

**Family**

## The high-conflict separation: Managing client expectations

By Cheryl Suann Williams



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(February 20, 2018, 9:14 AM EST) -- A few years ago, I attended an annual family law conference where the speaker classified clients on a rating or scale of A to D.

The "A clients" were those who paid their accounts, were reasonable in their expectations and were easy to deal with. By comparison, the "D clients" took up much unbillable time, had unreasonable expectations, blamed the lawyer and court system, did not pay their accounts and were potential candidates for baseless and time-consuming Law Society of Upper Canada complaints.

He advised that A's would attract other A's and D's would attract other D's, and therefore, our clerks should wean out the D's. Fortunately, I am now at the stage in my career where I can often identify the A's from the D's during the initial consultation or shortly thereafter and decide whether I want to accept the family law file and work on their behalf.

In any area of law, it is important to fully explain realistic expectations as well as the legal process in your role as the family law lawyer, to accomplish your clients' goals and needs. Since the breakdown of family relationships is often one of the most difficult and traumatic experiences in people's lives, I make my best efforts to write my clients a lengthy initial reporting letter at the onset of my retainer, fully explaining my role as their lawyer, their role as the client, the applicable laws, how such laws relate to their particular fact situations and the potential process to accomplish their needs.

I also make my best efforts to do so throughout the case and to report frequently in writing. This is especially important when it involves litigation, first to inform the clients of what can and cannot be accomplished at upcoming court dates and later, to report on their outcome.

Notwithstanding a lawyer's best efforts to inform his or her client, it is common to hear negative comments when clients are unhappy with the legal process and their perceived lack of progress on the case. The following are practical tips and language that family law lawyers may use:

- **"I want YOU to make (him/her) pay for doing (X) to me."** I remind my clients that the legal system is not the place for imposing punishment and cannot fix the hurt that they are feeling. I recommend counselling and provide contact information for suitable resources.
- **"Why have YOU not settled my case yet?"** I remind my clients that my role is to provide them with legal advice and whether or when a settlement is reached is solely within their control or that of the other party.
- **"I have spent XX dollars on YOU and got nothing for my money."** In these instances the success reached may not have resulted in fixing their emotional hurts and therefore, is diminished. I inform my clients of the actual work that has been done on the case which often

may have involved several court attendances and possibly favourable results reached on their behalf.

- **“My (husband/wife) told me that (his/her) lawyer said that YOU (insert here what the law is or what you are doing wrong).”** Usually, I hear something that is so far removed from the law or the truth and I am certain that my opposing counsel had never made those statements. In these instances, I advise my clients that the solicitor-client relationship is based on trust and that it is important that he or she not take legal advice from the opposing party.
- **“When my (neighbour, friend, hairdresser, etc.) separated (he/she) got X. Why have YOU not got this for me?”** It is likely that what is said seems implausible. In these instances, I advise my client that he or she has not likely received the whole story or that his or her particularly fact situation is not similar to the person they have spoken to.
- **“I would rather spend my money on you, than to give it to (him/her).”** I would remind my clients that my role is not to create conflict or to bring unnecessary proceedings. I would advise that the money is better spent on the family and caution them about the likelihood of paying the other party's costs in the event that they are not successful.

This is part one of a series on high-conflict separations.

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