

# Know Your Limits

Matrimonial attorneys need to know when to refer a client to an outside professional

By Robert L. Penza, Vikki S. Ziegler and Rebekah R. Conroy

To the average practitioner, the Rules of Professional Conduct extend into most arenas of day-to-day practice. But to the matrimonial practitioner, an unwieldy area of grey exists, specifically with regard to the scope of the attorney's representation. Although RPC 1.2 defines the scope of the attorney's representation with regard to decision making and the bifurcation of effective representation from "the client's political, economic, social, or moral views or activities," the Rules offer little guidance as to the scope of the matrimonial practitioner's burden in any given representation. RPC 2.1 provides "[i]n representing a client, a lawyer shall exercise independent professional judgment and render candid advice, a lawyer may refer not only to law but to other considerations, such as moral, economic, social and political facts, that may be relevant to the client's situation."

**The important thing for matrimonial practitioners to remember is how fragile clients can be and to detect immediately where the role of an attorney and the role of another professional begins.**

The burden shouldered by matrimonial practitioners in rendering candid advice envelops questions ranging from the most delicate of legal situations to life's mundane aggravations. Time and again, a matrimonial attorney's services are utilized for nonlegal advice. "There is a very fine line between advice regarding a client's legal position and advice regarding a client's life," says Karen Meislik, a certified matrimonial attorney. "I feel like I always have to give something back to the client," she continued, "I never discount a client's feelings. I may remind him or her time and again that I am not a therapist, but I never allow a client to walk away empty handed." Charging fees for this therapeutic advice presents a further conundrum for matrimonial practitioners and is not recommended. One clinical psychologist tells us that a licensed professional is trained to deal with issues affecting the breakdown of the marriage. Techniques for coping can be implemented to help a

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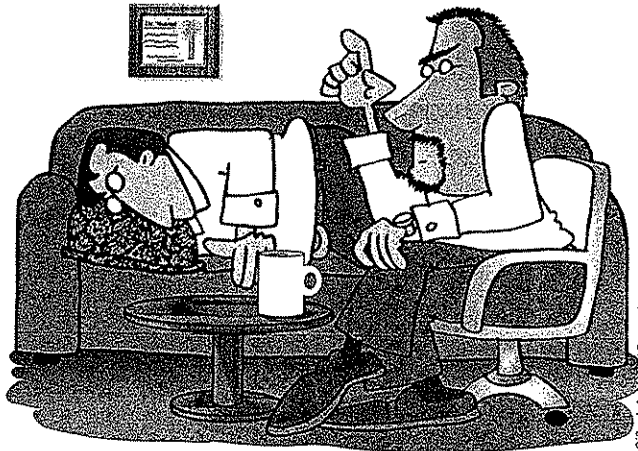
litigant gain strength and perseverance during such an emotional time. Psychiatrists may also feel it is best to prescribe medication for anxiety or sleep disorders for matrimonial clients during the litigation. Only a licensed professional can make those recommendations, as an attorney should shy away from counseling clients on those sensitive topics.

The good news is that additional resources have become more and more available to family law practitioners. Commonplace fights over parenting (i.e., what orthodontist will Charlie go to), can be passed on to parenting coordinators, whose practical and educational specialties lend to swift and fair resolution of such questions. Clients facing a review by the Division of Youth and Family Services may also be in need of outside help, not just from parenting classes, but from certified life coaches, who offer specialized help in confidence and self-esteem, career, relationships and communication skills. "I work with several savvy attorneys who know when it is appropriate to refer their clients to a coach to work on the core issues they are facing so they don't repeat the same relationship challenges over again and can present a healthier role model for their children," says Nancy Powers, a professional success coach from Miami, Florida.

Practitioners may find themselves more comfortable referring a client to a life coach than to a therapist. Life coaches are commonly available for telephonic consultations instead of in-person conferences for people with hectic schedules. This type of hands-on service allows matrimonial litigants almost instant access to professionals to solve problems right now. However, many is the time when a client's needs can only be met by sessions with a licensed therapist, psychiatrist or social worker, in order to help a client deal with issues relating to the children. Children are greatly affected by a divorce and only specialized professionals in the field can properly and clinically advise clients on how to discuss issues of separation between the spouses, visitation and the introduction of new partners, etc. Solely relying on the matrimonial attorney for practical advice is a mistake.

A wide array of helpful specialists is also available to counsel clients on fiscal matters. Though the new divorcee may be ignorant as to how to invest, save and spend her \$10 million equitable distribution, a licensed financial planner is well-equipped to handle the task, whereas an attorney is not. Financial planners can be used to help better inform clients who are unfamiliar with investing money, planning for retirement, even setting up day-to-day bill-paying techniques on line. Handling or investing a client's money is a taboo subject for most attorneys, and opens the door to issues regarding mishandling and exploitation. See, e.g., *In re Maguire*, 266 N.J. 87 (2001). An employability expert may also be a valuable asset for a client whose family situation has suddenly and drastically changed, in order to determine if a spouse can re-enter the work force and earn a living.

As Susana Lugones and Katherin G. Romero, financial advisors with Merrill Lynch's Global Private Client Group explain, "Losing a spouse — whether



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through death or divorce — is among the most painful and difficult events you can experience in life. Developing a sound financial strategy will allow a client to navigate through this difficult time and establish a financial foundation for the next stage of one's life. Every year, millions of households experience divorce or passing of a spouse. Clients can minimize the impact of these events on their financial well-being by working with a financial advisor on eight crucial steps:


1. Creating an inventory of assets;
2. Calculating taxes;
3. Reviewing alimony/child support maintenance;
4. Creating a budget;
5. Reviewing retirement and educational funding;
6. Deciding what to do with the family home;

7. Revisiting the investment strategy and asset allocation; and


8. Evaluating the estate plan.

Having these steps reviewed with a financial planner and a lawyer gives the client comprehensive advice. As Romero concluded, "any team should consist of legal, tax, and financial professionals whom the client feels comfortable in building a relationship with over the long term."

The important thing for matrimonial practitioners to remember is how fragile clients can be and to detect immediately where the role of an attorney and the role of another professional begins. Arming yourself with knowledge of outside professionals and building a referral base will only better equip matrimonial clients to go through the process with a support system. ■



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Matrimonial Disputes