

How To Work with an Opposing Party's Attorney to Resolve My Case

By: Marie White

It is not uncommon for one person in a family law case to be represented and for the other person to be self-represented. If you find yourself in this situation, there are some "rules of engagement" you should understand when dealing with opposing counsel.

Communicate with the Opposing Attorney and his or her law office without compromising your case. The Opposing Attorney is not your attorney. He or she is the other party's attorney and has an overriding duty of loyalty to that person, not to you. The same applies for the Opposing Attorney's secretary, paralegal and other staff. Whenever you communicate with Opposing Counsel, remember that he or she may use against you whatever you disclose in those communications. The attorney has no obligation to maintain confidentiality of your communications and may in fact use them to your disadvantage.

The safest way to communicate with Opposing Counsel is in writing. Draft your pleadings, letters and emails carefully and review them one last time before delivering them.

If you must communicate by phone or in person, stick to the issues at hand, and keep the conversation on a professional level. This can be quite a challenge, especially after a family law hearing where one party has gotten an unfavorable ruling. If that party is you, take a deep breath, step outside for a couple of minutes, go to the bathroom, or do whatever is necessary to calm down so that you can concentrate on working with the attorney to draft the orders in compliance with the court's ruling.

Understand what the Opposing Attorney's role is, and what it is not. The Opposing Attorney is not your attorney. He or she represents the interests of the other party to your case. Often the other party's interests are the opposite of your interests. If you do not have representation, you must advocate for yourself, so be careful not to rely on the Opposing Attorney to do this for you. This is especially important regarding drafting of documents. If you are presented with a document to sign that was drafted by the Opposing Attorney, take your time reviewing it and if possible consult with an attorney before signing it.

Negotiate with the Opposing Attorney. As an unrepresented person, you may, and in fact you should, contact the Opposing Attorney directly as necessary in your case. For example, if he or she has scheduled a hearing for a date and time when you cannot be there, you can contact the Opposing Attorney's office to ask for the hearing to be continued to a different date. If it's time to schedule a settlement conference, you will need to cooperate with Opposing Counsel to get this done. Sometimes you will need to cooperate with Opposing Counsel to draft joint notices to the Court, such as the Confirmation of Issues or the Joint Statement of Evidence for trial.

Be courteous toward the Opposing Attorney and insist on courteous treatment in return. Just as with any other person in your life, you should give to and receive from Opposing Counsel the normal courtesies. You and the Opposing Attorney must work together to get your case done. All of your contacts with the Opposing Attorney should result in progress, even if one or the other of you does not get the desired result every time.

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Marie White is Founder and CEO of Pro Se University PS (www.ProSeUniversity.com). After witnessing many people represent themselves in a family law case, Marie realized that most of these people made mistakes in the process. She is changing this by offering affordable, explanatory services to guide people through common family law issues. Contact her at marie@proseuniversity.com.

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