

Prevention of the Holiday Emergency Motion... is it possible?

Maybe yes, maybe no.

But, minimizing the possibility, absolutely!

By Brigid A. Duffield

We have all had this happen—it's four days before Christmas and you are at your very festive, law office Christmas party. You have completely prepared yourself and your staff and you are sooo ready for a peaceful, stress-free holiday season. The minute you raise your glass for the holiday toast, you get the phone call. You haven't dreaded it, it wasn't supposed to come and yet here it is. Mere hours before the holiday, one of your favorite clients, who is enmeshed in a messy divorce and who rejected your prior advice that she set up specific days and times for her and her husband to be with the children for the holiday, is calling to tell you that her life is in turmoil. Of course, this is after she assured you and herself that "It's a Wonderful Life" and All is Well! She is panicky and she needs your help and action "RIGHT NOW" because her ex-husband has decided that he wants to change the holiday visitation schedule set up in their Joint Parenting Agreement.

There is not enough time for proper service and it is so close to the holiday, that an emergency motion needs to be filed the next morning. This was, of course, not on your holiday horizon. You don't know when you will be able to find the time you need to shop for last minute gifts, bake cookies and take your children caroling and ice skating, especially since you have already told your wonderful secretary of 15 years (who is leaving for Ireland right after the holiday party) that she doesn't have to do those errands this year since you have the time. Not to mention that you know how much Judge Scrooge can't stand emergency motions and is going to tell you, "Counselor, Christmas is always on December 25. This is NOT an emergency!" And of course, while you like this client, mustering up the Good Will to do the job is giving you a Holiday Headache.

We have all heard Judges admonish our colleagues and friends (not us) and admonish our clients to be prepared for the Holiday Happenings. As professionals, we have the wisdom, information, and, hopefully detachment to advise our clients about predictable outcomes but... client chaos, client control, client craziness can happen and when it does, most of us do our very best to reduce the number of emergencies, or avoid them all together.

According to court statistics about 85% of cases mediated do settle. Experienced divorce lawyers know and frequently count on it. So, who better than divorce lawyers to anticipate, advise, assist...and ensure that our clients do not become one of or a victim of the devastatingly increasing numbers of estranged parties who actually take the life of their spouse or partner. We do serious and important work...and holidays are especially the time to do it.

Taking charge of your office policies and reviewing your own client control techniques and especially your office “lines in the sand” will go a long way to helping you plan your own stress-free holiday and enjoy it with your family instead of your client’s family.

A few things to consider...

- Consider what type of new client file you will open between September and December.
- Communicate to your clients in your monthly billing information that helps them think about what they need to do in the 90 days leading up to the holidays.
- Advise your client that this is your busy time of the year and that it will not be possible to rearrange trials and other matters you have previously set for other clients to attend to their “emergency” issues.
- Remind them that many clients want to finalize their matters by 12/31 to maximize their tax positions and that those clients have been in the pipeline for a while before this client retained you.
- My personal favorite...Send your clients to an experienced mediator in November if you anticipate problems with holiday schedules. (November is Mediation Month...actually I made that up!) Give your clients sample holiday schedules to get them thinking about where they will fail so they can succeed independent of the legal proceeding.
- Present mediation to your clients as a way to jump start the dialogue and positively enhance their communication skills as divorced parents working together for the sake of their children not only at the holidays but year round.

You want to enjoy a peaceful holiday season; you wish your clients a peaceful holiday season. Take the steps to achieve the peace and serenity you deserve by resolving potential problems before they even begin.

Now get back to that holiday party and enjoy it...not a client is stirring, not even a mouse!