

Challenges in Managing the CEO's Divorce

By Mitchell Reichman

Representing a high-level executive in his or her divorce presents unique and recurring challenges to a family law practitioner. While every client's divorce has its own particular circumstances, representing high net worth senior level executives have certain commonalities among them regardless of their profession and industry. These include the absence of time to devote to divorce-related tasks and difficulties accepting their inability to control the process.

People who are running or managing a significant business or who are fully engaged in a successful professional practice, often have little time to do anything else. Their focus is on their business. If they do not have or are unwilling to engage administrative assistants to assume the burden of gathering information and responding to discovery, obtaining information from them on a timely basis can be challenging. It is typical for this client to be more knowledgeable about and have easier access to records relating to marital assets, such as bank account records, credit card statements, real estate related documents, business financial records, corporate or partnership records and investment records, which puts the burden on them to provide these records. When records are not provided in a timely manner or the client's disclosure is incomplete, the client is exposed to suggestions of concealment and dishonesty, which hurts his or her credibility before the tribunal and can expose them to sanctions that can be as severe as claim preclusion. Thus, it is critically important to inform your client and have them be acutely aware of the adverse consequences that can occur if insufficient attention is paid to gathering information. Additionally, adopt and implement a strategy to provide assistance in the gathering of information.

To be effective as counsel for the CEO, be efficient and organized with their time. Meetings need to be scheduled well in ad-

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vance. There is a need to accommodate the CEO's schedule by having meetings after normal business hours or on weekends. An agenda for each meeting should be sent prior to the meeting to give the CEO time to prepare and to add topics he or she wants to address. Written memos should be prepared following each meeting to memorialize what was covered and a running task list that includes deadlines and identifies the person responsible for completing the task. Regular progress memos help focus the CEO client on tasks they have committed to do and the deadlines associated with those tasks.

Because the CEO client is used to being in charge, he or she is typically uncomfortable with dynamics in a divorce where they must comply with rules that may seem burdensome or arbitrary, orders from a judge or your advice. Adopting a mutually agreed upon strategy specifically designed to meet the client's goals helps the CEO feel more in control of his or her result and the process. In fashioning goals, effective counsel will manage the client's expectation so the goals are realistic under the particular facts and circumstances. As information is gathered during the course of the representation, goals will need to be re-examined and potentially modified. Establishing that the divorce process is a partnership of effort between counsel and the CEO will not only help ameliorate the feeling of being out of

control, but also it helps keep the CEO client focused on the tasks that need to be accomplished.

If you adopt and implement these ideas, your CEO client can be a pleasure to represent. They are used to operating their business or professional practice using many of these same techniques and will appreciate these strategies more than other clients might. While results can never be guaranteed, bringing an

efficient, accommodating and organized approach to representing the CEO in a divorce will facilitate a healthy and effective working relationship between you and your CEO client.

Mitchell Reichman is an Arizona State Bar board certified family law specialist and attorney at the Phoenix law firm of Jaburg Wilk. He is an executive board member for the State Bar family law/divorce division and rated AV Preeminent by Martindale Hubbell. Mitchell is named a Best Lawyer in America by Best Lawyers, Arizona Top 10 Family Law Lawyer by Arizona Business Magazine and a Southwest Super Lawyer. Mitch is an experienced in representing a variety of high net clients with divorces.

