

From Conflict to Resolution: Psychologist/Divorce-Attorney Collaborations

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Divorce lawyers and clinical psychologists have much to gain by forming working alliances. This article explains the kinds of positive synergies that lawyers and psychologists can develop. For instance, I have worked on cases referred by divorce attorneys to address the following issues:

- To give a marriage one last chance for growth, particularly in cases where one or both partners would prefer to fix than to end the marriage, even if it is just “for the sake of the children.”
- To resolve ambivalence about divorce, in situations where spouses take two steps forward and then one backwards with regard to movement toward legal finality.
- To ease excessive emotional distress during the divorce process when the client does not want a divorce but the spouse insists on it.
- To reduce angry fighting between the spouses during divorce negotiations.
- To facilitate post-divorce healing.
- To assist children of divorce in their post-divorce adjustment and co-parents with establishing appropriate collaborative interactions.

How I stumbled into work with divorce lawyers

I began to receive referrals from a first divorce lawyer quite a few years ago. I could not remember how it began, so I asked the lawyer himself. His report:

“Friends of mine came to see you. The husband had children from another marriage. They loved your work because you were helping them with step-momming issues. You gave them good advice. That was 18 years ago. I researched who you were then and we talked some. You said you worked with couples, and I referred my first case. You had this advanced collaborative thinking methodology. So I started to pick and choose with my clients, thinking who would want a therapist who gets down to brass tacks. And I began thinking about which marriages could be saved. Which people are desperate to try one last time even if I know there's nothing left to save. Where you could be helpful in the mediating....”

Appropriate candidates for this strategy

The following criteria for each of the three populations involved--lawyers, couples, and therapists—stem from my experience, not from scientific research.

Lawyers. As I think about the various lawyers who have referred cases to me over the years, they seem to share the following characteristics.

Abundance: For starters, lawyers who have more people inquiring about their services than they can handle are likely to be most open to referring clients for therapy. Realistically, while lawyers with overload will not be the only lawyers who refer, they may be the least threatened by the possibility that some clients whom they refer to a psychological professional will mend the marriage instead of continuing to pursue the divorce option.

Confidence: To refer to therapists, a lawyer needs confidence both in the specific therapist and in the effectiveness of therapy in general.

Emotional sensitivity: Lawyers definitely vary in their perceptivity about, and interest in, their clients' emotional states. Only some attune to their clients' ambivalent feelings about divorce, ask outright about lingering love, or regard spouses' anger as remediable. Those with this sensitivity are most likely to feel comfortable referring ambivalent clients for psychological evaluation and treatment.

Belief in marriage. Lawyers also differ in the extent to which they believe in rescuing potentially redeemable marriages. Some lawyers are like mortuarians, defining their work as closing the casket on what they assume to be dead relationships. Others perceive their job as being more like that of a priest. They would rather save the dying marriage than issue last rites for the couple. These latter lawyers appreciate knowing a therapist they work with to resuscitate the marriages that are still breathing.

Clients. I generated the following list by thinking about the clients who have been referred to me to clarify who seemed to benefit from treatment versus those who were resistant to treatment or left after one session.

Motivation. One or both partners must feel a significant motivation to make a last effort at reconciliation. The motivation for reconciliation may be financial, what's best for the children, religious-based, love, or desire for a smoother divorce process. For clients with no motivation, therapy is unlikely to have much impact.

Sometimes this motivation can be induced by the lawyer. For instance, the lawyer might say "This much anger is going to make for a very expensive divorce. I'd recommend you go to therapy to see what you can do about coming to peace with your situation before we move

forward.” Or, “Your husband’s anger at you is going to make this a very costly and combative divorce. I’d recommend you go together to therapy to help him come to peace with the divorce before we proceed further.”

Strengths. Like most therapy, divorce-related treatment is more likely to be successful with patients who demonstrate capacity for insight and willingness to grow.

Insight here refers to the ability to explore the parts that they may have played in the relationship’s demise. Growing refers to ability to learn new ways of handling the role of spouse, new behaviors to substitute for former problematic habits, and new ways of communicating and handling conflict.

