

FAMILY LAW BASICS—2017 UPDATE
PAPER 6.1

Making the Most of Client Meetings

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MAKING THE MOST OF CLIENT MEETINGS

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After being retained by a client, the work begins and you will be tasked with determining your client’s issues, strategizing a path to the resolution of those issues and carrying out that strategy. In a family law file, all stages of this process inevitably involve meetings with your client. Those meetings will either be a valuable source of information and direction, or they will be a source of frustration and confusion. Learning how to manage and control client meetings will streamline your work, make your job easier, boost the confidence that your client will have in you and ultimately allow your client to reach his or her goal more quickly and cost-effectively.

Whether you are collecting data, reviewing the state of the law, advising your client on the best course of action or preparing your client for the steps that lie ahead, the success of your meetings will depend on common factors: thoroughness, honesty, and efficiency.

I. Look for Information Beyond What Your Client Offers:

- (a) After the intake consultation, the first meeting you will have with your client may be a more in depth review of his or her circumstances, an initial assessment of the issues that he or she is facing and a discussion regarding resolution options. This meeting and those like it are vital, not only because of the information generated and the decisions made, but also because of the tone that they set.

- (b) As much as you will have canvased much of your client's situation during the initial consultation process, you should spend sufficient time thoroughly reviewing the facts of your client's case.
- (c) Your client will sometimes have a pre-conceived notion, perhaps informed by television or friends, as to what information is important. Probing your client's history and circumstances beyond what she or he offers can seem invasive and it is helpful to let your client know that, while not all the information you collect will prove relevant, the more you know, the better equipped you will be to provide accurate advice.

II. Keep Your Client Focused:

- (a) There will be occasions that your clients will be organized and concise and will be able to quickly answer your questions with relevant information. Those occasions will be rare. More often, if left to their own devices clients will meander between the germane and the irrelevant. If they do this, though, it is your fault, not theirs. You know the law and they generally do not, and it consequently falls to you to keep your client on track.
- (b) This can be harder than it sounds. Talking about family problems is difficult for most people, and many will be nervous and confused, never have met with a lawyer before. You will have to navigate between seeming callous and being efficient. I have found that simply acknowledging that I may sound rude can help convince a client that I am not socially inept, but rather that I am trying to save the client time and money.

III. Trust Is Overrated

- (a) Question everything that your client tells you. Double check your client's facts and ask that your client provide documentation where it should be available to verify those facts. Your client will generally not try to deceive you (generally), but not all clients have a steel trap memory. Trusting your client's memory is a shortcut and it does not help your client.
- (b) Test your client's recollections the way that opposing counsel would. If there is a hole in your client's timeline or a disconnect between the facts that he or she has presented, it is best uncovered early. Again, be alive to the possibility that challenging your client in this way can come across as distrustful. Let your client know up front that you will be challenging them in order to make their case stronger.

IV. Help Your Client Understand The Law:

- (a) As I have mentioned, clients will often arrive at your office fully educated by having just finished binge watching season six of Suits. Their preconceptions and misconceptions will inform whether and how quickly you will be able to deal with the issues to their satisfaction. It is in everyone's interests that your client have a solid, basic understanding of the state of the law as it pertains to him or her. Some of this can be dealt with at the initial consultation; however, educating your client is a continual process.

V. Do Not Sugar-Coat The Law:

- (a) The state of the law is sometimes the most difficult matter to broach with your client. Explaining the law may have the effect of bursting various bubbles that your client has built up and maintained. They may need to understand that they cannot retain 100% of a property though it is completely in their name. They may have to be told that the law does not actually say that they gets the kids 50% of the time. While it is valuable to be sensitive to your client's reactions, sugar coating how the law will affect your client will not serve your client's or your interests.

VI. Client Behaviour:

- (a) Usually, clients will accept your summation of where the law stands on their issues and you will be in a position to advance to providing your client with advice. Sometimes, however, you will be met with the evil twins of client reaction: outrage and obstinacy.

A. Outrage

- (i) In practicing family law, you will meet with a disproportionate number of strong personalities. Outrage and anger are not uncommon when you inform your client that their preconceptions are wrong. Clients can feel victimized and will react against what they feel is the ineffectiveness of the law to protect them. That anger is normally directed against the other party or against the law in general; however, it can sometimes veer and be directed at you. It is very important to acknowledge the injustice that your client feels, but equally important not to amend your interpretation of the law in order to placate him or her.
- (ii) Allow your client to understand that, while it would be simpler to them what they would like to hear, your job is to provide them with objective, expert advice. Maintaining your position against a storm of client vitriol signals your confidence and will encourage your client to trust you.
- (iii) There is, naturally, a line that is yours to draw between anger which can be managed and that which can't be. No client is worth endangering yourself. If a situation becomes unmanageable, remove yourself from that situation and ask for assistance.

