



As anyone who has ever practiced family law knows it is a challenging practice area. Resources of time and money are limited and emotions frequently run high. In terms of frequency, family law claims typically rank as the third or fourth highest number based on practice area. Knowing these challenges and statistics, what can an attorney do to better manage his or her practice and prevent claims?

TIP #1: Evaluation of Assets

With respect to dissolution cases, the identification and evaluation of all marital assets is paramount. Lawyers need to be complete in identifying and documenting all assets belonging to the parties. It is also important to document how an asset will be evaluated for purposes of property settlement and the reasoning behind the evaluation. Many legal malpractice claims arise out of improper evaluation of assets.

TIP #2: Second Lawyer Syndrome

Another consideration for family law attorneys is “Second Lawyer Syndrome.” This references relying on a first attorney’s work without independent assessment. This can be dangerous as the current attorney will be held responsible for any mistakes or detriment to the client. For this reason it is important to verify all information and make a thorough and independent assessment of issues and information gathered by the first attorney.

TIP #3: Proper Communications

A third major issue arising in family law cases (and cases in all practice areas), surrounds communication. A flourishing practice can make it difficult to meet client communication needs, especially when a client is emotional and confused about the process. Claims

arising out of lack of communication may not have any actual damages, but can also draw ethical complaints from frustrated clients who feel they are in the dark. Claims where a client raises the issue of failure of the lawyer to explain the terms of the settlement fully, including tax implications, asset transfers and the like, are not infrequent. It is also important to remember that under Rule 1.4, proper communication is not just good client service, it is also an ethical requirement.

TIP #4: Fee Disputes

Finally, many claims involving family law arise when an attorney sues the client for fees. No matter what practice area, this is never a wise idea if preventable. Oftentimes a fee suit leads directly to the counterclaim for malpractice, regardless of validity. If this is a business decision an attorney makes, it is important to consult local ethics rules to determine what must be given to the client and when can be withheld for nonpayment.

Family law can be rewarding and exciting practice area. But as with any area of practice, it comes with challenges. Making sure cases are properly evaluated from start to finish and honoring positive client communication skills will go a long way in creating a flourishing practice and limiting malpractice risk.

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