

Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP

Answers to pressing questions on Family Law.

The dollars and sense of simple divorces

Question: 1. What is the average cost of an uncontested divorce in the Toronto area? 2. What is the best way to find a lawyer who could help me with the process?

Answer: It depends on the lawyer and what you mean by “uncontested” divorce. If a spouse is making no claims against the other and there are either no dependant children or there is written agreement in place dealing with child support then the fees can burn between \$750-1,200, plus disbursements (out of pocket costs.) These disbursements include court fees, plus the costs of hiring a process server to deliver the Divorce application and similar expenses, all of which cost an additional amount of approximately \$450. Sometimes these disbursements are higher or lower. In a “friendly” divorce the other spouse will pick the Divorce Petition up at the lawyer’s office to save on the expense of the process server. However, some estranged spouses can not be found. If that happens the lawyer will have to obtain a special kind of Court order for “substituted service” and put ads in the newspapers to “notify” the other spouse of the Divorce application all of which might cost an additional \$800-\$1250 depending on the Lawyer including disbursements. You’ll pay an additional \$200-\$300 if you’ve been previously divorced and can’t find your old Divorce Judgment or if you were previously divorced in a non-English speaking country. The best way to find a lawyer is to ask your friend or family if they know a good family law lawyer-word of mouth is still the best source of referral. If that fails, call the Lawyer Referral Service of the Law Society of Upper Canada. For \$6 the service will provide the name of a lawyer whose office is close to your home address and who will provide up to 30 minutes free consultation to help you determine your rights and options. You can access the service by calling 1-900-565-4577. Finally, here are some cautionary notes about “uncontested divorces.” Be careful about simply using Divorce Kits bought at local stores or paying uninsured paralegals who are not lawyers. You might pay less initially but without informed legal advice that could lead to much more expensive problems. Let me give just two examples. If you owed money for property division by reason of marriage, you can lose that right within the earlier two years after divorce or six years after the date you separated from your spouse if you don’t claim for it before the Courts during that time period. If you obtain an uncontested divorce without settling your property claims, you could allow the two years to drift by and then find out that you’re prevented later from making a claim for money to which you are entitled. Similarly, you cannot obtain an “uncontested divorce” if you have a dependant child and hail to provide the Court with an affidavit that recites the amount of child support paid by the non-custodial parent and proof as to how much that parent earns yearly. You don’t necessarily need a separation agreement to complete such an affidavit. But then again, they said the Titanic was so ship worthy it didn’t really need its full complement of lifeboats and lifejackets either. The cost of separation agreement is a whole different matter (at least \$750-\$1,000 for a very simple “no brainer.”)

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