

MANAGEMENT OF THE ROLE OF ADVOCATE AND CLIENT RELATIONS IN THE MARRIAGE DISSOLUTION PROCESS

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You are taught and trained in law school to think like a lawyer. Identify the legal issues, identify the law, apply the law, and anticipate with a reasonable degree of certainty the outcome should the case be tried to the court. Of course, family law is the most obvious example, but the human beings that create the situations the law is intended to address rarely act or respond in the logical fashion the law demands. Your role as an advocate demands you anticipate, accommodate and take into consideration the human beings you represent. Your job is to protect them from themselves, the opponent and the court. Your responsibility is to fully and completely understand the issues, not just the obvious legal ones but also the personal and human issues that will drive the litigation. We as family lawyers are compelled to be better at this task than any other type of practitioner. Corporate and security lawyers kid themselves when they ignore the emotions that drive the controversy. A business dissolution will be driven by the same feelings of betrayal and rage as exist in a divorce; they are just usually presented in a more elegant fashion.

The materials provided are intended to give you a jumping off place from which to advance your advocacy skills. Stop for a minute and define for yourself what it means to be an advocate. How do you envision yourself in this role? Warrior or peacemaker, problem solver or weapon? Write your definition below.

How does your definition fit with the way you live your life? How does your definition fit with your style of practice? Do you even know what your style of practice is? Lawyers have many different ways of approaching the same problems presented by clients and adversaries. Do you ask your client what the end result they desire is— or do you assume the end result they

should desire based upon your read of the facts? Do you begin your analysis of a case by the settlement possibilities or the litigation problems? Do you initiate settlement discussions with your client and opposing counsel or do you wait to see if they initiate the discussion? Do you listen and do you hear what is said?

If you know your style— your heart as a lawyer— you will not only be the best lawyer you can be, you will also be far more content in this very challenging profession.

Incorporated in this paper and discussion are articles I have written intended to address these issues. We will begin with Family Law and Child Psychology because the very real dynamic of being psychologically minded, whether you are handling a child custody case, spousal maintenance case or simply an asset distribution case, affects your ability to be effective in your representation.

We will then move on to discuss the material presented in Dealing with Difficult Clients, Difficult Lawyers and Difficult Judges, Strategies, Mediation Facts and Fables and Thoughts and Ideas for Time Management. It is here that we will focus on the development of your skills as advocates. It is my intention that you leave this afternoon with a knowledge base of what you can and need to do to hone your skills as lawyers. It is also our goal to give you the tools to become fully integrated human beings— they make the best lawyers.

It is our hope that you will leave this experience with an understanding that this is a journey not a destination.