B. Obstinacy:

- (i) Obstinacy can be more difficult to deal with than outrage. A client who believes, despite your advice, that they know better than you do is a dangerous client. They will sometimes directly challenge your advice. More often than not, however, obstinate clients are emotional black holes who will draw you in and make you want to change your position in order to help them. Be clear with your client that you're their tears and misery does not change the law, and their insistence does not make them right. It takes extra effort with clients like this to pull out of their gravitational pull. Unless you do so, your objectivity and therefore your value to your client will be sacrificed.
- (ii) Feigned or real forgetfulness is a common form of obstinacy. Clients, even after having had legal concepts explained in detail, may ask you the same or similar

questions, presumably hoping to receive different answers. In a simple case (“What, you’re saying the time we lived together before we were married counts towards the length of our relationship?!”) it is not difficult to ensure consistency between answers. In areas of the law that are greyer, it is important to keep good notes as to what you told your client in order to avoid contradicting yourself.

VII. Advice

- (a) Once you have navigated through collecting your client’s information and you have discussed the law with them, it is your role to formulate a plan to best resolve their issues. Advice is a process rather than a product. It should never be a declaration to the client; rather, it should be a discussion through which you negotiate a plan of action with your client. This means you have to listen and learn from your client.

A. Base Your Advice on Your Client:

- (i) Understand your client’s level of legal sophistication, your client’s language and vocabulary and your client’s cultural and social history when you explain your advice to them. Be alive to the possibility that there are factors - cultural, social, religious or otherwise - which you may need to learn from your client in order to properly advise them.
- (ii) Even if your client says that they understand your advice, it is often helpful to engage further in discussion in order to test their understanding. Despite best efforts, giving a client advice can be like playing a game of telephone - what you say is often not what your client hears or understands. It is your responsibility to ensure that your client understands what you mean.
- (iii) In some cases, your client will need assistance in the meetings such as a family member or friend to interpret or to provide moral support.

B. Play Devil’s Advocate:

- (i) Your client will likely have an idea of what they would like to do. Even if you agree with their position, it is your responsibility to test it to make sure that it is right for them. Alert your client to the weaknesses of their preference and propose alternatives. (ie. Is the parenting schedule they are proposing really in the child’s best interests? It is really feasible for your client to retain the family home?)
- (ii) Just as in the case where you are testing your client’s facts, make sure that you are sensitive to your client’s feeling, and let them know why you are challenging their conclusions. Become adept at testing your clients without insulting them.

C. Consider Factors Beyond Money:

- (i) Family law is not simply about money. Your advice should take into account what is most important to your client. If you find it easier to quantify this non-financial information in order to advise your client, find out from your client how much these issues are worth to them. (ie. How much would they pay to have their matter settled quickly? How much would it be worth to them to have a say in what their settlement will look like?) Some clients will be unfazed by the prospect of court

while others would settle to avoid the possibility. In child related matters, discuss with your client the effect of a short term “win” on the child’s long term stability and happiness. The right choice for your client may not be the most obvious one.

D. Just To Be Clear: Do Not Sugar-Coat

- (i) Just as a clearly stating the law will help focus your client, be frank in your opinion and refrain from sugar-coating. Your client may not like what you propose, but they are paying you to give them your true, expert advice and they deserve nothing less.

E. Explain Your Advice:

- (i) Do not simply tell your client what you believe should be done. Even if the course of action seems obvious to you, your client may not understand. Explain to them how you arrived at your conclusion. This will force you to double check your own logic and will avoid misunderstandings between you and your client.

F. Keep Good Notes:

- (i) Time can change a client’s perception of advice. It is always valuable to summarize your meeting conclusions and advice in correspondence to your client. This will go a long way in warding against the dreaded, “But you told me when I first met with you that...”

VIII. Practical Meetings

- (a) Practical meetings occur when the theory has already been canvassed and involve the implementation of the strategies that have been developed. Typically, these are meetings where affidavits are drafted, clients are prepared for their examinations for discovery or for trial. The advice set out above, and especially the need to challenge your client and keep your client on track apply equally to practical meetings.

It should be every lawyer’s aim to have the perfect meeting - that the client will walk away from the meeting room on-side, fully informed and with complete understanding after an efficient, focused conference. This is what you should strive for, but the reality is that each meeting will present its own obstacles and its own challenges. The tips and examples set out above are a small sampling of those that you will learn or already have learned through your own experiences. Share those experiences with your colleagues and learn from theirs and you will find that the interaction you have with your clients will much more quickly start to resemble the ideal.