

DOMESTIC PROFESSIONALISM

Domestic Relations attorneys, more than any other specialists, have the greatest opportunity to enhance the principles of professionalism. When you first meet your client, you may find a person consumed with anger, ravaged by guilt, or debilitated by depression. The manner in which you conduct the initial interview will often times determine the outcome of the case.

I. *INITIAL INTERVIEW*

- A. At the first meeting, many clients appreciate attorneys with a positive attitude who can assure them that they will serve as an honorable and zealous advocate and that they will represent them in a competent and ethical manner. If your client has been served with a complaint and notice of hearing, do not start off by criticizing the opposing lawyers or judges. If you do, they will assume that is acceptable conduct. Do not allow clients to think they can purchase results, or that for the right price, you will turn into the biggest bully in town. Let your clients and witnesses know from the first meeting that you are interested in doing what is in their best interest, but you will also be trying to do what is in the best interest of the family, if there are children involved. (See Rules 1.2 and 1.4 of the N.C. Revised Rules of Professional Conduct)
- B. Letter of Engagement, Retainer Agreement and Contract – Many clients are so emotionally distraught at their first visit, they may not remember much of the discussion. Therefore, send your clients a letter of engagement, explaining what you will be doing for them, and enclose a retainer agreement to be signed and witnessed outside your office and returned with your retainer fee. Rule 1.5 of the N.C. Revised Rules of Professional Conduct has recently been changed and requires that all contingency fee contracts must be in writing.
- C. Explain your office procedures to your clients. After that initial conference, will they be able to call you on the phone? If you are unavailable, with whom will they be able to talk? The first few weeks will be the most difficult. Clients may call the office often for things that seem totally unnecessary; however, to them, their case is the most important thing in their life. While you may have many other cases, a good lawyer makes clients feel that their case is the most important one in the office.

II. *DISCOVERY PERIOD*

- A. Provide timely discovery and do not be driven by the billable hour. Work with your clients to establish truthful and accurate evaluations; stipulate to as much as you can; try to simplify the record, when possible, so that both sides can agree on the numbers and a fair resolution can be reached.
- B. If you have been cooperative and have provided the opposing side with everything in accordance with the rules, and they refuse to act accordingly, sanctions and attorneys fees will send a strong message that unprofessional conduct can be expensive.

III. **MEDIATIONS**

One of the best opportunities to demonstrate the principles of professionalism is at mediation. You do not have to put on your litigation face, and you can be a problem solver. Mediation allows lawyers to serve as facilitators, who can defuse a potentially explosive situation to reach a fair settlement. Clients should be encouraged to put personal egos aside, particularly if there are children involved.

IV. **HEARINGS**

A. Start every motion or hearing by shaking the hand of the opposing attorney. This will demonstrate to your clients that the opposing attorneys are not your enemies, and that civility and respect for the legal system will rule the day. When lawyers agree to take the high road and to handle a case as professionally as possible, the clients have little choice but to follow their lead. When opposing attorneys and their clients refuse to cooperate and act respectfully, you will sometimes have no alternative but to come down hard those clients during cross-examination.

However, always remember, if you revert to a scorched earth policy, you may ruin the family unit forever, and the children may never recover from what was said and done in the courtroom, whether they were sequestered or not.

B. It is no easy task to decide custody, support, or the division of property. If the parties cannot agree, our system requires that judges will make these decisions, and you need to make that process as easy as possible. Final decisions in contested domestic cases are emotional and difficult. It is much easier to accept results if judges are respectful to all who came before them and render a thoughtful decision, based on the law and/or sound discretion.

V. **CONCLUSION**

Lawyers who always take the high road best demonstrate the essence of professionalism. Some would argue that it is easy to espouse the high road in theory, but in an emotionally charged domestic case, when your clients stand to lose their assets and/or children, it can be a difficult standard to maintain. We, as lawyers, cannot change what happened in our clients' lives in the past, but we can positively affect what will happen during the legal process and in the future. According to a survey done by the Missouri Bar/Prentess-Hall, the most important things clients want in their lawyers is effort and concern. Each of you can do that.

Many of you participated in the North Carolina 2003 State of the Profession Survey. It showed that domestic lawyers are more satisfied with their area of practice than any other specialty. This is because domestic clients are often emotionally and financially desperate, and they appreciate the assistance they get from their lawyers. A bond often forms that will last for a lifetime. However, because these clients can be stressed and demanding, if their lawyer is not willing to spend the necessary time on their case, a grievance is likely to be filed with the State Bar. Remember, effort and concern will keep that from happening.

The next time you hear a lawyer say, "I will never take another domestic case - they never end" or "I am just not cut out for domestic work - too much stress and too

much mud slinging,” let them know the reasons you like being a domestic lawyer. Tell them about the time you helped a mother and her children in a *pro bono* domestic violence case. Tell them about the time you intervened and kept a bank from foreclosing on a home or repossessing a car. Tell them about how you received a letter from a college senior who had been influenced by you when she was an eight year old in the midst of her parents’ custody dispute, and that because of how you handled the case, she has always wanted to become a lawyer who helps people. Domestic lawyers have a great opportunity to make the world and our legal profession better – one client at a time.