

**NOTES**  
2024 Spring Conference - Dallas  
March 7-8, 2024

**Onboarding the New Client - Katie Zuvernick**

Questionnaire  
Portal (Dropbox, Sharefile, etc.)

**Training the new MHP - Honey Sheff**

Personality  
MHP leads the process  
Don't sign the PA until the 1st meeting  
Confidentiality - Clients Secrets (individual meetings) must share with the team,  
not word for word  
When do you need a Child Specialist - evaluate what the kid issues are, do you  
need input from the kids? Then get a CS!!  
Don't be afraid of the lawyers.  
Trust your gut!!

**Marital Residence - Goals to Agreements - Becky Davenport/Julie Howell**

BECKY

Position v Interest  
Flexible thinking!!  
Early description of interest is not likely the true interest. Takes time to reveal.

JULIE

Need lots of info and documentation to determine best options. Start early  
mortgage; insurance; liens; taxes; etc.  
value/equity/possession during sale/refi/types of loans/spouse not employed?  
co-signer needed?/assumable mortgage (unlikely)/new house to buy or rent?  
discuss ALL options w/ mortgage specialist  
Home Equity Loans can limit options (80% cap)- use Owelty instead  
(refi rates not HELOC rates) higher cap on loan v equity  
These are NOT 5 minute conversations - Take the time to develop.

BECKY

“Nick and Kelly” scenario

Nick

Quick resolution - he wants the divorce  
Spend little as possible  
Stay close w/ kids

Kelly

Stay in house w/ kids

CS

Remain in kid's activities - volunteer

Financial security

Attorneys need to continue exploring and reinforce flexible thinking

FP - Gather info, explore options, empathetic neutrality

MHP - Reinforce flexible thinking, ongoing exploration of interests, manage emotions

## **Deepening our Debriefs - Eric Robertson/Constance Mims**

What:

Direct, intentional conversation

Why:

Education, reflection confirm highs and lows of process

When:

Pre-meeting

Post-meeting

Case Closed !! Don't skip this

Who:

Team

Attorney and Client

How:

Reflect on experience

Address specific client issues

Aimed towards learning

Identify mental behaviors of all participants

Avoid shame or guilt

Opportunity to vent about challenging issues

Ethics

Privilege and Confidentiality

Attorney-Client - Specific facts to be avoided?

HIPAA - Release in writing?

Structure

Set the stage

Description or Reactive Phase - Ask participants about their perspectives on events; identify important issues; How or Why

Mutual respect, don't jump to judgment

Be gentle in your inquiry methodology

Analysis - Goals; Priorities; Methodology

Balance priorities with clients' interests and concerns

Be direct with each other

Application or Summary - Choose teammates carefully

Identify learning points for future incorporation

Summarize lessons learned

Debrief Checklist - **HANDOUT!!**

**Collaborative Process: Myth Busting: Sea Monsters and Mermaids -  
Kristen Algert (Austin)/Julian Schwartz (SA)/Julie Quaid (Dallas)**

- 1) Only for Easy Cases - What?? Who has had 'Easy Cases?'
- 2) Does Not Protect Clients - Bullshit!! Better protection with a team. All remedies are available just like litigation and then some!!
- 3) Too Expensive - Ridiculous. All divorces are expensive. We are efficient!!
- 4) Only One Way to do Collab Process - Nonsense, no cookie cutters!!
- 5) Same as Cooperative Traditional Divorce - Structure v No Structure, Oh My!!

**Salvaging The Process - Suzanne Blake/Britney Harrison**

Identifying Signs of Failure Early in the Process

- Not following rules
- Lack of Transparency
- Aggressiveness by Professionals

Identifying Failure Throughout the Process

- Increased conflict between clients
- Threatening to leave the Process
- Too many meetings
- Stagnation
- Violation of Agreements
- Shadow Advisors
- Couple working outside the process. This is a sign ...

Potential Solutions to Salvage the Process

- Offline mtgs
- Add to the team
- Hire a neutral attorney for an opinion
- Coach
- Mediation
- Send a client to litigation counsel for a consult
- Send client to the courthouse to observe a hearing/trial

Know When it is Time to End the Process

- violence
- abuse
- Don't force collaborative
- "Cut bait and walk away"

## Succession Plans for when Neutrals Retire - Amy Lambert/Mary Beth Dennie

What is a Great Neutral?

