

LEGAL

PROMOTIONAL FEATURE

Six critical things to have before seeking a family law settlement (Part 1)

By **Daniel Myers**, special counsel and mediator at Schetzer Papaleo Family Lawyers

WHEN I tell people that I'm a family lawyer, the first thing I'm often asked is: "Oh I bet you must hear some interesting stories – does it get nasty?" Well, I do hear lots of interesting stories, both good and bad, and trying to untangle the rich, complex and dynamic lives that families live is part of what makes my job fascinating. This include cases that sometimes fit the 'nasty' stereotype that unfortunately involve stressful and expensive court battles, and hostile or non-existent communication between the parties (often with intervention orders in place). If they have children, either or both parents will often place their own needs above the children's needs, which inevitably harms their development. From my own perspective, those cases are difficult and challenging, often with no easy or quick answers.

That said, conflict is usually more situational than merely one party's bad personality or motives (e.g. greed, revenge, or the overly common "my ex is a narcissist"). In fact, both parties are likely to feel a lack of acknowledgement about their role in the relationship, a lack of trust in their former partner, and a fear of the future including the impact of the separation on their property and children.

Therefore, I always advise clients to achieve their long-term goals by work-



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ing out an overall strategic plan that is focused on the outcome, rather than adding fuel to the fire by focusing on the other person, which merely inflames the dispute.

Although going through a family law dispute is very much not like couples' therapy, the same understanding of the relationship dynamics and past communication inevitably improves the likelihood of success. And, fortunately, even in high-conflict family law cases, there are usually opportunities to resolve them sensibly before they go to court. For cases already in the court system, there remain many potential "exit" points before they go all the way to a trial.

Among the many advantages of any settlement reached between parties themselves is that they are more likely to stick, the parties have greater control over the outcome compared to what a judge might order, and the time and expense is far less than a court ultimately making a decision.

A smooth settlement

With that background in mind, I now share Part 1 of the guidelines I call "Six critical things to have before seeking a settlement".

1. Be armed with legal information about what is a fair, appropriate or realistic outcome, and what the strengths and weaknesses of the case are. This is the primary role of a lawyer, both in providing this information to a client, and helping to place a client in the strongest position possible in a negotiation.

2. Have an understanding of your own interests and your ex-partner's interests. "Interests" refer to the respective needs, concerns, fears and desires that motivate parties.

3. Have an emotional resilience, for example, to be able to engage in the process without stress levels going through

the roof. The person who is often most emotionally disadvantaged is the one who did not want the relationship to end. In some cases their experience can be as bad, if not worse, than the grief process associated with a bereavement. One reason for this is that the grief tends to be less "linear", i.e. there's a swirl of emotions such as hurt, anger, bewilderment, confusion and residual love. To assist clients I often refer them to counsellors and therapists who specialise in this field.

I look forward to informing you all in Part 2 of the guidelines in next month's edition. I am now available for appointments in Caulfield as well as our CBD office. Feel free to get in touch for a one-hour preliminary consultation, at no charge for readers of *The Australian Jewish News*.

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Daniel Myers.

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Wishing you a Happy Chanukah

Daniel Myers understands the complex issues that can arise with property or parenting disputes during a separation. Daniel is a qualified mediator and recent graduate of a psychology degree, Daniel uses his people skills alongside his significant legal expertise to help achieve excellent results for his family law clients in a respectful and dignified manner.



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