



Grant Taylor



# The **Role** *of the* **Family Law** Lawyer

**T**he lawyer's primary role is to explain the relevant law in relation to the facts that have been related by the client.

The client must be made aware of the fact that issues in Family Law involving property and asset division, child and spousal support, and custody of and access to children have significant repercussions for all involved for the present and the future.

Sometimes the client feels the necessity to penalize the former partner for acts that may have occurred during the relationship. At this point, it is essential that the lawyer manage the client's expectations of the outcome of any dispute between the spouses. Occasionally, clients feel the necessity to pursue a "principle." It is important for all clients to know that "principle" costs money and that the pursuit of the principle may not be in the client's best (financial) interests or may impact negatively on the best interests of the children.

Cost is always an important consideration for the lawyer as well as the client. Cost management is part of the role of the lawyer. Costs can be managed by ensuring the client only calls the lawyer when it is absolutely important and necessary to do so and not to call every time the client feels slighted by something the husband or wife has done or said.

Costs can also be managed by incurring expenses and disbursements only when it is necessary to do so.

Not only is the lawyer an advocate for one's client, the lawyer is also a referral source, should the need arise for the client to have a psychologist prepare a custody and access report. The lawyer will also refer clients to others who are mediators, in the event the client and his or her spouse may wish to attend mediation sessions to resolve their differences. At times there is a need to refer a client to a Chartered Accountant for tax advice or for an in-depth analysis of the valuation of a business.

**Some lawyers believe they are on-call 24 hours per day and give their clients *carte blanche* permission to call any time the client thinks it is important.**

BC Notaries are quite often involved in referrals to assist in conveyancing when the former matrimonial home is sold.

## **Lawyers Must Strike a Balance between their Clients' Needs and their Own Lives.**

It is important for the busy Family Law lawyer to have quality time away from the office and the demands of clients. How this is best achieved is a personal choice; it is,

however, a choice that must be made. To practise law without recreational and other non-law pursuits will inevitably lead the lawyer to suffer from far too much stress, which could result in a breakdown or other stress-related maladies.

Some lawyers believe they are on-call 24 hours per day and give their clients *carte blanche* permission to call any time the client thinks it is important. Most Family Law lawyers, however, do not allow their clients to intervene into their personal time because personal time is important to the professional. Not only does it allow the lawyer time away from problem-solving for others, it allows the lawyer to refresh and invigorate such that he or she is alive to the issues in the client's case and is able to solve them in a clear and professional manner.

## **Who are the Lawyer's Clients?**

As many lawyers soon learn, not only do they benefit personally from non-law pursuits but also professionally, due to the expansion of their network of friends such that ultimately they will draw clients from friends and associates from their recreational activities. This would be one of many referral sources for a lawyer.

Other referrals come from satisfied clients the lawyer has represented over the years. Obviously, the more satisfied the client, the more likely that person is to refer a friend, family member, or associate to the lawyer.

Other referrals come from associated professionals, including Notaries, lawyers, real estate agents, clergy and physicians, to name but a few. In each case, the client has special needs that the lawyer must recognize and identify to the client so that both lawyer and client are working toward a common goal.

### **Client Concerns**

Most clients share the common concern of cost. The issue of cost must be addressed very early in the lawyer-client relationship. That will give the client an indication as to the possible range of costs and he or she will know that the lawyer is being up-front and not afraid to discuss this important topic with the client.

Depending upon the length of the marriage and the amount of assets accumulated by the couple, the client will also be concerned about what percentage of the assets will become the sole property of the client. Many factors—such as the duration of the marriage, the date the property was acquired, the extent to which the property was acquired by one spouse through inheritance or gift, and the needs of each spouse to become or remain economically independent and self-sufficient—play an important part in a determination as to the fairness of the division of the assets.

The division of assets is sometimes important to the client who is unable to pay for his or her legal services at the outset, but who has entered into an agreement with his or her lawyer for payment of the legal fees from the assets, after division has been determined.

Some clients want approval from their lawyer or they want their lawyer to be their friend. This may happen occasionally, but it is not good practice for a well-intentioned lawyer. To give the client the best advice possible, lawyers must remain objective. By doing something that puts the solicitor-client relationship in jeopardy, the lawyer is not serving his or her client with the client's best interests being the uppermost consideration.

Once the client's best interests take second place to other considerations, the lawyer has failed the client. Lawyers should not give advice on the basis of going along with the client or wanting approval from the client. The lawyer must give advice, having regard to all the facts and the relevant law as it exists at the time.

When this is done, and done properly, the client should have respect for his or her lawyer; a bond of trust develops between the professional and the client. This is the type of relationship for which all clients and their lawyers should strive. ▲

**Grant Taylor, QC, is in his 31st year of practice as a barrister and is a qualified mediator. A Bencher of the Law Society of BC, he is a member of the Credentials Committee and the Access to Justice Committee and Chair of the Task Force on Unbundling. Grant practises at Taylor, Thomas & Associates, with offices on the Quay in New Westminster and in Crescent Beach.**

Voice: 604 527-1161

Fax: 604 527-1165

gtaylor@quaylawcentre.com

www.QuayLawCentre.com

## **Blazing a Trail of Judicial Reform in BC**

The Western Canada Society for Access Justice's 461 lawyers are providing *pro bono* advice in clinics across the province to help put the legal profession at the service of those disadvantaged by the current structure of the judicial system. The increasing complexity of our legal culture means a greater than ever need for qualified counsel—counsel often billed at a level targeted toward higher income brackets, leaving a judicial system many simply can't afford.

Access Justice's response has been to develop self-advocacy at a grassroots level with plans to have 95 percent of British Columbians served by *pro bono* clinics within an hour's drive from their homes. At each legal appointment given, the aim is to remove the intimidation often posed by the day in court, helping clients understand what to expect and navigate the legal process successfully.

Through partnerships with local social agencies, a foundation of community involvement and outreach underwrites this practical and cohesive campaign to change the nature of the ordinary citizen's access to the judicial system into a positive, comprehensible, and empowering encounter.

Blazing the trail of judicial reform, the network is embarking on vigorous expansion into the interior, where rural clients are doubly handicapped in finding legal counsel for both geographical and financial reasons. A pioneering system of "televideo" clinics is now in operation, enabling lawyers based in Vancouver and Victoria to offer assistance through an inventive combination of fax, Webcam, and speakerphone.

This summer, project coordinators are travelling across Western Canada pushing the frontiers of truly accessible justice. The dynamic vision embodied by the work of this unique organization has garnered broad sympathy and accolades within the legal community, from Chief Justice Brenner's unqualified support to a Grant from the Canadian Bar Association. Various other funding applications, including one to The Society of Notaries Public of BC, are pending.

Core funding, however, is met primarily from the pockets of individuals who believe that Access Justice offers a ground-breaking platform for the realization of lay rights before courts. If there has ever been a time for the Allied Professions to come together in support of a cause that brings unparalleled credit to us all as practitioners, it's now! To learn more about how you can help your community access justice, please visit [www.accessjustice.ca](http://www.accessjustice.ca) or call 604 482-3195. ▲