

THE LAWYER-CLIENT RELATIONSHIP

By K. Dean Kantaras

ABRAMHAM LINCOLN, A brilliant and accomplished lawyer before he became president, said, "A lawyer's time and advice are his stock in trade."

When a client retains a lawyer to represent him/her, in my opinion, the client and the lawyer are entering into a partnership of sorts. The client expects certain things from the lawyer. In return, the lawyer expects and needs certain things from the client. In no scenario is that cooperation more important than in divorce cases.

The client obviously expects the lawyer to provide his services zealously. In fact, the lawyer is required by the rules regulating the Florida Bar to zealously represent the client. That does not mean, however, that the lawyer either will, or should, do what the client tells the lawyer to do.

There is a television advertisement by a law firm that touts the relationship between them and their clients as employer-employee. The firm is supposedly the employee, while the client is seen as the employer. If I have interpreted what they are saying correctly, I couldn't disagree more. While it is true that lawyers work for their clients, their work is of a professional nature that requires the lawyer using his judgment on all issues involved in the legal dispute. That judgment is based on years of experience, a knowledge of the law, an understanding of what judges expect and want to hear at hearings and trials, and the lawyer's knowledge of the facts of the case. Almost certainly, the client will not have the background or knowledge to make those decisions. Therefore, it would normally be a disservice to the client for the lawyer to do as his client instructs him.

What a lawyer does in a case will depend largely on how the client carries out his half of the partnership. A lawyer expects



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to be provided all the facts of the case – in fact, in divorce cases, virtually all the facts of his client's life. A client should not be the one to decide what is important and what is not. When he/she is required to produce documents or answer questionnaires, the client should do so completely and promptly. Delays in providing information can cause more work to have to be done by the lawyer, which will result in additional and unnecessary attorney's fees and possibly costs. It can also sometimes lead to the client having to pay the opposing lawyer because of the additional work caused.

A case is built from the outset as though it will go to trial. A lawyer compiles a "Trial Notebook" from the beginning of a case. That cannot be properly done without the client's full cooperation and participation.

A good example of the cooperation needed between lawyer and client is the compiling of a list of witnesses, what the witness can testify about and whether or not certain witnesses are either necessary or advisable. Sometimes a client will stress the need to use a particular person as a witness. It often turns out that the witness has both positive and negative information for the case. The judgment as to whether or not to use that witness must be made jointly by the lawyer and the client, after the client has been advised of potential consequences of the negative information that may come from the witness.

Mr. Lincoln was eminently correct. What he meant was that a lawyer doesn't sell suits, watches or sporting goods. His time and knowledge are what he has. Obviously, he must be paid for that "stock in trade." So, the lawyer will have the client sign a fee agreement and will expect fees and costs to be paid as they are billed. If they are not, the lawyer may stop using his time for the case. ■■■

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