

## The blame hierarchy in family law revisited

By **Gary S. Joseph**

Law360 Canada (January 26, 2026, 2:29 PM EST) -- My loyal readers will recall that I practise family law under the belief that there is a hierarchy of blame that exists in almost all high-conflict family disputes. To repeat, the client begins by blaming the opposite party, thereafter the anger is often directed at opposing counsel followed by the same anger directed at the presiding justice if he/she dares to rule against the client. Yes, the last on the ladder is one's own lawyer who often bears the scorn of the angry client if absolute success is not achieved on every issue in dispute.

Recently, while on vacation, I again pondered this dynamic and realized I have done nothing in my writings to suggest a positive manner of dismantling this hierarchy. I was triggered by a text received from a good friend, a senior family law counsel who practises outside the GTA. He asked me to comment on a well-known Toronto family lawyer. My friend was being asked by a client to take over a family law matter from the Toronto lawyer. Apparently, a motion had been lost, and the irate client wanted to change counsel.



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To my friend I reflected that the Toronto family lawyer in question was an excellent and respected counsel. To myself, I concluded that the Toronto family lawyer was probably on the bottom rung of a blame hierarchy and was losing a client who had run out of people to blame.

Given all of the above, here are some suggestions to avoid the blame game in family law:

1. Do not aid and abet the client who wishes to demonize the opposite party. That does not mean to ignore or dismiss marital misconduct. Only don't jump aboard that bus without fully vetting the facts and the evidence, and in any event, try not to demonize;
2. The same can be said for opposing counsel. Hide your personal feelings if you lack respect for opposite counsel. If you find opposite counsel so objectionable, don't take the file. I have a list of lawyers whom I wish to not deal with. My reasons are varied, but I try to avoid expressing same to clients;
3. Judges in family law have a tremendously difficult job. They are generally overworked and understaffed. Don't personalize defeat with your clients. Provide rational and reasoned responses to your client if the decision goes against your position, and be ever ready to discuss options;
4. Finally, here is the easiest way to avoid the blame game landing on you. I begin with my now famous "do as I say not as I do" qualification. Avoid files where your instincts tell you to. Make sure clients keep current with your billings. Clients who blame don't pay. Here's the most important advice: manage expectations at every step and paper your file.

A parting piece of advice: when my children were young, I coached hockey. The league had a standing rule for coaches. Never deal with an irate parent (usually complaining about lack of ice time for their "Wayne Gretzky") alone. They called it the "two-deep rule." I have carried this forward in my practice whenever possible. An upset or angry client never gets me alone on the phone, zoom or in a personal meeting. I usually have an associate present or at least a clerk. Note taking in such contacts is essential.

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