

Frequently Asked Questions

DIVORCE
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help for generation "ex"

Q:
"Is it all right to date or have a sexual relationship with my lawyer?"

A:
If you're asking yourself this question seriously and have developed the type of relationship with your attorney that could lead to this type of intimacy, you immediately must stop and reassess where you are in the divorce process. Simply stated, except in the rare instance where the attorney-client relationship has been long over, it is never all right to date or have a sexual relationship with your attorney.

In California as well as in many other states, the "Rules of Professional Conduct for Attorneys" provide that an attorney: may not require sexual relations with any client as a condition of representing a client; may not employ undue influence in entering into sexual relations with a client; may not continue to represent a client with whom the attorney has sexual relations if such relations cause the attorney to perform legal services incompetently.

When the issue of dating arises with your attorney during your divorce, a red flag immediately needs to come up for you. If your attorney has told you "not to worry" about the money the attorney is getting paid, offers to buy you a drink, and then asks you to go home with him/her, this isn't appropriate conduct. Likewise, if the attorney tells you how attractive you are during your interview process and discusses the idea of taking you out on Friday night rather than discussing your case, this isn't appropriate conduct. While most clients are aware of negative behavior -- such as rudeness or threats -- they may not be aware of the problems that face them when they're confronted with positive, but inappropriate, behavior from their attorneys.

In the usual social situation, if someone is responsive to you in a positive way -- which includes listening and offering caring gestures -- you may want to date that person. However, when that person is your attorney, into whose hands you have entrusted your life, you first must ask yourself whether you have the ability to separate "professional" from "personal" and handle both roles with your attorney -- and vice-versa. For most clients, the answer is a resounding "no."

During a divorce, you'll be dealing with issues pertaining to your property, support, and possibly custody. You may have been married for many years but have little information about your finances. You need to have an attorney who can objectively represent your interests, analyze the financial information, and come up with a plan of action for proceeding with your divorce. You need to be able to ask questions, no matter how seemingly small or insignificant, and have your options explained to you. When your feelings for your attorney are intermixed with your need for objectivity and answers in your divorce, your feelings will win out over your reasoning. Similarly, your ability to get through the important issues of your case may take second place to those feelings, which will compromise your ability to achieve your goals in the divorce.

You must ask yourself whether you really want to date your attorney, or whether you're simply dealing with the loss of your relationship with your spouse and are looking for comfort from someone. If you're like most people going through a divorce, you've known for a long time that the relationship was over. Then when the divorce process begins and you finally come to terms with the truth, all of your emotions come pouring out and you begin to grieve the loss of your relationship. Most divorce attorneys are sensitive to the client's feelings and are good listeners. Even though the attorney may be the first person in several years to whom you have opened up about your relationship, he/she must play a very different role than a spouse or a new boyfriend/girlfriend. Your attorney must protect you and your interests -- and he/she can't do that effectively if he/she's involved with you.

You need time to assess your marital relationship and to reacquaint yourself with your feelings. You also need time to get to know yourself again and to recapture the responsibility of making decisions and reclaiming control of your life. You could probably use the assistance of a therapist to sort out your feelings, and, of course, you'll need the support of family and friends.

Becoming single again is a very big challenge. You must deal with your past relationship and marriage and grieve its passing as well as assume the role of decision-maker and controller of your own destiny. You need time to heal your wounds and to come to love and understand the most important relationship in the world -- the relationship with yourself. The attorney can be a "crutch" helping you to hold onto your old relationship or to take the place of that relationship, or the attorney can be your "anchor" who assists you in grounding yourself and your life. Use your relationship with your attorney to meet your objective goals; once those goals have been met, you'll be ready for a rewarding new life.

-- Stacy D. Phillips is co-founder of the Los Angeles based Mannis & Phillips, which specializes in high-profile marital dissolutions and family law matters. She is also a member of Divorce Magazine's Advisory Board. Judy Bogen is a senior associate with the firm. Stacy Phillips can be reached at: (310) 277-7117.

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