

---

# Psychology and Family Law

## Legal Philosophy

By Mark Baer, Esq.



Almost a quarter of a century ago, as a first year law student I was required to take a course on Philosophy and the Law. I absolutely hated that class, did not understand its importance, and found the subject matter very frustrating and difficult to comprehend. I recall the professor calling upon me to answer questions relating to the material, and my being incapable of responding intelligently. To my surprise, I now regularly find myself involved in discussions relating to philosophy and the law as a result of my writings, and of people's frustrations with the legal system, and with family law attorneys. I am proud to say that I have evolved since taking that course, and have come to develop a rather fond appreciation for philosophy as it shapes the practice of law.

The most recent philosophical discussion occurred on Facebook. I had posted the following statement, "The brother of a friend of mine took his life on Wednesday, after losing his business, home, family and dignity as a result of false allegations of domestic violence by his wife in a divorce proceeding.... I wish people would realize the consequences of their actions."

In response, someone commented that "equal parenting is needed to solve this perverse problem." Others opined that the system itself is somehow corrupt, or that it was the result of the system's "purposefully fueling the flames of hatred between a father and a mother to keep them perpetually tied up in court until there's nothing left...." A great deal of disdain toward lawyers was conveyed to me during the discussion. In fact, people made reference to "attorney assisted false allegation instruction... and perjury--" both topics about which I have written.

I responded as follows. "A courtroom/lawsuit is the wrong forum/manner for handling marital discord. The fact that attorneys (and remember, judges were attorneys first) have been found in general not to care about interpersonal relations only makes it worse. Let's not ignore the fact that emotions are so high that people going through a divorce are suffering from 'temporary insanity.'"

Someone then commented that when people are suffering from such "temporary insanity," it is the perfect opportunity for family law attorneys to "milk them" by "fanning the flames" in order to "line their pockets." In response, I stated, "I am merely acknowledging that the system is flawed, but that nothing is perfect. It is easy to find fault. The challenge is to find a real solution." Someone then remarked, "The legal system's performance speaks loudly about its lack of compassion, just as loudly as it does about its lack of justice." Another person was adamant that equal parenting was the answer.

My newfound appreciation for philosophy came out in my final remark that, "the reality is that procreation proves nothing about one's ability to parent. You are imagining a world in which everyone is a good parent. I guess that the legal system and society should turn a blind eye to the fact that parents commit child abuse and child neglect, and that children are permanently scarred, or worse, as a result of the actions of their parents. While I admit that the system is not perfect, and while I believe that the adversarial system destroys families, I am not ignoring the fact that children are innocent victims of the actions of their parents.... As much as you want to blame the legal system and the lawyers, if people did not seek out "pit bull" attorneys to go for the jugular of their spouse/the other parent, those types of attorneys would fail to earn a living and things would change. People deliberately seek out destructive attorneys to accomplish their dirty work and then play the blame game.... If there was no demand for such... attorneys, the supply would diminish. On the other hand, when the demand is great, so is the supply.... I believe that society's demand for such lawyers created the problem and that the only way to improve things is for society in general to take responsibility for its role in creating the problem, and to change the reality. I may detest anti-social lawyers (the majority, who do not consider the consequences of their actions, and do not care about interpersonal relations), but I do not ignore the reality that they are also the most successful lawyers because they are in great demand by our society."

*Mark Baer, Esq. can be reached at (626) 389-8929 or by email at [Mark@markbaeresq.com](mailto:Mark@markbaeresq.com)*