

LEGAL

PROMOTIONAL FEATURE

Six critical things to have before seeking a family law settlement (part 2)

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

In last month's article I shared part 1 of the guidelines I call "Six critical things to have before seeking a family law settlement", in summary being:

1. Be armed with legal information about what is a fair, appropriate or realistic outcome, and the strengths and weaknesses of your case.
2. Have an understanding of your needs, fears and desires, and those of your ex-partner.
3. Ensure you have an emotional support network, for example friends, family and, if necessary, a professional counsellor.
I now share part 2 of my guidelines.

4. 'Attack the problem, not the person'

This is a well-known line in the book *Getting To YES*. Even in cases that end up in court, it's the most effective method of achieving both a favourable outcome as well as preserving relationships.

In litigation, I help clients build a strategy that is focused on the things that will actually influence the result, such as the legal "four-step process" in a property settlement, or the list of 16 criteria that determine the "best interests" of children. Judges are never impressed by trivial



Daniel Myers.



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point-scoring and want to be addressed on the things that matter. Having a strong and clear plan ensures you are less susceptible to being side-tracked every time the other party does or says something that's upsetting or offensive.

5. Protect the children

If there are children involved, help shield them from any conflict as far as possible. Ongoing and unresolved conflict between parents is, according to the studies, the single biggest risk factor about the future welfare and development of children.

Professor Jennifer McIntosh, the renowned clinical child psychologist and developmental researcher, has written extensively about how bitter separations are linked to poor outcomes in terms of psychological, social, health, academic and economic domains, often well into adolescence and adulthood. For example, they're more likely to use alcohol, cigarettes and drugs, to give birth as a teenager, to drop out of school early, to receive psychological treatment and to have earlier marriages with increased propensity to divorce. As noted by Professor McIntosh,

parents should try to manage the risks and continue to provide a nurturing and stable presence.

If this sounds obvious or straightforward, in my experience even well-intentioned parents find it difficult to avoid exposing children of any age to these dangers when the conflict reaches a certain level.

The best approach I can recommend in these situations is one of prevention. The advantages of processes such as mediation compared to litigious avenues such as court are demonstrated time and again.

6. Keep a positive mind frame

Have the capacity to manage the conflict in a positive way. For example:

- a. Recognise the other party's perspective as well as your own.
- b. Be open to the possibility of making concessions and compromises, if and when appropriate.
- c. Avoid automatically assuming or attributing negative intentions towards the other party's behaviour or communication.
- d. Focus on the bigger picture rather

than getting too caught up in minor detail (or too much detail generally) or relatively inconsequential matters.

e. Communicate with the other party in a way that is constructive rather than damaging or harmful to the ongoing relationship.

f. Avoid trying to impose an outcome on the other party. This is another fundamental principle of negotiation that is explored in the famous book *How to Win Friends and Influence People*. This approach is not being "nice" or "soft", but smart. It recognises inbuilt human traits that people are more likely to give ground or make concessions when they don't feel bullied into making decisions and lose face by doing so. In short, you catch more flies with honey than vinegar.

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*.

To get in touch with Daniel Myers at Schetzer Papaleo Family Lawyers, contact (03) 8602 2000 or email daniel@spfamilylawyers.com.au.

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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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