Paranoid features. If one party blames the other spouse in a manner that has become a fixed paranoid stance, treatment will be unlikely to modify the blaming, particularly if this ideational system is fixed and non-permeable to new information. Therapy with these couples nonetheless can be beneficial for the healthier spouse who may need help understanding the confusing phenomena of cognitive rigidity, projection, and a fixed blaming stance.

Affairs. When one spouse has developed a strong emotional attachment to a third party, this attachment is generally an extremely bad sign for saving the marriage. Occasionally however, treatment in a couple therapy format can renew the betraying spouse’s recollection of how the marriage used to be, and can inspire a vision of how it could become. A return to monogamy may again begin to look appealing, especially if the lover has become burdensome over time. Sometimes also the errant spouse needs coaching to accomplish ending the affair.

Psychopathology. Psychopathology such as depression, anxiety, compulsive habits, controlling behavior, or excessive anger is often a key factor in marriage difficulties. Anger problems, addictions, and affairs are the big three causes of divorce. Psychotherapy that addresses these issues can sometimes alleviate the cause of the marriage’s demise.

Individual therapists. When one spouse is in individual therapy, or worse, if both are in individual therapy with different therapists, these help-structures can inadvertently precipitate the belief that divorce is the only option. A switch to one therapist who handles both the couple and the individual treatments in an integrated fashion can sometimes put the marriage back together again.

Multiple research studies have shown that when people in a troubled marriage undergo individual therapy, they become at increased risk for divorce (Heitler 1990, 2001). A treatment format in which one therapist handles both the individual and the couple treatment sessions, however, can sometimes resuscitate these marriages, healing the iatrogenic (doctor-induced) damage.

Therapists. I generated the following list of therapist attributes by reviewing the various therapists who have worked in our office suite over the past decade. I looked for what seems to differentiate the ones who did well with attorney referrals from those who either did not want the referrals or did not experience success with them.

Conflict resolution expertise. Potentially divorcing couples are likely to have many areas of entrenched conflict, so above all a therapist for all-but-divorced couples must be skillful at helping couples resolve their differences. These skills include anger management, techniques for cleaning up the toxic residues of past poorly-handled conflicts, skills for teaching improved communication and conflict resolution patterns, and expertise at guiding seemingly irreconcilable conflicts to resolution (Heitler, 1990, 1992, 1995, 1998, 2001)

Confidence. For couples who are taking one last try at obtaining help and who have consulted a lawyer because they feel hopeless about reviving their lost love, a therapist needs to be able to inspire their hope. This task requires radiating confidence. Confidence comes in part from having experienced many couple therapy successes, and perhaps even more from a therapist's temperamental tendency to positive thinking.

High activity level. The therapist must utilize highly interventionist treatment methodologies. At the outset of treatment especially, merely remaining a calm presence and a good listener is not enough. Divorcing couples for years have played and re-played conditioned angry responses. By the time they seek a divorce attorney, they may be totally allergic to each other. Therapists need to be able to take charge for the sessions to feel safe and productive. They need to intervene immediately at the slightest slippage off the narrow pathway of healthy communicating. They need to offer clear guidance so that talking about the unfortunate past consistently concludes with learning for a better future. A more passive definition of the therapist's role will not suffice.

Comfort with being in charge. How does a therapist know that he or she will be effective at keeping all therapy sessions safe and constructive? I used to teach junior high school, which helped me enormously. Therapists who have raised teenagers may have the requisite experience. Therapists who grew up as the mediator in a family of origin with much fighting also may have well-developed "natural" skills for cooling marriage conflict having been mediating conflicts in their contentious family since early in their youth. This is one kind of work where such a childhood can prove to be an advantage.

Orientation toward health. Lastly, this kind of therapy requires that a therapist have clarity about how healthy couples communicate and deal with differences (Heitler, 1990, 1997,

2003, 2008). A therapist who does not know clearly the skills necessary for healthy talking together and shared decision-making is unlikely to be able to make these phenomena happen.