- Neutrality
- Communication Skills
- Empathy and Understanding
- Conflict Resolution Skills
- Legal Knowledge
- Facilitation and Mediation Expertise
- Trustworthiness
- Adaptable and Flexible
- Organized
- Commitment to Professional Development
- Respect for Diversity and Inclusion
- Patience

What to Do When a Great One Retires

- Protect and maintain Quality of Service
- Protect institutional knowledge
- Facilitate skill transfer
- Follow the Roadmap
  - Interests and goals
  - Gather Info on Replacement Neutrals
  - Old train the New - Workshops, training, Shadowing? Yes!!
  - Evaluate the options
  - Execute the plan

Coaching (Advice) from a Retired Neutral:

- Do not be afraid to speak up
- Open to guidance
- Ok to be bad before you are good
- Don't be intimidated by attorneys
- Minimize therapy. Make the business deal, facilitate the emotions.
- Seek Mentors
- You don't know everything. Use the team
- YOU run the meeting, RUN IT. Be in charge. send out minutes, hold people accountable, send the agendas, zoom links, etc.

Advice to team members:

- Mindful of the beginner's mind and be grateful
- You have a responsibility to the community to help develop neutrals
- Tell them what you need, what is good, what is not
- Be welcoming
- Be open. Be Patient. It may take a while.

Be Proactive

- Help recruit
- Try new people

## Plan for the future

### **Special Considerations for Special Needs Children -**

**Jennifer R. Failla/Nicolette M. Laroe**

Indefinite child support past age 18

Use Child Specialist with experience w/ child w/ disabilities

Seek Resources

Be creative

Life Insurance and Special Needs Trust

ABLE accounts for individuals w/ disabilities (since 2014)

education

housing

transportation

healthcare

assistive Tech and Personal support

job training and support

legal and admin services

Eligibility

must be diagnosed before age 26 and receiving benefits or eligible to receive (under income or resource limits) or have signed a disability certification

Annual contribution limit: \$18,000 in 2024

Can be used to reimburse Medicaid after death

This can be complex. Pay special attention. Parents don't always agree on care and maintenance.

Child will likely outlive their parents. Plan for that.

### **Collaborative for Efficiency in Cost - Anita Savage**

Divorce is not a legal problem

Two-Session model

self-reporting inventory

offline neutrals report back to the attorneys

clients not allowed to miss deadlines

pre-approved forms (North Carolina)

Flat Fees/ Bundled Services

Fee Matching by attorneys

Do it by Zoom

## Securing The Deal - Craig Haston

Settlement Agreements

Drafting Enforceable Orders

Specificity is Key - more detail the better

legal descriptions

VIN's

Financial Institutions

Certificate number, types of securities

Proper legal names of the insurance companies/retirement accts

Orders Pertaining to Performance

Ancillary Docs attached as Exhibits

Decree of Divorce is binding contract

Enforcing Property Divisions

AID and Decree need SEPARATE language!!

Award Business Entities

Sole proprietorships

Make specific lists of business assets

vehicles

bank accounts

name of the business

websites

tangible and intangible like patents and IP

(be specific!!)

Closely-Held Biz

legal name

# of shares being awarded

inventory and real property

ordering language requiring a party to

sign/release stock certificates or LLC

memberships

Ordering a party to take all other actions necessary

to divest that party of all interest in the biz

(written resignations)

Remember spousal interests

Joint Ventures and Partnerships

legal names

exact percentages

Use semi annual reporting requirements when a

spouse is awarded an interest, including tax docs

(use a transactional attorney)

Award EE Benefits

Domestic Relations Orders

Jointly-Owned Property

Need tie-breaker language and duty to mediate clauses

Money Judgments

Be specific

What documentation must be signed and exchanged

Terms of compliance

1) payor

2) payee

3) amount of \$\$ awarded

4) amount of any post-judgment interest (5% currently)

5) time and place to be paid.

Real Estate Conveyances

SWD

DOTSA

Quitclaim

DOTSA of Deed (does not convey title) allows trustee to  
sell the property pledged as security in the event of default

Money for Equitable Division of Property

Closely-Held Corporate Stock

Security Interests

Perfection of Security Interest

Escrow Agreement

LLC or other entities

Promissory Note

USE A TRANSACTIONAL ATTORNEY!!

