

WORKING WITH YOUR LAWYER

A Toolkit for Survivors of Domestic Abuse

1. EXPECTATIONS
2. COMMUNICATIONS
3. DECISION-MAKING

This brochure series is also available in French, Spanish, Farsi, Tamil, Vietnamese and Mandarin. Individual brochures are available for download in pdf form at: www.schliferclinic.com/legal/toolkit.htm

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This brochure series is produced with the assistance of The Ministry of the Attorney General – Ontario Victims' Services Secretariat

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1

Expectations



INTRODUCTION

WORKING WITH A lawyer through the family law process

can be a frightening experience for anyone. It can be even more difficult if you are a survivor of domestic violence and are dealing with the stress of leaving an abusive partner and uprooting your life and the lives of your children. ¶ It's important to have a trusting relationship with the person who'll be representing you. Knowing how to work well with your lawyer can be an empowering experience that will leave you more satisfied with the legal process. The first thing you need to know is what to expect.

What is your lawyer's job?

When you hire a lawyer, you are hiring someone to represent your interests in court and in negotiations with your partner. Your lawyer must:

- Act with responsibility and integrity;
- Understand the area of law they are practising (in other words family law lawyers should know family law);
- Find out what goals you want to achieve;
- Advise you on your legal options;
- Provide effective representation to you in your case;
- Take instructions from you;
- Communicate developments in your case in a timely and efficient manner.

If your lawyer does not follow these rules, you can file a complaint with the Law Society of Upper Canada, which regulates lawyers in Ontario. The Law Society will investigate your concerns and discipline your lawyer if it finds that they have acted improperly. Keep in mind, however, that some of the problems you experience with your lawyer may not be considered misconduct by the Law Society. You can learn more about the Law Society and lawyers' Rules of Professional Conduct by going to: www.lsuc.on.ca.

What else should you expect when working with a lawyer?

Given the nature of family law in Ontario, it's possible that you might not achieve all of your goals. One of the things your lawyer should do is help you form realistic expectations of

what legal remedies are available and help you prioritize your goals. When your lawyer is advising you on your legal options, they should be telling you what your chances of success are and the possible strategies you can use or steps you can take to achieve your goals. Your lawyer should tell you what could happen if you lose your case or if you don't achieve all of your goals.

Your lawyer should also give you an idea of how long the process might take, how much it might cost and how they will bill you (or Legal Aid). Even if you are using a Legal Aid certificate, you should still get all interim and final statements of accounts. You should review the accounts of work done on your behalf to ensure they're accurate and because you may have to repay Legal Aid for part or all of the fees.

You should also expect your lawyer to seriously consider your experiences of violence and your concerns about the impact on you and your children. This means that your lawyer:

- Should not put your current address on documents your partner might see if you are worried about your safety;
- Should inform the court of the history of violence, its relevance to the court proceeding and your safety concerns;
- Should not agree to mediation without discussing it with you first;
- Should not advise you to consent to any agreements that don't take into account your safety concerns.

What shouldn't you expect from your lawyer?

- Do not expect your lawyer to provide counselling or emotional support. This is not what they are trained to do, or why you hired them. If you need support, seek outside help. Women's shelters, doctors' offices, local social service groups, assaulted women's hotlines or www.211.ca can help you find the support you may need.
- Do not expect your lawyer to return all of your messages immediately or to always spend as much time with you as you may want. Your lawyer has many other clients to manage.
- Do not expect your lawyer to act illegally or unethically on your behalf.

What should you ask when you meet with your lawyer for the first time?

- Do they have experience working with clients who are survivors of domestic violence?
- Are they working on your case alone or are they working with other associates in their firm? (This may mean that you have more contact with associates or support staff who are helping your lawyer prepare your case.)
- How will they communicate with you (face-to-face meetings, telephone, email) and do they have a policy for how long it takes to return your messages?
- How will they report to you, confirm your instructions and update you on the progress of your case (i.e. sending letters, how often)?
- How often will they bill you (or Legal Aid) and send you copies of their statements?

Are there any red flags or warning signs you should watch out for at your first meeting?

- Trust your instincts. If you are not comfortable with this lawyer, then see if you can find another one.
- Look out for lawyers who don't let you ask questions or don't give you an opportunity to tell them information about your needs, concerns and goals.

- Look out for lawyers who promise to get you everything you want. Judges, not lawyers, are the people who make the decisions.
- Look out for lawyers who say they will help you get revenge. Revenge is not what family law is about. Family law actions are about settling issues relating to you and your children's well-being.

Assessing quality of service

Use this checklist after first meeting with your lawyer, and periodically as your case progresses.

	YES	NO
• My lawyer understands family law and issues related to domestic violence.		
• My lawyer helps me prioritize my goals.		
• My lawyer explains the legal options and strategies available to achieve my goals.		
• My lawyer explains my chances of success.		
• My lawyer does not make promises about outcomes they cannot control, like what the judge will rule or what my partner will agree to.		
• My lawyer answers my questions, and makes sure I understand fully.		
• My lawyer lets me ask questions.		
• My lawyer communicates with me in a timely and effective manner.		
• My lawyer has explained how long the process might take.		
• My lawyer has explained how much the process might cost.		
• My lawyer has explained what services they will and will not provide.		
• My lawyer follows my legal instructions and does not make important decisions without consulting me.		
• My lawyer gives me copies of ongoing communications and documents filed with the court.		
• My lawyer handles matters related to my case within a time frame they originally promised to keep.		