Belief in marriage, and understanding of the limits of marriage. **The Case for Marriage** by Waite and Gallaher (2000, Broadway Books, NY) and **The Case Against Divorce** by Medved (1989, Ballantine Books, NY) are essential reading. Interestingly, the final chapter of **The Case Against Divorce** provides a particularly excellent decision tree for when healing a marriage is ill-advised and divorce is a more appropriate choice.

Special training needed

As I describe in my book *From Conflict to Resolution* and illustrate in the video *The Angry Couple*, therapists who work with high-conflict couples need to be able to

- guide the movement from conflict to resolution
- contain the arousal levels in the therapy session to keep everyone in a constructive emotional zone
- explore efficiently the family of origin issues and transference patterns that exacerbate a couple's conflicts, and
- coach the skills that can enable couples to talk and resolve conflicts cooperatively on their own once therapy has been concluded. I have detailed the skills which healthy couples use to communicate effectively, manage anger, and handle differences in *The Power of Two*.

Treatments outcomes

Of the peri-divorce cases referred to me by divorce lawyers, my estimate is that between a half and two-thirds end treatment with saved and well-functioning marriages. The remaining couples generally conclude treatment with their ambivalence about the divorce significantly reduced, a more cooperative divorce, and emotional relief from understanding more clearly and without blame how their once-hopeful marriage turned to disaffection. This growth typically includes gaining deeper understanding of the role family of origin experiences of both spouses played in how they handled the role of marriage partner. Lastly, they have been introduced to, and hopefully even learned, the communication and conflict resolution skills they would need for improved odds of success in subsequent relationships.

A small number of my lawyer-referred couples—less than a handful in total over more than a decade of this work--have left treatment with their anger at each other unabated and without significant personal growth. In these cases, one or both partners remained locked in blame, that is, manifested paranoid or abusive personality tendencies.

Clinical outcomes

The following three cases illustrate several types of cases that lawyers might refer to a therapist, the kinds of interventions called for, ethical considerations, and outcomes. They are the three most recent cases referred by divorce attorneys to me.

A saved marriage. When the lawyer called me to ask if I had room in my practice to accept Jack and his wife Sandy (names changed for confidentiality) for treatment, he emphasized that Jack, a client with whom he had met only once, seemed to be a lovely fellow. Jack had long been unhappy in his marriage yet was wary of pursuing a divorce. He had been in individual therapy for several years, and was taking anti-depression medication. Neither treatment had brought him relief from his chronic unhappiness, anxiety, and compulsive ruminations. Jack had been involved in affairs, one of which he was currently ending. He was living separately from his wife. He thought he still loved her, but whenever he was near her he felt anger. Jack felt distressed also by what felt were poor relationships with his high school and college-aged children.

The outcome of this case has been highly sanguine. Jack now has moved back home, his Depression has lifted, he is optimistic about the marriage, and his relationships with his children are improving.

Couple treatment focused initially on helping Jack's wife Sandy see that she inadvertently but consistently negated virtually everything Jack said to her. In the couple's first session Sandy had resisted my observation that she was responding with "but..." to most of what her husband said. A key factor in her being able to move past this initial resistance was that, with signed patient permissions, I routinely audiotape treatment sessions (Heitler, 1995). When Sandy listened to their session recording at home, she was shocked and dismayed to hear the extent of her *buts*.. To her credit, she immediately strove to shift her listening mode from criticizing to listening for what was interesting in her husband's comments, a shift that dramatically encouraged Jack.

In the second session we addressed Jack's long-standing habit of speaking in a depressed barely-audible whisper. Jack reluctantly agreed to try speaking in a normal voice, self-monitoring (giving numbers from 1 to 10) his voice volume intermittently for the remainder of the session. First in that session, then at work, and eventually in visits with his wife, his stronger voice led him to sit up straighter and to feel more personally empowered.

The therapeutic structure combined individual and couple treatment formats (Heitler, 2001). The treatment schedule included individual sessions (initially for both spouses, and then later for just Jack) plus one couple session each week for the first several months of treatment.