Rule 11 Agreement are subject to court approval. MSA's are not.

Under Collaborative, attorneys need not be present at time of signing and MSA is  
still enforceable

Use the CDT Settlement Form cover page.

Use the TX Family Law Practice Manual - [www.texasbarpractice.com](http://www.texasbarpractice.com)

**Mental Health Post-Pandemic - Kenneth Wise, Psy.D.**

Twice as many people take their own lives in the U.S. as there are homicides

Psychological Adjustment to Divorce

Factors

Who made the decision, H, W, mutual?

The level of conflict - quiet, noisy, violent?

How are the kids?

How were they prior to the decision?

Do they have support?

Was there a betrayal in the marriage?  
Is this there 1st divorce?

Collaborative Professionals are FIRST RESPONDERS

Mental Status Exam:  
Appearance and Behavior  
Mood and Affect  
Speech  
Thought Processes  
Attention, Concentration, Orientation  
Judgment/Reasoning/Decision Making  
Sleep Pattern  
Insight into Their Present Situation

**Rule No. 1 - Always trust your gut (and your experience)**

**Rule No. 2 - Look for patterns of behavior, mood, and personality traits over time.**

**Rule No. 3 - When things are spinning out of control, call for backup.**

Refer them to a mental health professional  
Blow up your phone  
Visible signs of emotional distress, not just a bad day  
Known history of mental illness  
No clear emotional backup from others  
Frequent redirection and clarification from their atty  
Impulsivity or questionable judgment (bought a Porsche)  
Low level of “divorce readiness”

Types of Interventions

Consultation w/ their physician  
Therapy with licensed MHP  
Online Therapy  
Pastoral counseling  
Divorce coaching  
Psych Consult  
Substance abuse assessment and treatment  
Divorce Support Group  
Group therapy  
Family therapy  
Mindfulness, meditation, stress-reduction

For Kids (Parents are only as happy as their least happy child)

Self-help books on divorce, parenting, grief, etc. for higher functioning



clients  
Play therapy for kids  
Books for older kids  
Parent consultation - absolutely critical!!  
Adolescent therapy  
Group therapy for teens

“One Heart, One Love” - Bob Marley

Therapeutic Jurisprudence (Google it)

### **Beyond Child Support - Esther Donald/Melinda Eitzen/Jill Spytman**

Creativity to explore options  
Equal v Disproportionate  
Future Recalculation  
Special Needs

Tips:

Be curious about specific needs and resources  
Customization is the rule of the day

### **Benefits and TX Govt Pensions - Chris Wrampelmeier/Kyle Eaton/Karen King**

Social Security

Eligible to collect under ex-spouse's benefits if:  
married 10+ years  
62 yrs old  
Single  
Ex-Spouse must be entitled to collect  
If Ex-Spouse is not collecting, must be divorced 2 years  
You get the higher of 100% of your benefit OR 50% of ex-spouse benefit  
No reduction to ex-spouse if you claim under them  
No impact on ex-spouse new spouse, either  
Survivor benefits accrue if over 60 and already collecting prior to death  
Report Name change (Form SS-5) to SS Admin!!

TX Govt Pensions

ERS  
JRS I and II (Judicial)  
TRS - teachers  
TCDRS - County/District  
TMRS - Municipal  
TESRS - Emergency Services

go to their websites

Windfall Elimination Provision (WEP) impact if person is in SS  
and non-SS (TRS, ORP and TMRS)  
no worry for Railroad, Military, EE's w/ 30 years in or their ER pays into SS  
only on first \$1,174 of average earnings  
50% max reduction and less if SS delayed to 70  
Starts when non-covered pension begins  
directly impacts spouses and divorced spouses

Govt Pension Offset  
(TRS, ORP and TMRS)  
affects spouses and widows

#### Annuities

Division Options  
W/draw and direct distribution  
Trf to IRA  
Split to 2 contracts  
Trf ownership  
Tax implications  
Contractual Rules  
Resetting surrender period  
New policy commission owed  
Impact on account value  
Valuation challenges (age, interest rate, contract terms)

Get info early  
Avoid a split  
Share the income stream  
Actuarial valuation  
QDRO  
Tax implications  
Helps liquidity in divorce

