

**LEGAL**

PROMOTIONAL FEATURE

# The do's and don'ts of separation

In this first instalment of a two-part series, family lawyer and partner at **Schetzer Papaleo Family Lawyers, Daniel Myers** shares a checklist of do's and don'ts when navigating a separation.

**T**HIS checklist compiles issues I encounter in everyday family law practice, aiming to assist anyone thinking about, or going through, a separation. I've drawn on my experience across the full spectrum of family law disputes: from the most amicable of spouses who remain civil and just want to finalise an agreement, through to significant court battles about the division of assets, parenting arrangements, or both. It also including my reflections from a national conference I recently attended in Byron Bay with the Australian Institute of Family Lawyers, Arbitrators & Mediators about the ways that lawyers and mediators can help clients to reach resolutions outside court in a more dignified and satisfactory manner.

**DO** understand that a separation is a process and not a single event. Even after a formal separation occurs, it takes time to get to the other side and there can be plenty of bumps along the way. I often see clients partway through litigation when they have feelings of high anxiety and stress, and who struggle to imagine a world in which they are no longer in conflict or in constant communication with lawyers. Take comfort that things rarely



Daniel Myers.

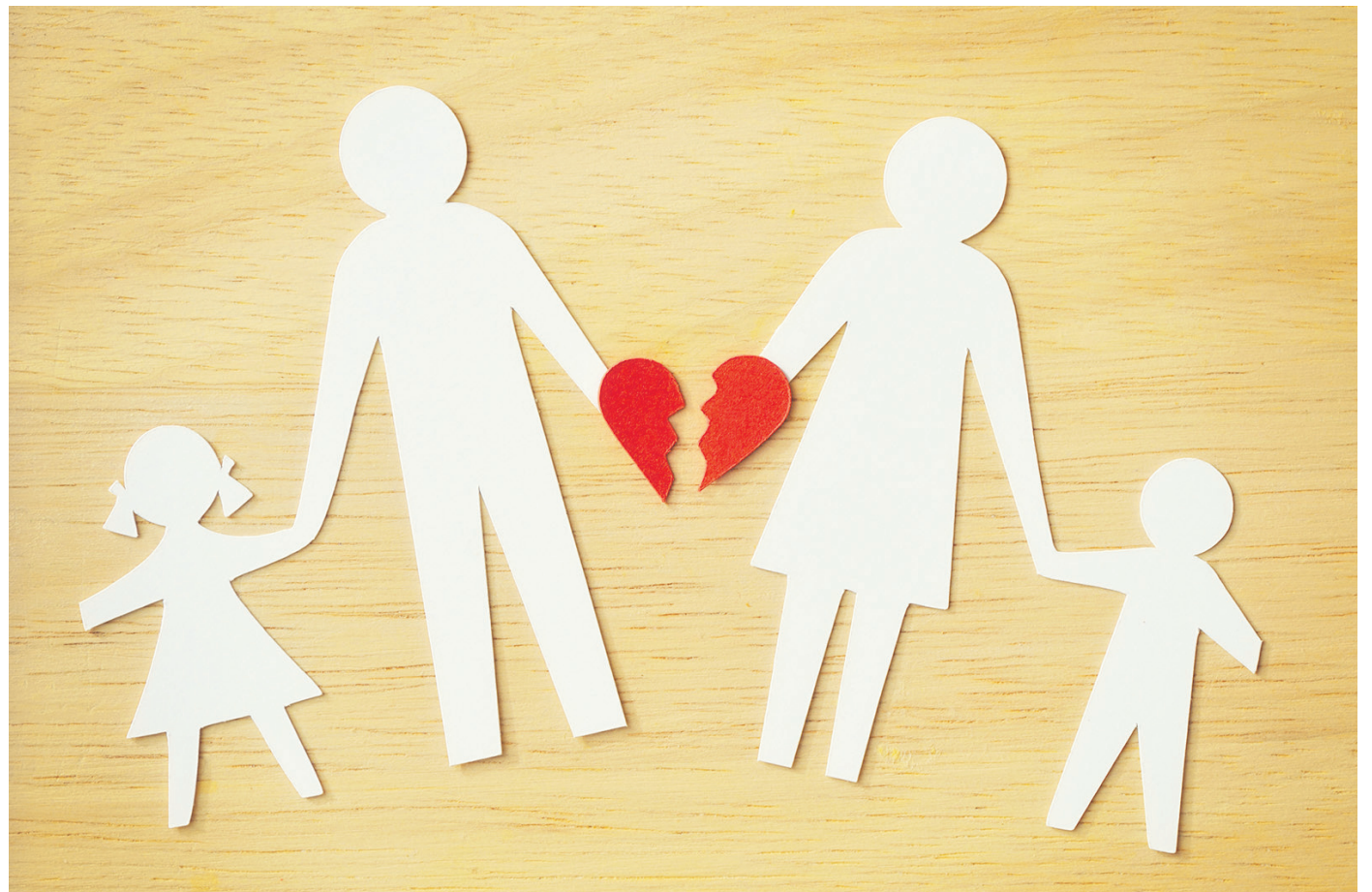


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remain this bad or toxic. Although the process of a divorce or separation can be slow and painful, the case will eventually end. The vast majority of clients I see ultimately find a level of freedom and autonomy that seemed impossible earlier on.

**DON'T** automatically infer negative intentions towards the other party's behaviour or communication. This is often easier said than done; however, humans often act more in shades of grey than black or white. At the very least, consider if the other person's self-interest is more likely what is influencing their behaviour compared to earlier threats they may have made to make your life hell. Self-interest is usually what influences behaviour, at least in the long term, e.g. when they get their own reality check about what the law says and the gruelling nature of the court process. A common way to reach agreement despite significant distrust is through mediation. A mediator will help articulate both parties' wishes in constructive ways and help them to remain solution focused.

**DO** get advice from lawyers. I say this as a lawyer who nevertheless encourages clients to resolve their dispute themselves whenever possible. However, early advice is best because prevention is better than a cure. I ensure that clients understand their overall entitlements based on what's realistic under the law. In parenting matters, arrangements which may intuitively seem "fair" may not actually be in a child's best interests given the complex array of developmental factors that determine their long-term psychological and emotional needs. For example, attachment issues require progression towards shared care for a young child to be slow and steady, rather than immediate. Even in simple property settlements, there is a range of possible outcomes which can quickly lead to polarised positions if either person negotiates from a position of naivety. Receiving such advice helps clients frame any private conversations with the other person in a sensible way that sets the right tone from the outset, reducing the chance of conflict down the

track or agreeing to something that you later regret or making the overall settlement more difficult and expensive in the long term.

**DON'T** get drawn into conflict with knee-jerk responses each time the other party does something offensive or upsetting. Focus on your own end goals with a strong and clear plan, and note that, in court cases, judges are not impressed by trivial point-scoring and just want to be addressed on the things that actually matter under the law, e.g. the "4 step-process" to dividing property, or the list of criteria that make up the "best interests" of children. Instead of being dictated to by the other party's tactics, having your own strategy will make you less susceptible to being side-tracked by whatever antics they may get up to. When responding to negativity, "less is more" rarely goes wrong.

Contact Schetzer Papaleo Family lawyers on 03 8602 2000, or visit [spfamilylawyers.com.au](http://spfamilylawyers.com.au).

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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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