

expenses as legitimate law firm expenses, and he failed to report to the IRS more than \$800,000 of these “business” expenses as additional income. Long pleaded guilty to income tax evasion and spent 14 months in prison. He was subsequently disbarred.⁹

In an interesting factual scenario, Francis Bock, in a desire to live with his paramour, faked his death by drowning and concealed his whereabouts for five weeks despite knowing that an investigation was ongoing as to his disappearance. He left “contrived” evidence on Long Beach Island to give the impression that he had drowned. He left his judicial post as a municipal court judge unattended and left 60-70 files for his partners to address. He received a six-month suspension for abandoning his clients and his court responsibilities.

There is no doubt that the practice of law can be stressful and can lead to attorneys making mistakes, but as can be seen from these various scenarios, the attorney’s behavior in private life affected their license. Hopefully these examples demonstrate that the personal behavior of a lawyer is not outside the reach of the ethics system.

Endnotes

1. *In re: Musto*, 152 N.J. 167, 173 (1997).
2. *In re: Schaeffer*, 140 N.J. 148, 156 (1995).
3. *In re: Milita*, 217 N.J. 19 (2014).
4. *In re: Collins*, 228 N.J. 23 (2016).
5. *In re: Cohen*, 220 N.J. 7 (2014).
6. N.J.S.A. 2C:14-9.
7. *In re Toczydlowski*, 256 N.J. 508 (2024).
8. *In re Smits*, 248 N.J. 222 (2021).
9. *In re Long*, 255 N.J. 436 (2023).

WHAT I WISH I KNEW

Be an Advocate, Not a Jerk, and be Thoughtful Enough to Know the Difference

By Megan S. Murray

The Family Law Offices of Megan S. Murray

The practice of family law should be about crafting the best legal arguments for our clients based on the facts of their case. Unfortunately, many attorneys believe it is their job to argue as aggressively as possible for their client, even if that means taking baseless positions, prolonging litigation or entirely ignoring fair viewpoints of the adversary.

Attorneys practice in a very stressful field with high emotions. Under the circumstances, practitioners must be vigilant about not allowing the emotion of a case to manifest itself in impetuous case-handling decisions, which may reflect poorly upon the attor-

ney—not only in the case at hand but regarding the attorney’s reputation going forward.

Integral to being a successful family law attorney is the ability to act in a professional manner regardless of the difficulty or emotional intensity of the case. When attorneys forsake their professionalism by taking unreasonable positions, writing gratuitously nasty letters to the adversary, or being disrespectful to a judge or their staff, they are not only hurting themselves, they are hurting their clients. In most cases, unprofessionalism and overly aggressive practices lead to a needless increase in counsel fees to the client and often result in the divorce process exacting a far greater emotional toll on the clients involved.

The following suggestions are made for maintaining civility with colleagues, adversaries and judges alike.



Pick up the phone and personalize your adversary

If my client’s spouse has already retained an attorney, I make it a priority to make a telephone call to the adversary—especially in a case where I have not worked with or do not know opposing counsel. When attorneys communicate with each other only via letters and writings, they tend to depersonalize each other. Lashing out at an adversary or writing an inflammatory response to a letter is easier to do when the recipient is just a name on letterhead.

Calling an adversary allows you to build a rapport with them. Oftentimes, I find that when I reach out personally to an attorney who may be known for being abrasive, that attorney is far more pleasant to deal with than reputation would suggest if lines of communication are opened early and person-to-person. Find common ground with your adversary on common interests; share a humorous story about the practice or bring up a (non-inflammatory) current event.

It’s often true that you get more flies with honey

When dealing with abrasive adversaries or judges, reciprocating with gratuitous hostility has almost never yielded good returns. I find that many attorneys may act aggressively from the

outset of a case as a matter of course because they expect their adversaries to act in-kind. They do not want to appear to be weak. However, if you approach your adversary cooperatively and amicably from the start, the initial aggression often decreases. When the adversary does not feel that they are in battle with you but rather working toward a common goal—albeit for different clients—of reaching a fair resolution to the matter, they may be relieved of the need to constantly be on the defensive. No one wants to feel under attack. While an attack from an adversary may instinctively make one want to attack back, trying to first diffuse the situation by convincing the adversary that you do not view them as the enemy and will not treat them as such can work wonders for expediting resolution to the case.

A friendly tone in raising disagreement with a judge also helps to convince a judge that you are not attempting to attack them. If a judge has taken the time to prepare a Tentative Decision, a full-out attack against the judge in connection with any portion of the decision is not only rude, but it will almost certainly result in the judge being less receptive to changes in the decision. Thank the judge for their decision and point out specific areas where the decision could be improved and provide explicit reasons why in a way that is constructive rather than combative.

Don't add fuel to a non-substantive fire

Nasty-gram letters could be one of the worst ways to move a case forward. I have yet to experience or hear of a nasty-gram letter that resulted in the recipient conceding to the contentions therein. Letters containing non-substantive vitriol and often overflowing with he/said-she/said accusations only inspire equally vitriolic letters in return, resulting in a vicious cycle of avoidable contentiousness. Fees continue to accrue while attorneys argue non-substantive issues, and the case does not progress. My policy is not to respond to such letters unless they contain accusations that demand a response to protect a substantive interest on behalf of my client. Even in those cases, I most often provide a blanket denial on behalf of my client without attempting to editorialize in a way that will keep the letter-writing campaign going at full strength.

Make the life of the judge easier

Judges have too many cases. Do what you can to free up time for the judge. When you receive a Case Management Conference notice, immediately complete a proposed Case Management Order for the adversary's review and approval, with the goal of resolving scheduling by consent and avoiding judicial intervention with scheduling issues. Regarding motions, ensure that your application complies with the Rules of Court. Use individual, labeled tabs to separate exhibits; bind the motion properly; clearly reference exhibits within the body of the certification. Prior to trial, meet with your adversary to stipulate on all issues in agree-

ment so that the judge does not have to hear testimony on issues that are not in dispute. Prepare trial binders for your adversary and the judge, so that everyone has copies of exhibits being presented at trial. Pre-mark exhibits so that time is not spent individually marking every exhibit.

Quit while you're ahead

When arguing a case, attorneys must ensure that they do not become so caught up in their own argument that they fail to recognize when they have already won. As soon as a judge has acknowledged that an attorney's position is sound and that the judge is accepting the position, the attorney should stop arguing. I have watched in horror as attorneys have argued themselves out of winning positions, including an award of counsel fees, by failing to end their argument at the time that it is initially won. Over-speaking does not endear attorneys to judges with very limited time.

It is extremely easy to get caught up in the hostility and animosity which are inherent in many family law cases. Constantly remind yourself to take a step back and reflect upon your own practices. Treat adversaries, their clients, judges and colleagues in a manner that would not offend you if you were treated the same way. Let your civility toward others garner the same civility in return.

A longer version of this article originally appeared in the June 2024 edition of the New Jersey State Bar Association Family Law Section's New Jersey Family Lawyer and is reprinted here with permission.

WORKING WELL



Keys to Overcoming Procrastination **From the NJSBA Member Assistance Program**

It's 5 p.m. and everyone's leaving work—except you, because you still have to do the weekly sales report. You knew the deadline but waited too long to get started. Why do you put off doing things until the last minute?

"Many people don't realize procrastination is an automatic habit pattern they use to avoid tension," says Dr. William Knaus, a psychologist and author of *The Procrastination Workbook*. "It's kicked off by discomfort, such as uncertainty or insecurity. These