

Do I Need a Lawyer?

Written by Loretta Smith
Tuesday, 08 February 2011 20:11

"Do I need a lawyer?" If you find yourself asking that question, then most likely you are in a situation or approaching a situation where the Court system will be called upon to decide an issue that concerns you. Are you prepared to, and is it in your best interest to, represent yourself? The answer to that question, in the words of my law school real estate professor, Frank Alexander, is always, "It depends".

Whether or not you need an attorney depends upon many factors. In most situations, technically, you are not required to have an attorney and you can represent yourself. However, that may not always be the most advisable course of action.

For example, even in traffic and misdemeanor cases, the maximum fine is \$1,000 and the maximum jail term is 12 months. You can negotiate with the prosecutor on your own behalf; however, you may not be in a position to point out true weaknesses, if any, in the prosecution's case against you that would lead the State to make a more favorable plea offer. In addition, certain diversion programs through which your charges can be dismissed upon the completion of certain steps, may not be available to if you are not represented by an attorney.

In civil cases, even if you are a small business, if you are a corporation or an LLC, you must be represented by an attorney in State or Superior Court. If you are an individual suing a business, do you know the proper person to serve and the proper way to have them served? Failure to effect service will destroy your case.

In domestic cases, again, technically you can represent yourself. In fact, many counties have available online fill-in-the-blank forms. How hard can it be where you and your spouse agree on "everything"? Right? Unfortunately, only the simplest of divorces (no children, no assets, no debts) seem to fit easily into those forms. Employees of the various county Clerk's offices are not attorneys and are forbidden from giving you legal advice. And most judges have very little patience with pro se litigants (those without lawyers). If you arrive in Court without all of the appropriate documents properly completed, you are very likely to be sent away and required to come again another day. In addition, sometimes two parties agreeing on "everything" means they have in fact not thought of "everything". Finally, it is often very difficult, if not impossible, to change an Order once it has issued. It may be better to pay an attorney on the front end make

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sure all of the issues in the divorce or other domestic case are dealt with properly, rather than to pay an attorney later to try to straighten out an incomplete or incorrect order.

If you are not 100% sure that you should go forward without an attorney, I encourage you to interview one or several. Many lawyers give free consultations; I do. An honest lawyer (yes, despite the jokes, we do exist), will let you know if you have a case, if you need a lawyer, etc. Remember, not every lawyer is equipped for every kind of case, but a good lawyer will be willing to provide a referral if he or she thinks you will be better represented by someone else.