

FAMILY LAWYER MAGAZINE

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The Best Advice I Ever Gave

An excerpt from a *Family Lawyer Magazine* video roundtable with a wealth management advisor and three lawyers, each of them offering the best advice they have given to their clients.



“Surround Yourself with the Right Team”

~ Sharon Klein, Wealth Management & Financial Advisor

I give this advice with equal conviction to both family lawyers and individuals: it is key to surround yourself with the right multidisciplinary team of experts.

For example, a family lawyer recently brought me a client whose divorce he had just finalized. To negotiate the settlement, he had used an Excel spreadsheet, which showed that his 62-year-old client would have more money at 90 than she did today because he believed her portfolio growth would exceed her spending.

An Excel spreadsheet is static – but life, markets, and people are not. When we used our proprietary analytics to run sophisticated projections, we found that not only would she not have more money at age 90, she was actually going to run out of money.

Although the divorce was final, we were able to use our

analytics to show that, if the client tempered her lifestyle expectations a little, she could still have a very comfortable life. So sophisticated analytics really play a dual role – to provide key data for an attorney to leverage at the negotiating table and, after divorce, to give a client peace of mind that they can have a financially secure future.

I worked on another case where several trusts had been created during the marriage, and the income from the trusts was structured to be taxable to the husband. This was fine while the couple were married, but due to a change in the law, the husband was going to continue to be liable for the taxes on distributions received by his ex-wife forever, which would have been a very surprising result for him! The divorce had not been finalized, so we came up with a solution that removed the husband’s continuing tax liability.

These are just a couple of examples that illustrate why having the right multidisciplinary team is critical.



“Credibility Is Your Most Valuable Asset”

~ Jonathan Wolfe, Family Lawyer

At the outset of their case, I tell clients that our goal is to settle their case – and one of the ways we do this is by making sure we’re prepared to litigate the case if necessary. If the case ends up in court, the most valuable asset a

client has is their credibility. We take reasonable positions – substantively and procedurally – so the judge views our side as reasonable. Finally, we tell the client that above all else, they have to be completely honest with us so that we can be honest on their behalf to the court. The most valuable piece of advice I give to clients is to be honest and maintain credibility.

I once had an angry client, a husband, in a very contentious case. His wife had accused him of vandalizing her home, and when I asked him about it, he swore that he “would never do something like that.” So we submitted a sworn certification refuting the accusation.

The next day, the other side produced a video clearly showing that he had done it. That’s a really difficult thing to come back from in front of a judge. Had he been honest with me, I could have told the court that he had lost his temper and made a bad decision he now deeply regretted. A judge might have understood that, but a judge will neither understand nor forgive lying under oath. When your credibility is gone, it colors the rest of the case.



“You Get More with Honey”

~ Michael Mosberg, Family Lawyer

Divorcing clients often come in charged up with emotion, and they have a natural tendency to want to push – or punch – back at their ex or soon-to-be-ex. The inherent problem is that emotion rather than thoughtful delibera-

tion is driving their decisions, and emotional decision-making leads to increased fighting, acrimony, and delay in case resolution. That’s why the best advice I’ve ever given to a divorcing client is you get more with honey.

Identify the “honey” – what is most important to the other side – then you can plan to compromise on those issues to engender goodwill, which will allow the parties to focus on an overall amicable resolution.

I once had a client who was in a short marriage, had a

young child, and wanted a divorce. She said others had told her that she wouldn’t get much in the way of equitable distribution – but because the father loved his son very much, she could get more money if she, in effect, weaponized the child.

The honey here was the father’s relationship with the child. By making the right choice and fostering the child’s relationship with his father instead of using the child as a weapon, my client ended up with a far better financial settlement than she was otherwise entitled to. And going forward, the father was financially generous to my client despite having no further obligation to do so. For example, he always paid for the mother’s accommodations so she could accompany them whenever they were traveling. Both parents benefited from their amicable post-divorce arrangements, but the person who ultimately benefited the most was their son.



“Communication Is Key”

~ Carole Bass, Trusts & Estates Lawyer

The more open the lines of communication between the parties, the less stressful and expensive the preup process. Money is an oft-cited reason for divorce, so learning to resolve financial issues before the marriage will be

useful going forward. Lawyers should encourage their clients to discuss and reach consensus on issues rather than asking counsel to speak for them.

A prenuptial can include technical issues as to the characterization and division of property in the event of divorce, but it can also trigger emotional issues that arise when there is an imbalance of finances and power between the parties.

In one case, there was constant back-and-forth between

myself and the other lawyer over very serious issues that the parties absolutely refused to discuss with each other. There was a real power imbalance, and my client was getting a terrible deal. She was very worried about her financial security, but she couldn’t speak with her fiancé about it. Ultimately, she signed the agreement against my advice, and her financial future is in jeopardy now that they’re getting divorced.

I had another recent case that was far more pleasant for everyone involved. There were complicated issues – including a blended family and disproportionate finances – but the parties were great at communicating with each other. I explained the options to my client, and she felt secure discussing them with her fiancé. They reached a fair resolution because they were able to communicate well with each other. ■

This article has been excerpted from a video roundtable; to view the complete video, go to www.familylawyer magazine.com/articles/watch-the-best-advice-i-ever-gave.

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