

LIESCHE & REAGAN, P.A.

...and justice for all.

CLIENT GUIDE

A PERSONAL MESSAGE

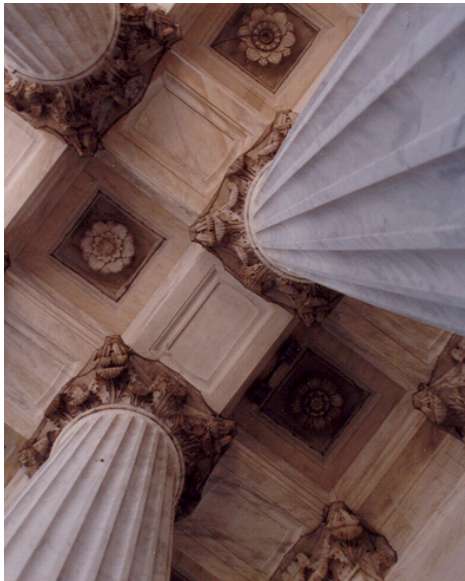
Our objective is to provide the best legal services possible in a professional, comfortable environment. Successful legal services is truly a "team effort" involving the client, the attorney and staff. All of us must work together.

The best legal results are achieved when the client is informed and cooperative. This general information is being provided for you at this initial stage of your case to inform you what is expected, to emphasize the need for cooperation and to advise you of the attorney's perspective of your legal standing in your case. We hope this may allow you to better understand your role in the success of your case.

We strongly believe in good communication. We would like everything to be carefully explained and every question answered. Our professional staff is very knowledgeable and we are proud of the quality of legal services being offered. Please feel free to ask any questions. We are always here to help you. Please remember, however, that only your attorney can offer legal advice and answer questions you may have which require providing you with legal information. If you call and a staff member cannot answer a question you have, the question will be referred to the attorney for response. Either the attorney or staff member will contact you with an answer to the question.

RAMONA R. LIESCHE
Attorney at Law

LaRAYNE DUTHIE, PLS, CLA
Paralegal



Appointments.

Appointments with the attorney are made either by you or by our office. Please remember that your appointment time has been reserved exclusively for you. Keeping your appointments is critical for the progression of your case. If you find you must be late for an appointment or unable to make the appointment, please call our staff and advise. This courtesy is appreciated for accommodating the attorney's schedule.

Financial Arrangements.

As you were advised at the time of your initial telephone conference to schedule your appointment, we have various fee schedules. You were advised that it is the policy of our office that all attorney's fees are paid in advance (if your case is an uncontested matter) or by retainer fee only (if your case is a contested matter). If your case is a contested matter or a negotiated settlement, it shall be charged at the hourly billable rate. (See breakdown of hourly rates below). If we are able to settle your case prior to exhausting the full amount of the retainer fee, a refund of the balance will be paid to you. However, if it appears attorney's fees will accrue beyond this retainer fee, you will be advised what additional retainer fee will be required to be paid by you. It is the administrative policy of this office that all attorney's fees are paid by retainer fee only.

Costs and out-of-pocket expenses must be paid by you. We will advise you when a cost or expense is to be incurred and will require this amount to be paid prior to incurring the cost or expense. Generally, these costs and expenses are paid from your retainer fee. Costs and out-of-pocket expenses are defined as follows:

- Filing fees
- Service of process fees
- Long distance telephone charges
- Photocopies
- Fax charges
- Mileage
- Extra-ordinary postage
- Recording fees
- Certification fees
- Transcription fees
- Deposition fees
- Other expenses as they become known to the attorney

Charges to your Account:

It is the responsibility of your attorney to represent you in your legal action. In order for your attorney to do her job, she will prepare legal documents, write letters, prepare memorandums to the file, review, respond to all incoming documentation received on your case, attend court hearings, meetings and conferences, communicate by telephone with opposing counsel, witnesses, other professionals and you in order to work your case. You will be charged accordingly for all time spent on your case. You will be charged for every telephone call made to or received by the attorney or staff member, every document prepared and time spent in preparation of your case, which includes, but is not limited to reviewing any incoming correspondence, pleadings, reports or other information received by our office on your behalf. If your case is charged by the hour (not a flat fee billing), charges incurred will be broken down in increments of 1/10th of an hour. Depending upon who performed work on your behalf, you will be charged as follows:

Billable rates:

Attorney: \$150.00/per hour
Paralegal \$ 75.00/per hour

Office Hours:

8:00 a.m., to 5:00 p.m.
Monday through Friday (excluding holidays)

Communicating With Your Law Firm:

1. Children. If possible, please do not bring your children to meetings with your lawyer. It is a good policy not to involve them in the case.
2. Read all correspondence and keep it in a folder for future use and reference. To keep you informed of your case's progress, your lawyer will provide you with copies of pleadings and correspondence throughout the case.
3. What your lawyer needs to know. Your lawyer needs all the facts. If you are nervous or afraid to tell your lawyer something, it may be easier to put it in writing. However you decide to communicate

the information, remember, you are your lawyer's eyes and ears. Give your lawyer all pertinent information. Let your lawyer decide which information is critical to your case and which is not.

4. Call the office regarding any questions or problems that arise. Explain the matter to a staff member who should have an immediate solution or arrange to get back to you. Do not call and leave a message such as "urgent", "very important", or "I must talk to you". This is futile and time-consuming for you and your lawyer. If you find that you are calling frequently, make a list of questions and save them for one call. This will help you prioritize and focus your concerns and allow your lawyer to proceed with your case in an organized and coherent manner.
5. Consider keeping a daily diary. This will provide you with a record of events and document which questions arise and when. Talk to your lawyer about whether this will be needed in your case.
6. Write down in detail any problems or questions that worry you and forward them to your lawyer. This helps provide direct information and enables your lawyer to pinpoint and perhaps head off future problems. This records becomes a part of your file for future use and review.

Length of Time:

1. At the beginning of a lawsuit, if it is a contested matter, it is difficult to foresee how long the case will take. If it is an uncontested matter, your case will be finalized approximately 4-6 weeks after the opposing party has been served with the pleading.
2. After a contested matter is under way and your lawyer understands the issues, she should be better able to gauge the duration. How long it will take depends on the following factors:
3. The number and complexity of contested issues;
4. The vehemence of the parties' feelings and their inclination to settle;

5. The court's calendar. A hearing can usually be scheduled within eight weeks. A full trial, which takes a day or more, usually must be scheduled six months to one year in advance;
6. The other lawyer. Your lawyer has no control over the other lawyer's schedule or personality. An extremely busy or uncompromising opposing counsel can prolong the length of time to complete and possibly increase the cost of your case.

Costs.

It is difficult to estimate realistically the total cost of your divorce, even when your lawyer knows the issues that will be contested and the strength of the parties' feelings. If you and the other party do not trust each other, want complete discovery, and argue many issues to the bitter end, the process will be long, drawn out and expensive.

Going to trial is almost always more expensive than settling the lawsuit. If you have a question about a bill, ask your lawyer or staff immediately.

Be aware that you will pay for your lawsuit in three ways--with your time, emotions and money.

1. **Time:** You will have to spend time preparing your lawsuit. Your lawyer will prepare your case, but only with your help. Lawyers sell their time, so if you can do some of the ground work, your money can be used more efficiently. If you are not prepared to spend time on your case, the outcome may not be as satisfactory or cost-effective as it might have been.
2. **Emotions:** Lawsuits can be one of life's most painful experiences. The more issues to be resolved, the more painful the legal process. Sometimes, one party raises issues simply as a way of prolonging the matter or punishing the other party. Be aware of this. If it seems to be happening, your lawyer will call it to your attention.
3. **Money:** Preparing and trying a lawsuit is very expensive. Scrutinize the issues at an early stage and determine which ones can be settled. Do not make unreasonable or unnecessary concessions, but look carefully at the issues that separate you and the other party. You do have some control and you can make concessions that will resolve your case more quickly and thus reduce your costs.

