

Civility in Family Law Litigation

In family law as in other practice areas, it is always possible to present our clients' best arguments in court, with civility as a guidepost in all facets of legal representation.

BY DAN D. GARTZKE

I practice almost exclusively family law now. Like every other lawyer in every other practice area, I tend to think that my chosen field is one that is especially contentious. And it is, in its own way. We are dealing with what is at times a volatile mix of finances, child placement and custody, and termination of the legal bonds between two people.

But of course, every area of practice will have its own form of tensions. I have had limited experience in criminal law. Bankruptcy is contentious, I imagine. I have heard that motor vehicle dealer cases can be as intense emotionally as divorces.

We as the attorneys have a responsibility not to add to the tension our clients feel. High emotions can interfere with logical thought and reasonable resolutions.

It is easy to become too wrapped up in our clients' problems and identify too closely with our clients and their problems. Sometimes when we become too enmeshed with our clients, we make poor choices. It is also possible to lose the civility that is so important in making the legal system move smoothly to resolution. I have recognized my own missteps in this regard.

For example, I have long felt that the best case to be made on a custody or placement dispute is not to attack the other party, but rather to show my own client's strengths and bond with the children. And I always encourage my clients to find something kind to say in their testimony about the other parent. After all, this is someone with whom they have the shared

relationship of jointly parenting their children. There must be something positive they can say about the other side.

The lawyers and judges I admire most are the ones I have seen who maintain their civility and respect for opposing counsel throughout the process. Disagree, yes, but without being disagreeable.

This is not to say that every case can be resolved by the parties' agreement. Courts are here to decide the issues on which the parties disagree. But it is always possible to present our clients' best arguments in court, with civility as a guidepost in all facets of legal representation. **WL**



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