



Legal Education
Society of Alberta

62136.00

Family Law Contracts

Edmonton, Alberta

Calgary, Alberta

Chair

Ryan Anderson

Huckvale LLP
Lethbridge, AB

Faculty

Tamasine I. Davies QC

Soby Boyden Lenz LLP
Calgary, AB

Danielle Collins

Latitude Family Law LLP
Edmonton, AB

Nicole Dechaine

Dunphy Best Blocksom LLP
Calgary, AB

Terry S. Hunt

Rand & Company LLP
Edmonton, AB

Bud Melnyk

Warren Sinclair LLP
Red Deer, AB

Ken Proudman

Barr Picard Law
Edmonton, AB

LEGAL EDUCATION SOCIETY OF ALBERTA

These materials are produced by the Legal Education Society of Alberta (LESA) as part of its mandate in the field of continuing education. The information in the materials is provided for educational or informational purposes only. The information is not intended to provide legal advice and should not be relied upon in that respect. The material presented may be incorporated into the working knowledge of the reader but its use is predicated upon the professional judgment of the user that the material is correct and is appropriate in the circumstances of a particular use.

The information in these materials is believed to be reliable; however, LESA does not guarantee the quality, accuracy, or completeness of the information provided. These materials are provided as a reference point only and should not be relied upon as being inclusive of the law. LESA is not responsible for any direct, indirect, special, incidental or consequential damage or any other damages whatsoever and howsoever caused, arising out of or in connection with the reliance upon the information provided in these materials.

This publication may contain reproductions of the Statutes of Alberta and Alberta Regulations, which are reproduced in this publication under license from the Province of Alberta.

© Alberta Queen's Printer, 2019, in the Statutes of Alberta and Alberta Regulations.

The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

© 2019. Legal Education Society of Alberta. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise without the prior permission of the Legal Education Society of Alberta.

ISBN-10: 1-55093-727-8
ISBN-13: 978-1-55093-727-5

Family Law File Negotiation Checklist: Preparation is Key

Prepared by:

Nicole Dechaine

Dunphy Best Blocksom LLP



Legal Education
Society of Alberta

For: *Family Law Contracts*
Edmonton, AB – October 1, 2019
Calgary, AB – October 10, 2019

PREPARATION IS KEY

Introduction 2

A Checklist for Preparing for a Negotiation on a Family Law File 3

 Limitation Periods/Critical Issues..... 3

 Children 4

 Child Support 4

 Spousal/Partner Support 5

 Property 6

 Miscellaneous 8

Pre-Nuptial Agreements..... 9

INTRODUCTION

When starting out with a new file preparation is key to being able to start negotiations on behalf of your client. While your client is going through one of the most stressful times in their life, it is your job as their legal counsel to be fully prepared with all of the necessary information, to ensure the best possible outcome for your client. Utilizing extensive and thorough checklists can allow a lawyer to ensure they have asked all of the necessary questions of their client, thought through a number of possible scenarios and researched the more complex or nuanced areas of the law.

Prior to sending the first letter outlining a potential offer, going in to a first four-way settlement meeting or attending at a mediation requires extensive work on the part of the lawyer. Your client should always be able to expect that you are fully prepared and are going to ensure the use of time and money for the client is the most effective as it can be. Even being able to reach initial consensus on outlying issues, requires a fulsome understanding of all of the facts, and major issues to ensure that your client's interest are always being considered and protected.

It is critical in the first meetings with your own client to get a real understanding of what their respective goals are regarding a final settlement. With these in mind you gather all of the relevant information that will assist you in advising your client on their respective goals. Gathering all of the relevant information then allows you to provide them reasonable feedback on the likelihood of outcomes. Be very wary of making grand assumptions without having first gathered all of the information. Setting your clients expectations at unreasonable and unachievable outcomes results in grave disappointment for your client, and a very strained client-lawyer relationship.

It is also necessary to have canvassed with your client the strategy regarding any settlement meeting, letter or mediation. Where a client is left in the dark as to the strategy or fails to understand clearly the best way forward, it also results in potential stalls in the negotiation and at times a very unhappy client. Clients do not want to be left in the dark or feel as though they are not in control of the decision making. Ensure that while you are collecting all of the information from your client, as outlined in the checklist that follows, that you are educating your client on the law, their rights, and the best possible way to present their position in an effort to be successful.

Your client has hired you as the expert to assist in reaching a fair settlement. The best possible outcomes and successes for your clients come from being abundantly prepared, having considered not only your clients positions, but also, and very importantly, having considered the position of the opposing party.