouse is vehemently opposed to dividing their pension plan, just does not believe the spouse should have any entitlement to their pension plan. Well, California law says that they do have an entitlement to the pension plan, specifically to the accumulations in that plan, the contributions to that plan, service credits, et cetera, that have accumulated in that plan during the marriage. You know, the

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other spouse, the non-employee spouse, has an entitlement to. But the employee spouse is just arguing with reality about that. And it is a waste of energy, time, and money.

So sometimes, in order to save money on attorney's fees, we've got to also just accept what reality is even if we don't like it. We have to look at where is my control here? Where is my power here?

What can I do? And if you've exhausted all options and there's just no way around it, and this is what the law says, then consider what you are saving by accepting that and not continuing to fight something and pay for the services to fight something that ultimately is not achievable. It's important for you to understand what is achievable and what you need in order to have the best chance of achieving that result as early on as possible so you can come prepared with clear, viable objectives.

And the last tip, number 6, for saving money on attorney's fees is to make efficient decisions. Indecision leads to delays which leads to higher costs. Indecision can also lead to unclear direction to the attorney about how they should be spending their time and therefore your money. So consider your attorney's guidance on decisions that need to be made, but check in with yourself to see what feels like the right decision for you. Ultimately, you are the person who has to live with your decisions made during divorce. And if you need help with decision making, get the help that you need.

This is one of the things that I do in my role as a coach is to help clients make decisions. And there are so many decisions that need to be made as part of the divorce process. Some of them are big, some of them are small, but there are lots of them. And if you are not feeling decisive, then this is an area where it can lead to delays and increased costs. You wanna be decisive when it comes to agreements, what's going into filings, what the next step is, et cetera.

If you need time to think, get clear on what you will be doing during that time that you're thinking to assess the right decision and consider setting deadlines for yourself to make decisions throughout the process. Sometimes we can really get slowed down and, you know, I need time to think about this and some of these

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decisions are big and so you definitely want to take the time that you need to assess them, but you need to also be able to determine, okay, I have all the information that I need in order to make this decision. So now what is still in the way of me doing it? And that needs to be worked through. So I help clients with carrying out all of these strategies and using their attorney's fees as cost effectively and productively as possible. If you want to save money in your divorce, implementing these strategies will make a big difference for you.

I hope this was helpful for you. I will see you in the next episode.

Thank you so much for tuning in to this episode of *The Sensible Split*. If you're looking for more information and guidance to help you successfully navigate a divorce, please visit www.TheSensibleSplit.com.

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