

**STETSON LAW SCHOOL
FAMILY LAW CLASS
MARCH 30, 2005**

PRACTICAL ASPECTS OF PRACTICING FAMILY LAW

1. Remember that your client is a human being with a problem that he/she perceives to be very real to them. You are usually meeting them at the worst time of their lives.
2. Recognize that your support staff is just that. Without their support, you would not be where you are. Treat them as your equal. Just because you have a law degree does not mean you know what you are doing. A trained paralegal is better than a new attorney fresh out of school.
3. Always be nice to Judicial Assistants.
4. Listen carefully to the facts as the client understands them. Learn the facts as the other side understands them. Realize that the truth lies somewhere in the middle. And that the law does not necessarily care what is the truth.
5. Find out what the client really wants—not what you think they should want.
6. Get your fee agreement in writing before you do any work no matter how critical it seems that you get involved immediately. And be sure to define the exact nature of your representation
7. Get your retainer up front unless you are willing to do the case *pro bono*.
8. Copy your client on everything that you do and send the client a copy of every piece of paper that comes into the office on a case. Invest in a “copy to client” stamp and use it the minute the mail comes in.
9. Make sure that you and your staff treat your client with respect no matter how they act toward you. That includes answering phone calls and emails within 24 hours of receiving them or having someone else do it for you (with a good excuse for your not doing it yourself).
10. Put your client to work completing financial affidavits, gathering material for mandatory disclosure and other discovery. It will give them a sense of empowerment in a situation where they feel very unempowered. It also will force them to realize the financial reality of their case. It protects your file to have the information in it in the client’s handwriting when they claim that you made a critical mistake on a financial affidavit.
11. Work on a case promptly when it comes in and at each phase thereafter. If there will be a delay in getting to something, make sure the client understands

why. For example, the time periods for the other side to answer discovery requests, etc.

12. If you procrastinate on something admit it to your client. Honesty will always get you where you need to be.
13. Label the first financial information "Preliminary Financial Affidavit." It is never accurate and that lets everyone know you were doing the best you could with the limited information you had.
14. Remember that any person dealing with the legal system is stressed, but family law clients are the most stressed of all.
15. Keep in mind that your client is so stressed that he/she will forget to tell you important things and will repeat the unimportant 14 times. You will always be collecting information important to the case. It does not all come in at once.
16. Do not give your client your home phone number and consider having an unlisted number. On the other hand, give your client's your cell phone number. Just be careful where you are when you answer it.
17. Document your file. Put advice of any nature in writing to your client. CYA. Keep in mind that family lawyers draw the highest number of bar grievances. And even if you did everything right, a bar grievance takes forever to respond to.
18. If a client (or the other side) grieves you, answer it promptly. Don't think it will go away if you ignore it.
19. Be honest with the client in appraising their case. Do not promise more than you or the system will deliver.
20. Refer to opposing counsel respectfully even when they are acting like a horse's ass. Always refer to the Judge with respect even if they rule against you and you know they are wrong. Practicing family law is like being in a barroom brawl. Do not lower yourself to that level. Be part of pulling the practice up to a better standard.
21. In court, do not interrupt the other side even when they make a misstatement and even if your client expects you to. It is not like on TV where attorneys say outrageous things and then withdraw it just to make a point. And attorneys who interrupt others get everyone aggravated at them.
22. NEVER, NEVER, NEVER interrupt a Judge who is talking (unless you have your toothbrush with you.)
23. Do not get personally involved in the case. Do not lose your temper (a sure sign that you broke the prior rule.) If you find yourself getting too involved,

call another attorney and run the facts by him/her. You will get a fresh perspective.

24. Family law lawyers tend to be sole practitioners. Build a support system with other lawyers in the community. Remember that the most dangerous person you talk to is yourself. Never listen to your answers when consulting with yourself.
25. If something about a case doesn't make sense, ask questions until it does. It is better to be over prepared than under prepared. You can always reduce your fee because you were over prepared, but you can never make up for being under prepared in court or at mediation.
26. Do background searches on your own clients. You will be amazed at what you discover about them. Surprises in a family law case generally are not fun.
27. Remember that you were not there when the couple was buying furniture, writing out checks, having arguments, etc. Remember that your client will convey a story to you that will make you wonder if he/she was in the room at the same time when the events took place. And so will the other side.
28. Remember that at one time these people loved each other. Do not speak in disrespectful terms about the other side. Your client once went on a honeymoon with this "scumbag" and they might just reconcile.
29. Prepare for mediation the same way you would prepare for a trial. It is a replacement for the trial these days in 95% of the cases. Write a letter explaining the case from your point of view to the mediator. Find out what your client really wants from the case at this point. It may differ from what they originally wanted. Work out alternative settlement scenarios and prepare your client for the worst case. When you get more, they will love you.
30. Finish up a case. Just because you settle at mediation or get a ruling does not mean you are finished. There are car titles to transfer, real property that needs deeds, bank accounts to be split, stock transfers to complete. Do not leave that up to the client unless the client clearly tells you that he/she will take care of it. It can be an open invitation to a problem years later when property is to be sold, etc.
31. If you have never prepared a deed, or even if you have, run a draft of the deed you are doing past an attorney who does real estate work or a friend with a title company. These problems percolate and come to the surface when you least expect them.
32. Remember that even though you are a family lawyer, you need a background in corporate and business law to understand what is going on with the family dry cleaning business that the parties have run for 27 years. You need to

understand tax law to negotiate the tax exemption for children, tax credits, the impact of permanent periodic alimony, etc. Get an accountant involved for any aspect of a case you think is over your head. You have to be part social work, psychologist, medical doctor and therapist to help your client. Know what resources are available in the community for getting vocational rehabilitation evaluations, job referral agencies, schools, etc. for rehabilitative or bridge the gap alimony. That is the true meaning of "Counselor at Law."

33. Be sure to explore what medications your client is on (or should be on like anti-depressants).
34. Recognize issues of alcoholism and/or drug abuse in your client and the other spouse (and attorney).
35. Get a good private investigator who can not only serve papers, but also get you information when you need it.
36. Keep up on the developments in case law. Follow legislative changes. Go to seminars. Remember that family law and criminal law are the two most volatile areas of law and therefore the hardest to keep up with.
37. Use experts when necessary. Appraisers can tell you what the house is really worth. Accountants can help you figure out the true value of a pension plan today (present value) plus help with tax planning. Business experts cost a fortune but can save you from giving one away. Therapists can help your client get through the case and come out a better person on the other side.
38. Remind your client that only in Shakespeare do the parties really get a pound of flesh.
39. Remember that no family law case ever turns out the way you originally assess it. There is always a surprise around the corner. That is what makes it fun.
40. Just when you think you have heard it all, a new case will come in your office.

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