Practical Matters

Litigation often spawns more litigation. To determine whether certain issues are worth litigating, weigh the price you will pay with your time, emotional pain and money.

Tough Enough?

Some people think that lawyers who are "fighters" must refuse to cooperate with opposing counsel—for example, not consenting to mutually convenient dates for meetings, depositions, etc., and negotiating without compromise on contested issues.

This notion is sadly misguided. The time to fight may be during tough negotiations or court. Non-cooperation accomplishes only greatly increased attorney's fees, because all the legal steps must be done the hard way—by preparing special documents, appearing in court, etc. The information and documents must eventually be disclosed, and thus a lack of cooperation serves no purpose.

Lawyer Camaraderie.

Lawyers who specialize in a particular area will probably try cases against each other over the years. They will attend the same professional events and may even work on committees together. Camaraderie develops naturally over the years. Just because your lawyer and your spouse's lawyer exchange pleasantries, share a joke or have lunch together, does not mean that they are being disloyal to their clients. Your lawyer is professionally committed to the best result for you given the facts of your case and the law. This does not mean that your lawyer must be hostile, rude or mean to opposing counsel. Such behavior often harms rather than helps your case.

Suggestions from the Other Party.

Unfortunately, clients commonly believe that an opponent's suggestions should be routinely rejected because they either are bad ideas or they reflect an ulterior motive. Some clients want to automatically do the opposite of whatever is requested.

Let your lawyer guide your response to the other party's requests. A request, suggestion or offer from the other side however, is not bad per se. Most lawyers are not out to "get, trick or ruin" opposing counsel or their clients.

YOUR LAWSUIT AT A GLANCE

Once your lawyer has been retained, he or she will begin work on your family law problem. Alternative dispute resolutions, such as negotiation and mediation, are options you may want to talk about as well as whether or when to file for divorce.

Lawsuits proceed in different ways. Here are some examples to help you discuss strategies with your lawyer. If you institute the suit, you will be referred to as "plaintiff" or "petitioner." The other party will be the "defendant" or "respondent." You will then come to your attorney's office to review and sign the complaint (or petition). Your lawyer will file the papers with the proper court and request service ("delivery") of the papers to the defendant.

After the papers have been delivered to the Defendant, the law provides a specific time during which he or she may respond to your petition. This period may be extended by the court or by agreement between the attorneys.

Negotiation

Lawsuits require that everyone work together so that a bad situation doesn't get worse. It is in both sides' best interests to act in a civilized, courteous manner and to negotiate in a way that will defuse tensions, avoid hostility, and maximize the ability of the parties and the lawyers to arrive at a fair and reasonable settlement.

Experienced attorneys know, and countless studies confirm, that an agreement negotiated between the parties is the best possible outcome, because it allows them to fine tune matters that courts are ill-equipped to resolve. After all, the court will never know a case as well as the parties and their lawyers. A negotiated settlement almost always costs less than a litigated one.

In a small percentage of cases, however, despite everyone's best efforts, settlement cannot be reached. This may be due to the parties' unrealistic expectations, a dispute over the facts or the law or novel circumstances or issues.

No settlement will be reached without your consultation and approval.

Mediation

Sometimes cases can be resolved through mediation by a dis-interested third-party. A mediator is a qualified person who has been certified as a mediator. Your lawyer will discuss with you the options regarding mediation and what is accomplished through mediation. Mediation is a successful and less-expensive way to resolve the issues of your case, without involving litigation.

