

They're Families, Not Files

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Oakland County Circuit Court – Family Division*



It's Wednesday morning and the seats in the courtroom are filled with litigants and their attorneys. I look out at the faces of the folks as they wait for their case to be called and I am reminded: these are families, not files.

In Family Court, a large part of the docket involves divorce where the parties have children. Separating “the stuff” is easy. Figuring out who pays what credit card bill is easy. The hard part is trying to make decisions for families who have completely lost their ability to have a decent conversation and come to agreements regarding their children. The way that these litigants are treated by their attorneys, their FOC team and their judge can have a real impact on the way they interact with each other for the rest of their children's lives. I often remind quarreling parents that they are going to be at the same wedding reception someday. The gift their child will need at that reception from his or her parents is that they are able to co-exist, perhaps even exchange a greeting to one another.

We each play a role in making it possible for parents to leave the courtroom and the process in a frame of mind that promotes cordial interaction.

In Family Court it is about much more than dollars and cents, winning and losing. Sometimes it's necessary to remind parents to be grateful that they have healthy children to ‘fight’ over. Sometimes it's necessary to remind everyone (myself included) that each parent is unique and irreplaceable in the life of their child. The new love interest may be a wonderful human being – he or she is not, however, the child's unique and irreplaceable parent. Sometimes it's necessary to help everyone to slow down and give the kids a chance to adjust to the new world order before we start changing schools or partners or states.

The family law attorney walks the fine line of representing the client zealously but also being that voice of reason that can gently (or not-so-gently) guide the parents back to the point – what works best for the kids. Ideally, parents who know their children better than anyone else should be deciding bed times and cell phone usage. The best, most prepared

judge in the world can't replace the knowledge that parents have gained through spending a lifetime with their child.

It is part of the family practitioners' responsibility to try to resolve issues between parents before involving the court. I fully expect that attorneys abide by the requirement of trying to seek concurrence before filing a matter for hearing before the court. Once in the courtroom, clients often see it as “me against him” and any chance at compromise or cooperation is gone. Our common sense and experience tell us that agreements reached after each party feels they have had input are more likely to lead to peace than the best order of any court.

It is also critical that clients are not controlling which information is contained in initial pleadings. For example, if an allegation of infidelity is raised, it must be relevant and there must be proof to support the claim. A false or unnecessary allegation of infidelity contained in a filing can completely derail any possibility of peaceful resolution of other aspects of the case.

If an issue can't be resolved without court involvement, attorneys must control what should or should not be raised at a hearing or stated in a motion. Attorneys are more than scriveners or mouthpieces – they are counselors at law. Nasty statements made to embarrass the other party fuel the conflict, waste everyone's time and often backfire on the party who made them.

Fortunately, I have the pleasure each day of watching the best of the best handle delicate divorce actions. With or without court intervention, they are thoughtful in the preparation of their written submissions and their presentation of private matters in open court – ever aware of the big picture – that they serve their clients best when agreements are reached, trials or hearings are conducted with grace, and the degree of conflict is lessened.

So I write this on a Wednesday afternoon, having been reminded once again this morning that we all share a sacred responsibility to the families with whom we interact to think about what happens after they walk out the door.