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Entering the unknown: How fear impacts decision-making in divorce

When a marriage ends, it is human nature for each spouse to experience different emotional responses, often involving fear. Their emotional reaction dictates the path they will follow as they navigate the new divorce territory, negotiating new boundaries and expectations for each party.

Each person will experience an emotional response, but the type and intensity varies greatly. These drastic differences can often be an additional source of contention between the spouses.

This new territory often brings fear impacting every decision made along the way. Emotions based in fear can lead people to react irrationally and impulsively.

These two reactions spell disaster when it comes to negotiation, often causing disputes to intensify and negotiations to fail. In helping clients successfully negotiate the end of their marriage, it is vital for divorce attorneys to understand the role of fear in divorce.

Mastering fear

Emotions are a powerful tool if we understand how to use them to communicate effectively. They can play both positive and negative roles in negotiation and divorce. Understanding these possibilities gives us the upper hand by allowing for the mastery of the emotions instead of allowing them to dictate your future.

Mary Baker Eddy said, "We should master fear instead of cultivating it." This mastery can be used to help ensure your client walks away from the negotiation table with a sense of acceptance and, ideally, contentment.

When you master fear, you respect the fact that there are many unknowns for everyone involved. This can improve the sense of understanding and enable positive, productive communication.

Conversely, allowing one's emotions to rule impedes negotiation and motivates parties to negotiate hastily in order to shorten the duration of their discomfort.

These emotions will impact the number of concessions a spouse will make, whether the spouse will continue to negotiate or reach an agreement, and how a spouse will react to the other's assertions.

Researchers have studied the affect of emotions on negotiator's behavior. Their findings allow us to see the importance of familiarizing ourselves with our own emotional responses in negotiations and show us the way in which these responses can be controlled and manipulated.

Easier said than done?

Fear can block the development of positive resolution, often leading to anger. To avoid negotiating out of anger, it is of utmost importance that we attack fear long before we sit at the negotiation table. The most successful negotiators take the time to prepare themselves mentally prior to setting forth their expectations.

The process of facing emotional responses head on is unique to

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each individual. For some, it takes time to accept the need for consideration of their emotions during a time in which they are most sensitive.

This sensitivity is potentially harmful to their bottom line. Thus, the importance of emotional education in divorce.

A 2015 Harvard Business Review study by professor Alison Wood Brooks, "Emotion and The Art of Negotiation," made a distinction between fear that is felt internally and fear that is more outwardly obvious.

According to Brooks, fear which is internally present can cause the negotiator to feel substandard. Consequently, internal fear will likely have less of an effect than outwardly expressed fear would have had.



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The successful attorney will take the time to educate their client on the techniques for dealing with emotion and expressing those emotions effectively. The first step to dealing with it is simply acknowledging it exists.

It is so common to deny fear even exists which is a detriment to your client and the negotiation. When emotions are addressed

their emotions are typically expressed and the situations that commonly provoke those emotions.

The attorney can manage the client's fears by simply providing the client with an understanding of the complete divorce process. Fear is often a response to the unfamiliar, so the more familiar the divorce process, the less fearful your client will feel.

Further explaining how fear is typically experienced and expressed in divorce is also helpful. Acknowledge that feeling fear is an expected response.

Finally, providing techniques for controlling how fear will be expressed is crucial. Identification of these particular factors allows for an increased confidence level and ultimately, a more successful negotiation process.

Not only are these control techniques useful during the actual negotiation, but also in the decision-making process prior to the actual negotiation. Resolving emotional issues prior to making significant determinations regarding assets helps to ensure that a party does not fight to hold on to something solely due to an unresolved emotional attachment.

This emotional attachment to certain assets often causes clients to make less than desirable decisions throughout the negotiation process.

The most common example is the client who insists on maintaining the former marital residence due to an emotional attachment. This is often expressed as a desire for continuity for the children. However, children often express all they really want is to have their parents stop fighting and to be happy.

Emotions are an unavoidable consequence of divorce. Instead of ignoring the inevitable, there is value in working with your clients to confront their fears directly and give them the tools to regulate their emotional response.

A successful attorney will invest effort in developing an emotional strategy and work with their client to use their emotion to their advantage.