

# M I C H I G A N FAMILY LAW JOURNAL

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STATE BAR OF MICHIGAN  
Family Law Section

**Mission**

The Family Law Section of the State Bar of Michigan provides education, information, and analysis about issues of concern through meetings, seminars, its website, public service programs, and publication of a newsletter. Membership in the Section is open to all members of the State Bar of Michigan.



**2020-2021 List of Council Meetings**   Networking starts at 9 a.m. and the meeting commences at 9:30

Saturday, November 7, 2020  
Virtual by Zoom

Saturday, March 6, 2021  
Virtual or in-person TBD

Saturday, May 1, 2021  
Virtual or in-person TBD

Saturday, December 5, 2020  
Virtual by Zoom

Saturday, April 10, 2021  
Virtual or in-person TBD

Saturday, June 5 2021  
Virtual or in-person TBD

Saturday, January 9, 2021  
Virtual or in-person TBD

\* If you wish to attend a council meeting, please contact Kristen Robinson at: [kristen@melleinrobinson.com](mailto:kristen@melleinrobinson.com) to register in advance.

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THE DOMESTIC VIOLENCE COMMITTEE PRESENTS

## ADVICE FROM AN ADVOCATE

BY KRISTEN WOLFRAM

This virtual conversation was between Charles C. Campbell, BS, PBD, N.P., Legal Advocate, Paralegal, Advocacy and Resource Services at YWCA West Central Michigan and Kristen Wolfram of The Maul Law Group, PLLC.

### **What should attorneys know about the perspective of a client who is divorcing an abusive partner in order to best represent them?**

Domestic violence happens with astonishing frequency. People from all walks of life, all education levels, all income levels, all races, and all genders experience domestic violence. Survivors have been groomed to accept abuse from their partner. Abusive partners work very hard to ensure that their partners are disempowered and unable to set boundaries that would otherwise inhibit their ability to harm and manipulate their victims. This has a profound effect on a survivor's interpretation of the events around them, ability to recognize options, confidence in their own decisions, and even how they tell their story.

Whether or not an abusive partner explicitly told their victim that no one would believe them, survivors become conditioned to assume that they will not be believed. Often family, friends, and others around a survivor may inadvertently reinforce this with victim-blaming questions like "If it's that bad, why don't you just leave?"

These dynamics can lead to clients giving up easily, shutting down, becoming unusually surly or aggressive, giving highly detailed explanations, or feeling like they need to be overly open in an effort to convince people that they are a good person or a good parent. Because abusers don't respect boundaries, enforcing them can feel unnerving for a survivor. Clients may struggle to have a voice in their own case and can easily default into deference to someone they perceive as having more expertise than they do. This can lead to situations where clients do not advocate for themselves with their attorney.

It is the attorney's responsibility to slow down and check in with the client to ensure that these types of dynamics are not replaying themselves in the attorney-client relationship, especially if the attorney is the same gender as the abusive partner.

Perhaps most importantly, attorneys must be sure to remind their clients that they need to take care of themselves by

participating in counseling and other healing, strengthening activities. This is all the more true if there are children and the survivor has custody. If a survivor isn't able to heal, they can be vulnerable to a range of challenges such as developing depression or unhealthy coping mechanisms like substance abuse. Encouraging a victim to work with a counselor or advocate also benefits the attorney in that they are trained to help a survivor think through what they need, weigh their options, safety plan, and make decisions. Often they can do some of the heavy lifting in this regard, which provides the survivor with greater clarity and confidence during the legal process.

Lastly, attorneys who aren't familiar with the dynamics of domestic violence should learn. The YWCA West Central Michigan has useful resources on its website, some of which are particularly helpful in understanding how domestic violence impacts parenting, listed as "How to Help Parents" ([www.ywcawcmi.org/help-for-parents](http://www.ywcawcmi.org/help-for-parents)) There are domestic violence service providers throughout the state willing and able to educate other professionals working with survivors.

### **What is a common misconception about custody that survivors of domestic violence come in with that you hear about in your capacity as a legal liaison?**

That "joint custody" is a default position. Attorneys need to be sensitive to the "signals" that a client gives and make a proper analysis of whether or not joint custody is really appropriate. Domestic violence is not just about physical violence. It is about one partner using several different tactics to maintain power and control over the other partner. These dynamics can play out in a number of different ways when it comes to raising children.