Interestingly Jack liked his wife Sandy's interest in hearing his individual session tapes. He regularly brought them home for her to listen to, which enabled his wife to understand with more empathy his struggles. This practice yielded the added benefit of helping Sandy to reduce the extent to which she interpreted Jack's withdrawn behaviors in a personalized fashion, that is, as lack of love for her. Listening to the tapes enabled Sandy also to understand along with Jack the family-of-origin sources of his nervous agitation when he was at their house and his tendency to withdraw or leave the house. With this understanding, Sandy was more able to relax and become again the positive, good-humored and safe person Jack had married. Her transformation in turn made it easier for Jack to break out of his chronic anxiety, learned initially from growing up in a trauma-ridden family. As Jack resumed at home the adult self-confidence he tended to feel outside of his home environment, his desire for escape methods such as affairs or divorce diminished.

Jack in individual treatment experienced difficulty believing that his childhood has been as traumatic as his recollections made it sound. The couple sessions helped considerably in this regard. His wife's observations about the chronically humiliating treatment Jack, and later Jack and his wife, had been subjected to by Jack's father helped to break through Jack's minimizing and repression, consolidating his understanding of the sources of his years of misery. By distinguishing what was the same (both were family) and what was different (virtually everything else now that Sandy no longer deprecated and dismissed him) between his father and his wife, Jack gradually freed himself from the long-held pattern of disappearing that he learned in a painful childhood.

Jack and Sandy currently are learning collaborative communication and conflict resolution skills to replace making decisions with one of them caving in to solutions they didn't want. They learned also to talk over upsetting incidents in ways that would lead to healing and learning instead of continued resentments. Having both grown up in dysfunctional households, these basic couple skills had not been in their repertoires, even though both spouses were highly intelligent and successful in their professional lives.

The lawyers involved in this case were saved from having buried a marriage that was emotionally still alive.

Successful treatment with a divorce outcome. Nellie and Sam had vacillated for several years over whether or not to divorce. They had long ended their sexual relationship, and enjoyed virtually no affectionate interchanges. Nellie distrusted Sam's financial dealings. Sam was non-disclosive to her about his financial situation. Nellie and Sam did not fight at home,

primarily because they did not want their children disturbed by fighting; but they interacted only minimally and at arms' length.

Therapy, which totaled approximately 6 sessions, clarified that neither spouse was willing to make any changes that might warm their relationship. They mutually agreed to end the marriage, and requested that couple treatment be continued for several more sessions to help them decide how to tell the children and how to implement separate domiciles.

In sum, while Nellie and Sam were not willing to breathe new life into their dead marriage, they used therapy to bring their marriage to a non-argumentative emotional closure. Disengaged emotionally, they then could work with their lawyers on financial and parenting disengagement. That is, therapy enabled the couple to land the plane of their relationship so the lawyers then could help them safely disembark.

Divorce, with successful individual follow-up treatments. Bill and Lilly had long endured a stormy relationship. Both seemed to want to end it, but Lily, whose lawyer referred the case to me, still clung to hope that somehow the marriage could be saved. During the course of brief treatment (four sessions), Bill decided he would file for divorce. Both spouses then elected to continue for several additional sessions of individual treatment with me.

Bill's individual treatment goal was to grieve the death of his first wife. With help lifting the blockage, he was able to experience the flow of a normal grieving process.

In her individual sessions, Lily wanted help accepting that the marriage was ending, understanding why and how this outcome could be in her best interests, and staying positive during the divorce process accepted that Bill was not interested in becoming the kind of husband she wanted. The several sessions enabled her to let go of a chronically undependable relationship that had provided economic security without the emotional sustenance or commitment she craved.

Lily augmented her therapy with a marriage communications skills course (Power of Two) to upgrade her collaborative communication skills. Her long-standing habits of complaining and emotional escalations had made her prior relationships difficult and created turbulence in her relationships with her adult children. She learned to express her preferences in positives ("I would like..." or "My concern is ...") rather than in negative "don't likes." She also learned to monitor her emotional intensities, withdrawing from situations where she was escalating, so that she interacted only from an effectively calm and positive emotional stance. At the end of therapy and skills training, Lily's predominant feeling toward the divorce was relief. She was glad that the frustrating marriage had been terminated with a clear ending, and, with her new collaborative interaction skills, looked positively toward a better future.

