

## Broken Love: The Intersection of Divorce and Therapy

A Legal Perspective by Dina Haddad, Esq., LL.M



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In our last column, I discussed the basic process for initiating a divorce and the three options available to couples to process their divorce: litigation, kitchen table divorce, and alternative dispute resolution options such as mediation and collaborative law.

In this column, I'd like to take a close look at the difficulties couples may encounter during the divorce process - particularly litigation, and what you can do to help them. If you have a client who is currently in the throws of a divorce battle, as a therapist, you can assist him or her in the following ways: talking about what the divorce process looks like, suggesting other options through motivational interviewing, or working with other professionals specializing in divorce, whom your client has selected. Let's look at these in some detail.

### **Legal Stuff Makes Me Nervous So How Can I Help?**

The law can be frightening for practitioners and clients alike. Yet, you don't need to be a legal scholar to give real help. First, educate yourself about the different processes available to your client seeking a divorce, or find out which one your client has elected. In the last column, we went through these in detail. The most amicable was mediation, and most adversarial was litigation. Understanding where the client is in the divorce process, and being able to reflect back the difficulty with a given process, will help the client navigate through his or her healing journey. Some specific challenges in a divorce include: spreading one income over two households, new costs like attorneys, accountants and court fees, false allegations directed at each of the spouses, child's behavioral problems, new parenting challenges, new marital status, and the drawn-out nature of a litigated battle. Keep in mind, that although budgeting and parenting are private issues, these issues become quite public in a litigated divorce. If the couple does not limit the court's involvement, through mediation or collaborative law, the judge (not the parents) might be answering questions

such as: *Should the stay-at-home parent be required to work? Should the mother stop breastfeeding so that the father has more time with his infant? Has one parent's religion become a detriment to the children?* The Tom-Kat divorce is a prime example. Tom Cruise and Katie Holmes settled their case in 11 days. Many speculate, including insiders, that the quick-fire settlement was to prevent a media spectacle or public scrutiny into Scientology.

### **They are in a Nasty Divorce Battle and Unhappy. What Can I Do?**

What happens when you have a client who comes in every week distraught about their divorce battle? "The lawyers said 'X,' my ex said 'Y,' and I am over it." It is never too late for your client to try another divorce process. *If a spouse can stomach the challenging years of an unhappy marriage, he or she should be able to exercise some additional patience to work through his or her divorce in mediation or collaborative law.* Try to motivate this client to change by seeing the mismatch between where they are and where they want to be. Is litigation working for you? Why not? Since you, as the practitioner,

now know about the different processes, the advantages and disadvantages of each, you can effectively lead the client to a more healthy process. This process is called motivational interviewing: a collaborative, person-centered form of guiding to elicit and strengthen motivation for change.



**They are in a Nasty Divorce Battle But Resistant to Change.**

What if your client is unwilling to change or cannot change the process? It's very understandable and in that situation you can still be very effective in assisting your client through the divorce. As stated above, just understanding the process can be significant aid. You can also assist your client by bridging the gap between his or her perception and reality. As a former divorce litigator, I usually had only one side of the story or two extreme versions (my client's and opposing counsel's). Rarely, did the emotional intensity in a case subside so that I had a solid idea of what really was going on. My

clients would even argue, "If you spoke to our couple's therapist, you'd find out my ex is..." feel free to fill in the blank here - bipolar, OCD, not taking medication, or plain crazy. The point is not to call the attorneys and tell them "Your client is crazy," but instead, you can work with your client to challenge his or her perception. With the

appropriate release, you might even consider speaking with your client's attorney, mediator, or collaborative lawyer to help these professionals focus on reality or at least question their client's perceived reality. A mediator can work closely with both parties and their therapists to provide workable agreements that reflect the actual situation. This has been incredibly helpful. You might also focus your client on his or her interests in the divorce, not just their stated goals. For example, the client may state he or she will accept nothing less than 50/50 custodial time, but what your client is really interested in is being a part of the child's school day not just the

child's weekend time. This desire does not really need to be a 50/50 schedule, so there may be other parenting plans that would meet your client's interest and help settle his or her case.

**Whatever the Process, Keep The Client Focused on the Children.**

Unfortunately, children are often overlooked in divorce. Parents are hit with the emotional, financial and legal storm all at once and struggle to manage. Parents also have new parenting and discipline challenges. At the same time, their children might be dealing with the divorce without their parents really being present for them. You can help your clients remember their children by focusing the divorce conversation on the children. One way to do so might be placing a picture of the child in front of you during the session. Keep in mind that often the parent who wanted the divorce will minimize his or her child's struggle, but the parent who did not want the divorce will believe his or her child is really in despair.

If you have a topic you'd like to see addressed, or comments and questions about this column, feel free to reach me at (408) 357-3486 or [dina@ffmediation.com](mailto:dina@ffmediation.com).

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