Sometimes clients who have experienced domestic violence will note their partners' lack of involvement with the child's experiences in school, healthcare, and other important areas. Clients may also indicate that as the likelihood of a separation seemed to increase, their abusive partner took a new or sudden interest in such activities. If there has been a history of economic abuse (such as significant control of money, consequences for unexpected expenses, ruining a victim's credit) an abusive parent may continue that form of abuse by interfering with their victim's ability to seek routine

healthcare, mental health treatment, or other educational opportunities for the children.

Often, because the legal process can be such a daunting endeavor, your clients may “just want to be done” and be willing to accept sharing custody with the abusive parent in order to expedite the process or gain other concessions. It’s important to help your clients think through the implications of joint custody. Joint custody will require the two parents to engage with one another. Each engagement is a potential friction point where an abuser can harass or threaten their victim. The key question that attorneys must answer is whether or not it is possible for the victim to safely engage in parenting duties with their abuser.

**What is a strategy that attorneys, especially those who do not do this as a practice area, should employ that would make the process more supportive, safe, and successful in the long-term on survivors and themselves?**

Clients don’t know what they don’t know. Clients who are ending a relationship where there has been domestic violence can feel overwhelmed and anxious. They will sometimes present as hyper-focused on one aspect of a case (i.e., I just need supervised parenting time; I just need my partner out of the home; I just need this to be over with.) It can be helpful to try to reframe the legal process as a way to accomplish a client’s goals. One way to do this is to ask questions about what they would like to see their life looking like in three months, six months, a year, etc. Then as, a legal professional, you have an opportunity to explain what “tools,” through the court process, are available to accomplish those goals. It is okay if clients are not able to formulate these answers initially. It’s also a useful conversation to continue to revisit.

This strategy can also help in future decision making. Discussing goals at different stages of a case allows you the chance to remind clients of their original goals and the ways in which their options may or may not move them closer to accomplishing those goals. In cases where a client may seem to change their mind about a previous goal, it’s important to explore what is prompting the new direction. The client may be making a decision because they don’t fully know the options available or perhaps, or the abuser may have threatened them.

**What do you wish that attorneys knew that clients have to deal with after a Judgment is entered?**

JOD’s are not self-enforcing, and a skeleton form Judgment is not enough to cover the situations that face the survivors post-judgment. Getting a client to the “finish line” may seem like a goal accomplished, but if there are still outstanding issues that need to be finalized after a judgment is entered, it is setting a client up for difficulty and sometimes, even failure.

If a client is disclosing to you a history of domestic violence, power imbalances in that relationship have existed. Clients will often remark that their partners “don’t believe the rules apply to them.” The assailant may refuse to stop the abusive behavior until the courts become involved.

It is critical to have a judgment that provides clear and explicit next steps, along with clear consequences for failing to comply. Survivors often have to go to court to enforce judgments (although some don’t for fear of having to deal with their former abusive partner) and they will most likely have to do so without the assistance of counsel. Therefore, the judgment needs to be as clear as possible, so that a survivor simply has to provide a statement of facts showing the other party has not lived up to their duties in the judgment.

Additionally, judgments should leave as little room open for interpretation as possible. This not only applies to property and debt settlements, but to things like parenting time too. Something as simple as the location for drop-offs and pickups quickly become friction points and opportunities for an abuser to manipulate, harm, and threaten their partner, if not spelled out in the judgment. Expect that abusive partners will take liberty with any ambiguity in the judgment as a way to further their abuse of their partners, even post-judgment.

**About the Author**

*Kristen Wolfram is the managing partner at The Maul Law Group, PLLC. She focuses her practice on Family Law, which has been her passion for over 10 years. She began her practice at the Free Legal Aid Clinic, Inc. in Detroit. Recently, she assisted asylum-seekers in the holding facilities on the Texas border and works with the Children’s Legal Center of Chicago to continue to provide representation to children in immigration court. She is proud to advocate on behalf of all those affected by barriers to justice.*