Temporary Orders

Sometimes it is necessary to obtain immediate relief when your lawsuit is filed. In such cases, a lawyer files the motion and the Judge signs an Order directing the other party to appear for a court hearing or show cause why the court should not grant the relief. The hearing is usually scheduled within a few weeks after the papers are filed and served. The temporary orders, sometimes called "pendente lite," may be changed again during the case or at judgment (when your case is settled or tried).

At temporary relief hearings, the court may take testimony or may proceed on the basis of the documents filed or the lawyers' offers of proof. Time generally is limited, and many courts prefer not to take testimony.

Uncontested Cases

In a default or uncontested case, only one party will go to court. A Defendant defaults if he or she fails to answer within the allotted time (usually 20 days).

Contested Cases

If it seems unlikely that your case will settle, or if your lawyer determines that having a trial date set may encourage settlement, he or she will request a trial date. After all pretrial discovery has been completed the case will be certified for trial.

In some areas of the country, pretrial conferences are mandatory and serve to bring attorneys and clients together before the Judge for the purpose of settlement. The pretrial conference is not a trial; no witnesses need to be present. If at a pretrial conference you and the opposing party are able to settle all matters in dispute, the resolution is usually recited on the record (before the judge and court reporter). If settlement is not reached, another pretrial conference or the trial may be scheduled. Absent agreement on all issues, the case is contested and a trial is necessary. Preparing for trial is intense, time-consuming and expensive.

At the trial, witnesses may be called and records subpoenaed to substantiate each party's position. Testimony may be introduced to show jurisdiction (that this is the appropriate court to rule on the matter). However, the balance of the testimony will focus on matters in dispute.

The judge will either render a decision immediately after hearing all the testimony or require written closing argument and study it further and inform the lawyers by mail within a few days or, occasionally, several weeks or months. After the judge notifies the lawyers of the decision, they may further clarify or argue points before the ruling becomes a formal judgment. The judge will ask one of the lawyers to prepare the proposed Judgment for approval by the other lawyer. Then the judge will sign and enter the Judgment.

The time between the filing of a response to a complaint (or petition) and the trial date will depend on the court's backlog and the time the case is expected to take. Nine months to a year or more is not unusual.

Post-Judgment Matters

An appeal is a separate proceeding for which you may want to retain your lawyer or other counsel. Bear in mind that your time to appeal any final decision is limited. The State of Idaho requires that an appeal must be filed within 42 days from the date of entry of any final decision.

WHAT IS DISCOVERY

Discovery refers to both parties' right and responsibility to gather and disclose information to the other side. The most common discovery proceeding is a deposition or examination before the date of trial. A deposition, which generally takes place in a lawyer's office, is the sworn testimony of you and/or witnesses. Generally, you, the other party, both lawyers and a court reporter are present.

If you are deposed, you will receive advance written notice of the date and the documents requested by the other party's lawyer. Your lawyer may help you prepare. Review the notice carefully and bring two copies of each document to your deposition.

The actual discovery procedures may be as informal as a telephone call from your lawyer requesting certain documents in your possession, or as formal as a long list of questions you will be required to answer under oath (see "Interrogatories" below).

In most cases, both parties will be asked to produce documents and record and respond to questions. It is essential that both sides have all the information about documentation necessary to prepare for trial and to form the basis for meaningful settlement discussions.

By approaching these matters in the spirit of cooperation, you will reduce the time required for discovery and the cost of your case. Many lawyers try to gather as much information as possible informally. However, when this is inadequate, your lawyer must resort to the procedures provided by law in legal adversary proceedings. They are:

Admissions.

You or your opponent may be required to admit or deny specific written statements. These require immediate attention because by law a response must be received within a specified time. By Idaho law, if you do not respond in 15 days to a statement made by either you or the other party, it is deemed admitted and the court accepts it as fact.

Interrogatories.

You or your opponent may submit a list of detailed written questions. By Idaho law, you are allowed a maximum of 40 questions, including sub-parts. These must be answered (under oath) within the allotted time. If you fail to respond within the time required, you may be fined or your case dismissed.