A lawyer's perspective

I asked the lawyer who has referred the most cases to me if he would be willing to answer several questions for this book chapter. He expressed delight, and answered as follows. These are all direct quotes, excerpts from a lengthy conversation.

How do you decide who to refer for psychological services?

- 1) "Twenty years ago divorce lawyers were supposed to encourage people to stay together if at all possible. I still ask if they still love their spouse. If they say yes, I send them for therapy."
- 2) "I send them when a person isn't emotionally ready to get divorced, and is open to getting help. Some people need to explore a last chance at saving the marriage. Like that guy from Elbert County. He was so scared of divorce, and so depressed about it, but he needed a reality check. You could see it was an impossible marriage, and you worked with him. You started out seeing if there was something to salvage. You're very good at giving people a reality check so they can accept its time to get divorced."
- 3) "Sometimes people get frozen and can't go forward with the divorce. Like L (Lily, described above); she wanted so much for her husband to love her."
- 4) "When a marriage is broken from infidelity, the trust is broken. Sometimes it can be rebuilt and sometimes it can't. I'm thinking of L and R. I sent them to you in hopes the marriage could be rebuilt. They're still together."
- 5) "I really look if there's something to save. If there is, I send them to you to save it, or, if there isn't something left to save, for you to be brutally honest with them. Then I want you to help them face what's to come and help them work collaboratively together to get it done."
- 6) "I have occasionally sent people who are having difficulty communicating after the divorce. You help people communicate about their children. You help them talk about their children so they're not blaming each other."
- 7) "When there's parent alienation syndrome, during or after the divorce, the alienated parent doesn't know what hit them. They need help."
- 8) "If I know the person personally who's in a divorce, then I especially send them."

What do you look for in a therapist?

- 1) "I look at the results. I'm really proud of how many marriages we've saved. We've saved a lot of marriages. We saved 7 marriages in one year. I'd say of the ones I send, a larger percentage you save their marriage than that don't (sic)."
- 2) "I think you have a good approach because you don't waste time. You make them

communicate with each other. You roll around in your chair [I do therapy in a chair with rollers so I can move in close when the patients need help, and pull back as they can talk together with less support] and get in their face [I think he's referring to how I roll in close to a spouse I want to work briefly with one-on-one] and get them to start doing things different. I sent one case, and a few days later I saw him in the gym reading your book [on marriage communication and conflict resolution skills].”

What about you, or about your ideas about law, do you think has led you to refer so many clients for therapy?

“I’m careful not to try to become their therapist. In court this morning a lawyer was meeting with the children. I try to know my limits and keep boundaries. I’m not psychologically trained. Lawyers need to know their boundaries. Psychological issues need to go to a therapist; we take care of their legal issues. And the nice thing about having a therapist I trust is I can say ‘This is a psychological issue. You need to talk about it with your therapist.’”

What else might you add for the benefit of therapists who may be approaching lawyers for referrals?

“I just hope you’ll stay in business for a while, at least for the 8 years until I retire. If a marriage maybe can be saved, I send them to you. If it can’t be saved, you’ll be honest with them. And if it can, you’ll work your butt off to save the marriage. That’s what therapists should do.”

How has working with divorce lawyers changed my practice?

Having been in practice now over twenty-five years, I enjoy challenging cases. Couples on the brink of divorce definitely fit this bill--and keep me humble. I can lead horses to water but there’s definitely only some who will let me help them drink.

At the same time, the referrals of all-but-divorced couples have provided a testing ground for my writing. I do not have access to academic lab facilities, but I write on theory and techniques of therapy and do need ways to test if what I write is valid or not. The lawyer referrals result in case after case where a divorcing couple comes to treatment dramatizing all that my writing says couples should not do. By following the therapy theory and methods that I have written about in my books, I see the same couple gradually build the kind of loving marriage that they had hoped for when they had said “I do.” The couple’s transformation validates the theories I have presented in my publications.

In addition, saving a marriage is like saving a life. It is extremely rewarding to help struggling couples reach the point that they can enjoy the many blessings that that come from a strong and loving marriage.

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