



NEDERLANDSE VERENIGING

Familie- en erfrecht
Advocaten
Scheidingsmediators

CODE OF CONDUCT

FOR

the vFas-Law

determined at 08-06-17

Introduction

For the members of the vFAS, in addition to the rules of conduct for the legal profession of the NOvA, the code of conduct of the Legal Aid Board for family lawyers who want to be able to assist a client in a family case on the basis of an addition , ([http://wetten.overheid.nl/ BWBR0032740/2013-07-01#Bijlage4](http://wetten.overheid.nl/BWBR0032740/2013-07-01#Bijlage4), the code of conduct for the vFAS lawyer divorce mediator (the vFAS member who acts as a mediator and assists two parties) since June 8, 2017 also exists the Code of Conduct for the vFAS lawyer.

Objective

The vFAS believes that a specific attitude can be expected of a family and estate lawyer from the vFAS. Wherever a family law attorney is mentioned below, it also refers to an inheritance lawyer.

Article 10a (1) of the Lawyers Act establishes the following core values for all lawyers: confidentiality, independence, expertise, integrity and partiality.

The vFAS believes that a number of additional core values apply to a family law attorney:

1. Transparency
2. Solution-focused
3. Constructive
4. Respectful
5. Accurate
6. Engaged
7. Empathetic

The vFAS expects that the code of conduct will contribute to further awareness among lawyers working in family law and hopes that the members of the vFAS can and will use it to call each other to account for each other's attitude and behavior. The latter, incidentally, without this leading to lawyers or parties (being able to) complain to the vFAS about the actions and/or attitude of a vFAS member.

With this code of conduct, the vFAS aims to contribute to the appropriate practice of family law attorneys.

The vFAS does not have the authority to pass along standards to all lawyers who practice family law. Nevertheless, the vFAS believes that these standards should apply to all family law attorneys and not just vFAS attorneys. The vFAS therefore calls upon the Dutch Bar Association and its affiliated bodies to endorse the Code of Conduct in the sense that it will apply to all lawyers who practice family law.

CODE OF CONDUCT for the vFas lawyer

1. FROM THE BEGINNING, THE vFAS LAWYER IS TRANSPARANT ABOUT THTE AUTHORITY IN WHICH HE/SHE OPERATES:

AS A MEDIATOR OR AS AN LAWYER FOR ONE OF THE PARTIES. Within the vFAS, it is not permitted for a lawyer to assist two or more parties. A lawyer assists one party; a mediator assists two or more parties. The only exception is the inheritance lawyer who assists multiple heirs with equal interests.

From disciplinary case law it follows that a family lawyer, when acting for two persons, is always considered to be working in the capacity of mediator and is therefore bound to the rules, as laid down in the Statutes, the vFAS rules of conduct, the mediation agreement and is subject to the vFAS complaint and disciplinary law.

Thus, as a vFAS lawyer, it is not permitted to act as a joint lawyer for two divorcing parties in court without a mediation agreement. This includes situations in which the vFAS lawyer files a joint divorce petition:

- where, for example, a civil-law notary, accountant or (internet) mediator has drawn up the covenant.
- in which the lawyer acts for only one party and the other party has no lawyer.

2. THE vFAS LAWYER DISMISSES OPINIONS WHERE CASES ARE WON OR LOST.

The vFAS lawyer is expected not to speak in terms of winning or losing. He also discourages the use of such terms with third parties. In family cases, it is important to normalize the relationships between the parties and to find an appropriate settlement that is supported by all parties, in the extreme case by a decision of the court. It is then not appropriate to speak of winning or losing because those terms further divide parties.

3. THE vFAS LAWYER PROVIDES A CONSTRUCTIVE AND SOLUTIONARY APPROACH.

In family law cases, efforts should be made to resolve conflicts in a constructive and consensual manner. The aim is to seek a new and sustainable balance, where the family law dispute is settled in a manner acceptable to all parties involved, including the children. The basic attitude of the vFAS lawyer is problem solver and bridge builder. In doing so, preventing escalations and a protracted legal battle is the priority of the vFAS lawyer.

The vFAS lawyer, who advises a client in the background in a mediation, takes into account in his advice to promote the process of mediation.

4. THE vFAS LAWYER TRIES TO REGULATE THE CLIENT'S EMOTIONS AND TO PREVENT, OR AT LEAST TO DE-ESCALATE, A CONFLICT.

The vFAS lawyer explains to his client that negative and vindictive behavior is dysfunctional. The vFAS lawyer recognizes the client's emotions, maintains professional distance, and does not stir them up.

5. The vFAS LAWYER IS RESPECTFUL IN RELATION TO ALL INTERESTED PARTIES IN THE PROCESS.

The lawyer responds quickly and does not make it personal. When the vFAS lawyer takes a clear position on the substance, he realizes the possible consequences for the parties and other stakeholders and takes this into account when articulating his client's position by acting respectfully towards the other party.

It should be expected of the vFAS lawyer to remain critical of his client's emotionally-fueled wishes. This means that even in proceedings there must be professional distance between the lawyer and his client. The lawyer should be expected to have a decent procedural attitude.

6. THE vFAS ADVOCATE STIMULATES AND IS OPEN FOR CONSULTATION.

The vFAS lawyer encourages his client to consult with the other party and his lawyer, even if proceedings are already pending.

Substantive consultation means that not only are positions exchanged, but both lawyers ask about the underlying interests. In consultation situations, we strive for a good atmosphere and equality of parties.

7. THE vFAS LAWYER IN THE BEGINNING IS NOT TO START THE CASE WITH A PROCEDURE, BUT WITH A 'FIRST LETTER' TO THE OTHER PARTY OR CONSULTATION WITH (THE LAWYER OF) THE OTHER PARTY

The first contact that the vFAS lawyer has with the opposing party is often decisive for the further course of the case. Emotions play a big role in probate and family law, especially in the case of divorce. The trick is to find a balance between the client's interest in his possible desire to act with diligence and the other party's processing and anticipation of the divorce. Of course, there are conceivable situations where a procedure cannot be waited for.

The content and tone of an initial letter, which invites consultation and advises the other party to contact a lawyer specializing in family law (or if applicable: inheritance law), are important. In principle, the other party should be given sufficient opportunity to obtain legal counsel, process the impact of the message and gather any documents.

8. THE vFAS LAWYER TAKES INTO ACCOUNT THE INTERESTS OF THE CHILDREN AND INFORMS ITS CLIENT ABOUT THE CONSEQUENCES THAT A DIVORCE CAN HAVE.

It is important to recognize the responsibility the lawyer has to children of parties. After all, there may be a tension between the wishes of the client and the interests of the parties' children.

The vFAS lawyer is aware that when parents get divorced, the children need their parents to be assisted in working together and constructively re-constructing parenthood.

9. THE vFAS LAWYER IS EXPECTED TO INFORM THE CLIENT OF THE LEGAL, EMOTIONAL AND FINANCIAL IMPACT OF THE DISPUTES.

In family law matters, the impact on the parties and their children, if any, is often significant. A divorce process can have significant emotional and financial consequences. The vFAS lawyer can be expected to pay attention to those aspects as well.

10. THE vFAS LAWYER ASSISTS THE CLIENT WITH EXPERTISE

The vFAS lawyer can be expected to keep his legal professional knowledge up to date, so that he assists his client with expertise.