By Luis E. Insignares

In last month's column, we looked at former First Lady Nancy Reagan's admonition to "Just say no," but noted that that simple idea can also have a much broader application than it did in its original context, which broader application we as lawyers would do well to remember in the practice of law.

In family law in particular, "Just say no" can apply not only to our actions, but also to those of our clients. In this installment, we'll look at a couple of the recurring situations in which our *clients* should "Just say no."

Most of the considerations supporting our responsibility to advise our clients to "just say no" are legal, of course, but some are more in the vein of being a bit of a "life coach," as I hear they are being called these days. And as unorganized or imperfect as some of us might consider our own lives, our clients may be going through, quite literally, the most emotionally and psychologically trying times of their lives. We don't have to be perfect in order to help our clients avoid making a bad situation even worse, by pointing out when to "just say no."

As lawyers, we are often referred to as "counselor," after all. Here are a couple of the more important "just say no's" that we've learned from representing people who are divorcing, or are in disputes with former spouses.

First: In all cases, a client's focus should be forward, not backward, and positive, not negative. If a client comes to us for help, it should be to get the client to a better place, not to punish or hurt someone who's hurt him or her. Not only is the latter approach unhealthy for the client as a person, it will probably cost him or her more, from a financial standpoint, in the long run.

The following quote from *Wrona v. Wrona*, 592 So.2d 694, 696 (Fla. 2d DCA 1991), is apt:

> This couple has four children that need all the care and education that money can buy. Nevertheless, this couple has spent — and our system of divorce has permitted them to spend — roughly 50% of their entire savings on a divorce battle over a big stamp collection and a house full of Hummel figurines. Unless the couple sells their collections to pay their attorneys, it appears that either the attorneys must defer their fees or the parties will ultimately be forced to use virtually all of the equity in their children's homestead to pay for this Pyrrhic victory. Admittedly, many people approach divorce from a very emotional perspective. It is not the purpose of our system of justice, however, to augment those emotions. (Footnote omitted.)

Second: When there are children from the marriage, the dispute is not theirs! Clients should do their best to shield children from the negativity that all too often accompanies family disputes. Clients should not speak ill of their spouse or "ex" in front of their kids, nor discuss the dispute with them, nor force them to choose between their parents, nor interrogate them about what the other adult is up to.

If any of the above paragraph seems familiar, our circuit and many other Florida judicial circuits, have, by family court administrative order, established "Standing Temporary Orders," and in some cases these administrative orders specifically prohibit such treatment of children. Paragraph 6 of the local Standing Temporary Order for Dissolution of Marriage with Minor Children certainly prohibits such bad behavior, the term of art for some of which is "parental alienation."

As with the issue of "just saying no" to bad behavior vis-à-vis a spouse or "ex," the issue of similar shenanigans directed towards children is even more emotionally and psychologically damaging. Further, the latter case also involves innocent third parties who are probably already going through a very difficult time. But there are purely legal reasons for getting the client to "just say no," as well.

Conduct by a parent which alienates children from the other parent can be punishable by contempt. See, e.g., *Burckle v. Burckle*, 915 So.2d 747, 748 (Fla. 2d DCA 2005) (affirming trial court's finding father in contempt for violation of visitation provision of supplemental final judgment; stating that trial court noted father's failure to cooperate regarding mother's right to exercise visitation, and stated that his "'behavior is a classic example of parental alienation.'"); *Cole v. Cole*, 130 So.2d 126 (Fla. 1st DCA 1961) (evidence supported chancellor's findings upon which he held divorced wife in contempt for activities calculated to alienate affections of children toward divorced husband awarded their custody). Thus, even if an appeal to reason is unavailing, perhaps the reminder of the very real possibility of some time in lockup might convince the client to "just say no." RG

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