Production of Documents.

This is a written request to the opposing party for a specific list of documents to be produced at a specific date and time.

Depositions.

This is the oral testimony of a witness taken under oath before trial. Most of the objections available at trial do not apply. Questions must focus exclusively on relevant case information.

Request of Psychological Evaluations.

Psychological evaluations are sometimes requested when the issue of custody of minor children is in dispute. The purpose of the evaluation is to have a psychologist and/or psychiatrist make a recommendation for custody which is in the best interests of the children.

YOUR DAY IN COURT

Although most divorce cases are settled out of court, some cases require temporary orders from the court, and others require a trial to resolve some or all issues. Whatever the reason for them, court appearances can raise the anxiety of even the most stout-hearted. Knowing what awaits you, how to dress and how to act will alleviate some of the stress. This section gives you an overview of what to expect in court.

Going to Court

Going to court is bound to raise your anxiety. Knowing what is going to happen and how to act helps diminish your nervousness.

You should dress comfortably, conservatively and in a manner that shows respect. If you are uncertain about what is appropriate, ask your attorney.

The court personnel will usually include a judge, a court clerk, and a bailiff. In a contested trial, the other party, his or her attorney, experts and other witnesses will also be present.

If more than one case is set, you may have to wait while other cases are handled. Because being in court can be tedious, bring supplies to get you through the day: a pen or pencil and small notepad, aspirin, hard candy or a snack, and a book (in case you have to wait).

Your Case is Called

As your legal representative, your lawyer will give a brief statement of the facts or basis for your suit. This may occur in open court or may take place informally in the judge's chambers.

In uncontested cases, you will be asked to come forward, be sworn, and take the witness stand. You will be asked questions that will enable you to present your story to the court. It is not unusual for the judge to ask one or two questions. After your case has been heard, it is submitted to the court and a Judgment is requested.

When a contested case is called, you will be offered a chair beside your attorney at the counsel table, which will be your place during the trial. The Plaintiff will put on his or her case and witnesses first. Witnesses will be called and sworn, and will testify. Each party's attorney will have the opportunity to question each witness as well as the Plaintiff and Defendant.

If you are the Defendant in the case, you may be called for cross-examination. (The opposing attorney may request your testimony under oath before your attorney questions you.). You also may be called as the first witness. This is the usual procedure, so your lawyer will assist and prepare you for this.

After the case is heard, your attorney argues the issues. Sometimes each lawyer submits briefs and/or memorandums and briefs.

Your Testimony.

Whether or not your case is contested, the following suggestions will improve your appearance and testimony in Court:

1. **Tell the truth:** Don't guess. Be sure you understand each question, and answer only that questions. As with depositions, do not volunteer information when testifying in court. If you are asked how many children are in your family, for example, simply give the number. Do not volunteer additional information, such as, "We have two children. I wanted more, but because I spent five years in the penitentiary, we were unable to have a larger family."
2. **Take your time,** and talk loudly enough for everyone to hear. don't chew gum, and keep your hands away from your mouth.
3. **Be courteous.** Don't argue with the other lawyer and do not lose your temper.
4. **Don't be afraid.** Look at the person who asks the questions, and be as positive as you can. Just tell your story in your own words to the best of your ability.

5. Do not be ashamed to tell the whole story.

This is your one day in court. The outcome of the case may well depend on the facts you and your witnesses disclose.

Your lawyer will consult with you during the course of the trial. As the trial progresses, tell your lawyer, by a note or whisper, anything that you believe he or she should know. Be careful not to distract your attorney, however. Particularly during testimony, your lawyer must concentrate totally on each question and answer, watch the reactions of the judge and the opposing counsel, and be ready to object instantly.

Get a Will. Do you have a Will? Does it need to be updated? If you do not have one, get one immediately. Intestate succession laws may conflict with your wishes. Please discuss this with your attorney.

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