

How to deal with angry family law clients

Daniel Pollack & Toby G. Kleinman

New York Law Journal, September 10, 2019



Whether you're a veteran family law attorney or one who just passed the bar, you will have to deal with an angry client. Strike that. Many angry clients. That's especially true in family law. The telltale signs are there: agitation, arms folded tight, and glaring looks. These physical signs are unmistakable. Your client is stressed and angry, and you will often be the recipient of their emotional fallout.

What do you do? These situations require skill and empathy. Frequently, people entering into the family court arena are angry before you meet.

There are two basic aspects of this: 1) the client who is angry at an initial attorney/client meeting, and 2) the client who is angry in court. It is impossible for any attorney to completely allay someone's fears – especially when they are going through a divorce – or worse – through a child custody battle. That said, client anger seems to come from two primary sources – bad relationship with previous counsel and anger at the system itself as being unfair.

To deal with anger at an initial interview one must understand the

origin of the anger. So, quite simply, ask the client why they are angry if they appear angry. If it is from prior representation, it is critical to assess what the issues were between the client and counsel. Once known, an attorney must make their position clear – do so sensitively but directly. It is imperative to find a way to respectfully deal with these emotions in order to give good legal advice and to have it understood by the client. A good working relationship must start at the outset. The litigation of family law is by its very nature emotional. It is the breakdown of a love relationship, or it deals with the needs of children or the break-up financial responsibilities. These are inherently emotional. Therefore, a client's added anger makes it even more difficult. For all these reasons it is important to give realistic expectations from the outset. Part of that means the ability to discuss the cost of representation, the duration of the lawsuit, implications of issues not being resolved amicably, and child custody implications of the need for an expert.

A client should be told a little bit about the cynicism of a court, i.e., while this is their divorce or child custody matter, judges frequently have their own opinions, even as they

attempt to follow the law and stay neutral. Emotions in family court are high and can be volatile. Attorneys can be held to account for the things they say. Over-promising can only bring more anger and appropriate distain to an attorney, and potentially ethical complaints as well. Therefore, at the outset be clear. Be concise. Answer honestly and deal openly with the anger of the client before you accept their case. It's important to acknowledge that an attorney cannot meet every client's every need all of the time. Being able to honestly convey that you are acting with the client's best interests in mind will go a long way in lowering a client's 'boiling point.'

Despite careful scrutiny, even the most careful initial positive conversations and commitments between counsel and client can lead to high emotions in the courtroom. Clients may not realize the impact of anger on the trier of fact, be the trier of fact be a judge or a jury. But there is an impact on the trier of fact where a litigant expresses their feelings in the courtroom, so litigants and lawyers should know the potential impact and be prepared for it. That means it is the job of the lawyer to prepare the client in advance and give

clear instructions of their expectations.

We have all heard the expression, “You can’t tell a book by its cover.” But all of us make judgments about people when we see them, sometimes even before they speak. We judge from what we see and what we expect we should see. Indeed, believing we should see something in particular or hear something in particular in and of itself says there are expectations. This happens in everyday life and it doesn’t necessarily matter what people think. But in a courtroom, all participants are being judged whether you are an attorney or a litigant.

As a litigant, the consequences to expression of an angry feeling has profound and potentially devastating effect. When one walks into a courtroom there is expected proper procedure. There should be discussions so you can let the client know what their expected courtroom behavior should be. If you sense the client is going to be angry in court, let the client talk while you listen for the root causes of their frustration and anger. It may be coming from prior, unsuccessful representation; or, it may be coming from deep-seated fear,

worry, pain, a sense of helplessness, being overly involved or uninvolved. It may be the terror of losing custody or the feeling of the need to protect themselves or their child. If it exists, it must be dealt with. You must deal with it before court. Give the client a pad and let them write questions – let the client ask you questions on break. If the client wants something you feel is in correct or inappropriate explain your reasons to the client.

It is understandable for clients to be upset sometimes and to express their anger, sometimes directly at you. In these situations, your reaction should not be defensive. Don’t take it personally – naturally, easier said than done. While maintaining your integrity, try to resist the urge to argue back. It will only escalate things. Walk the client through your thought process. Non-verbal cues are key. Watch your body language. Keep soft eye contact. Maintain your normal posture and stance. Your task is to allow the client to vent and to slowly resume the actual representation so you can gather many necessary facts and focus on the legal problems that need to be addressed.

Angry clients are part of a family law practice. It's unavoidable. But angry clients don't have to bring you down. The end goal is to work with your client to find a satisfactory resolution.

Only by both of you keeping your cool will this be possible.

Daniel Pollack, M.S.S.A. (M.S.W.), Esq., is Professor at the School of Social Work, Yeshiva University, New York City. He has been an expert witness in more than 25 states. Case subject matter includes child abuse and neglect, and abuse and wrongful death of children in foster care, residential care, and day care. He was recently appointed to Game Over: Commission to Protect youth Athletes, an independent blue-ribbon commission created to examine the institutional responses to sexual grooming and abuse by former USA Gymnastics physician Larry Nassar. Contact: dpollack@yu.edu; 212-960-0836.

Toby Kleinman, Esq., is a New Jersey attorney and a partner in the law firm of Adler & Kleinman. She has litigated domestic violence, child custody and abuse cases, and has been a consultant in cases dealing with domestic violence and child abuse in over 45 states. Contact: toby@adlerkleinman.com; 732-309-5952.