

COMMENTARY

FAMILY LAW

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Top Five Ways to Settle Your Family Law Case

I am sure most of you reading this article love to settle your cases. The thought of multi-day trials, arguments over testimony and the uncertainty of the court decision are all good reasons to settle your case. Often, an attorney just doesn't know how to accomplish this task. I have the top five suggestions for getting your case resolved.

WORK UP YOUR FILE

Attorneys are notorious for waiting until the last minute. Most clients don't even know what they own, let alone what the other spouse owns. Sometimes seeing all of the assets with a value attached as well as providing back-up documentation can be invaluable.

This task should be done well before the case goes to court. In fact, I often like to send an asset chart to the client for review as soon as financial documentation is received. The asset chart keeps all of the financial information organized and identifies the owner, value and type of asset. This preparation goes a long way toward getting your client to settle the case.

DON'T SPEAK IN GENERALITIES

Now that your asset chart is prepared, don't speak in general terms. Be specific. For example, I hate receiving letters from opposing counsel that state, "The assets shall be divided equally." What assets? Which client gets to keep which asset? These general state-

ments are not only confusing to the client but they can backfire when the agreement is drafted. Both clients may not have the same idea of what an equal distribution looks like.

For example, some clients are very protective of their pensions and don't believe the other party is entitled to this valuable asset; they might even believe it is not part of the equation. Upon receipt of the draft agreement, the client is surprised to learn his or her pension is being equally divided. Detailed statements help parties to settle their cases.

If all else fails, sit down with your client and weigh the costs of litigation. Sometimes your client just needs to hear the costs involved with a multi-day trial.

TYPE UP AN AGREEMENT FOR CIRCULATION

Sometimes when the parties are really close they just need to see everything in writing to make the final commitment. Type up an agreement on all the issues the parties agree. Leave blank for discussion any issues that are still in dispute. This allows the client to focus on just the disputed items and doesn't allow him or her to keep rehashing items that have already been settled.

Clients sometimes also need the visual to get their cases settled. The agreement shows everyone is serious and needs to conclude the matter.

DON'T GO TO COURT WITHOUT A WRITTEN DOCUMENT

I like to go to court with a proposed agreement outlined. I will list the house, pension and other assets but leave blank the percentages. I also like to attach the boilerplate provisions that would typically be written in a formal document. If the parties end up settling the case, the parties can sign the skeleton agreement and get it placed on the record. That way both parties are walking out of the courtroom with something in hand and the agreement is not lost, which sometimes happens when both parties walk out of court without signing an agreement or getting it on the record.

DO A COST-BENEFIT ANALYSIS

Finally, if all else fails, sit down with your client and weigh the costs of litigation. Sometimes your client just needs to hear the costs involved with a multi-day trial. The client needs to weigh the risks involved with going to trial. Not only may the client not get a favorable result, but he or she will have to spend a significant amount of time and money for a conclusion he or she may not be happy with. It is always better for a client to be in control of the final terms, rather than the court.

These ways to settle your family law case are just a guide to help you develop your settlement skills. Negotiation takes a lot of training, but closing the deal is even more difficult. Practically, if you are prepared, settling the case should be easier and in the end your client will be satisfied. •

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