### **Coping with High Conflict - Bill Eddy/ Robin Watts**

High-Conflict Coparenting  
Takes 1-3 years to adjust to divorce for most families  
10% are "High Conflict"  
Exaggerated emotions  
Repeatedly inappropriate behaviors  
Urgency and drama  
High rates of litigation and re-litigation

## Prevention Science

The earlier the better

## NWFF Program Description

6 parent sessions - 3 parent-child sessions

participants had varied responses to their coaches

joint parent sessions were beneficial

parent-child sessions gave voice to kids

## Guiding Research Question

## Findings

## Theoretical Framework

Family Systems Theory - emotions are contagious, but, not decisions

Learning Theories - observing others (kids see parents behavior)

The Polyvagal Theory: Science of Safety - subjective perception of safety

## For Collaborative Practitioners

parents learn new skills

data supports coparenting programs provide good benefits

## Limitations

small sample size

often only one member of a family participated

subjective nature of self-reporting

## Conclusion

Practical value was apparent through parents reporting gains in learning via the process

## **High Conflict Do's and Don'ts: Adaptations and Ethics - Bill Eddy, LCSW, Esq.**

### **4 primary traits of High Conflict individuals:**

blame others - preoccupied on target of blame

all-or-nothing - all-or-nothing thinking

unmanaged emotions - intense and taken over by them

extreme behavior - or threats which 90% of people would never do

### **Often they overlap w/ Personality Disorders:**

Social impairment

Pattern of dysfunction

Lack of self-reflection

Rarely changes behavior

Try not to screen out these folks. Collaborative works for them with experience and the team approach

They see themselves as victims. Easy to blame the disorder itself without taking

responsibility

Borderline, Antisocial and Narcissistic traits impact the Mental Health of Children.

Highly predictive of emotional difficulties in children.

In divorced households, there is no one there to mediate the impact of the parent with the disorder

Negative Advocates (enablers)

they are emotionally hooked

they escalate bad behavior inadvertently

**Adapt your approach - The 4 Forget Abouts:**

1) Give them insight

focus on choices instead

2) Focus on the past

focus on future instead

3) Emotional confrontations OR even asking about emotions!!

focus on thinking instead

4) Telling them they have a HC personality

focus on what to do

The C.A.R.S. Method

Connect

'EAR' statements

Empathy

Attention

Respect

Analyzing options and dilemmas

providing choices can help. Direct the parties to ask questions instead of reacting

3 steps for making proposals

Propose: who, what, when, how where

Responding to hostility and misinformation - don't.

instead provide more accurate info instead

Adaptations: What to do

BIFF method

Brief

Informative

Friendly

Firm

## Setting limits

HC people need limits  
focus on external reasons for new behavior  
rules  
statutes

## **Connect**

## **Analyze**

## **Responding**

## **Setting limits**

Manage YOUR own anxiety with HC people

It's not about you  
The issue's not the issue.  
You're not responsible for the outcome  
Forgedaboutit!!  
It's the person's dilemma, keep responsibility on them  
When they resist, say "It's up to you!"  
Picture them as 5 year olds - confused and in trouble

Ethical Issues

TFC §151.001 -

- 1) kids having continuing contact w/ parents who have shown the ability to act in the best interest of the child;
- 2) provide a safe, stable and nonviolent environment for the child; and
- 3) Encourage parents to share in the rights and duties of raising their child after separation or divorce.

Rule 1.02 Scope and Objectives of Representation

Ask the client:  
goals  
5 years from now  
career aspirations  
Don't pressure HC people!!

Rule 1.03 Communication

Inform and follow up to confirm understanding  
HC people need to help decide everything

Rule 2.01 Advisor

give candid advice  
exercise independent professional judgment  
blame the bad news on someone or something else

With HC people it is better to give advice than to decide for them

People go to court because it is easier than negotiation!!

tips for avoiding administrative against against the team or getting sued:

- 1) Avoid unrealistic expectations.
- 2) Avoid apologizing too much.
- 3) Avoid bending your own rules.
- 4) Avoid working harder than your client(s).
- 5) Avoid directing anger at your client(s).
- 6) Avoid believing your client(s).
- 7) Avoid making it personal.
- 8) Pay attention to your fear.
- 9) Avoid believing stories re other professionals.
- 10) Avoid becoming isolated in work w/ HC people.