

To Do Or Not To Do

Things for a client to avoid in a family law matter

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It is the start of a new year; a time for New Year's resolutions and goals for a better 2005. For those of you faced with a family matter now, or in the near future, let me pass along some tips for things to avoid while going through the family law matter.

Avoid representing yourself. Sometimes an individual thinks he or she can handle his or her own legal representation. After all, it is easy. Divide by two, and prepare a schedule for the children. This mistake made by many can be devastating. First, your emotions can and often will, get in the way of making rational, informed decisions without a legal adviser. Second, family law matters can involve child custody, parenting time scheduling, mental and physical health issues, support, and property division just to name a few. These issues are extremely important to you and your family. A family law decision can impact your future and your children's future in ways you may not even imagine. I see so many clients who come to me after either representing themselves or having poor representation, and often those client's are stuck with lifetime devastating decisions made because they were not represented or received poor representation. Find a lawyer who primarily practices family law and consult with that lawyer before signing or agreeing to anything.

Avoid putting your children in the middle. So often parents will lobby the children for additional affection or support during the family law matter. Children are children. They will have enough trouble recognizing and dealing with the conflict between their parents. Do not make it even more difficult by putting the children in the middle. Set up counseling for your children during a family law matter. You deliver messages to your estranged spouse rather than through the children. If verbal communication is tough, use email to communicate with an estranged spouse about the children or other family law matters. There is a record of email which helps avoid a verbal misunderstanding or disagreement.

Avoid taking your legal advice from friends and family. I cannot tell you how often a client calls and tells me he/she should be receiving or paying a certain dollar amount in support because that is what his/her friend receives/pays. Every family law case is different because the facts are different. Families have different incomes, different assets and liabilities, different personalities and problems. Do not compare your family law matter to someone else's because it won't match up.

Avoid quick resolutions or decisions It takes time to resolve. The Ohio Supreme Court sets guidelines for contested divorce cases. The guides for a contested divorce with children is 18 months. The guideline for a contested divorce without children is one year. In most family law matters, assets must be valued, income must be calculated, child support and spousal support must be figured, and custody of children and a parenting time schedule must be developed. If parties cannot agree, and often they do not, to these basic areas, then each side may have to hire appraisers to value real estate, or businesses. Review a large amount of financial documentation including tax returns, bank, investment and retirement account statements. Go through a child custody evaluation with a forensic psychologist that will include psychometric testing and clinical interviews. So be patient.

Avoid physical altercations with your spouse. This sounds obvious, yet more and more clients find themselves in a violent physical altercation. Many believe accusing your spouse of domestic, physical violence will help one side of the case and destroy the other. Often issues of domestic violence will harm one side of a case. My advice is to walk away if you find yourself in an aggressive situation with your spouse, whether you are the aggressor or the victim. I tell clients when the police are called, most likely one of the spouses is going to jail. This can be devastating to a spouse's case and emotional well being. Avoid the issue, walk away when any type of disagreement begins to escalate. It is just not worth the struggle.

Avoid introducing your paramour to the family during a family law matter. Often when people are terminating their marriage they ask if they can date. My advice is always "no," but an emphatic "no" when there are minor children involved. I say that because it complicates a case, especially a contested family law case involving minor children. If a spouse has a paramour, the other spouse wants to know about the paramour. He/she wants to know who the children may be exposed to on a regular basis. If a Guardian Ad litem has been appointed, the Guardian will want to interview and meet the paramour. Introducing a paramour adds an extra layer of complication it might be best to avoid.

If you are going through a family law matter, consider this advice. If you follow through, I believe it will help. Have a healthy happy New Year.



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