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From Conflict to Resolution:

Building a Practice With Referrals from Divorce Lawyers

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Building a Practice with Referrals from Divorce Lawyers

To create a financially successful private practice, a therapist needs to establish reliable referral sources. Divorce lawyers are a relatively untapped source with potential to yield on-going therapy referrals. A therapist who contacts divorce lawyers, explains what kinds of cases can be referred, and shows ability to work effectively with these distressed couples can open a potentially significant referral stream.

The goal of these referrals can be to revive and renovate the marriage, to resolve ambivalence about divorce, to ease excessive emotional distress during the divorce process, to reduce angry fighting between the spouses during or after divorce negotiations, or to facilitate post-divorce healing.

How I Stumbled Onto This Referral Strategy

I began to receive referrals from one particular 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 Populations for This Strategy

The three populations involved--lawyers, couples, and therapists—each need to be appropriate for divorce lawyer referrals to be a successful practice strategy. My rough estimate is

that a relatively select, but still significant, proportion of divorce lawyers, of clients who have contacted these divorce lawyers, and of therapists meet the necessary criteria. The following criteria for each group 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 have the following characteristics.

Abundance: For starters, lawyers who have more people inquiring about their services than they can handle are likely to be particularly open to referring clients for therapy. Realistically, while lawyers with overload will not be the only lawyers who refer, they may be a good place to start. They are likely to be least threatened by a request to redirect some of their cases to a psychological professional.

Confidence: To refer to therapists, a lawyer needs confidence both in the specific therapist and in the effectiveness of therapy in general. The most impressive confidence builder is likely to be successful treatment, as measured by client satisfaction, with the initial cases the lawyer refers. In addition, however, a therapist may be able to enhance lawyers' comfort level with referring clients for therapy by explaining what treatment can accomplish, and how.

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 or to ask outright about lingering love. Only those with this sensitivity are likely to refer for psychological evaluation or treatment. The main lawyer with whom I work, who refers multiple patients each year, is exceptional in this regard. When he senses that one or both spouses may be ambivalent about divorce, notes any remaining shards of broken love, sees psychopathology such as chronic depression which may be causing the marital difficulties, or notes that divorcing spouses are sustaining their attachment via hostile interactions, he refers.

Belief in marriage. Lawyers also differ in the extent to which they believe in rescuing potentially redeemable marriages. Some lawyers, like mortuarians, define 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 trust 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 and who seem to benefit from treatment versus those who appear resistant, who leave after one session, or who continue to come but do not seem to gain from the experience.

Motivation. One or both partners must feel a significant motivation to make one last effort at reconciliation. The motivation for reconciliation may be financial, children, religious-based, love, or desire for a smoother divorce, but 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.”

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 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 spouses who may need help understanding the confusing phenomena of cognitive rigidity, projection, and a fixed blaming stance.

Affairs. When one spouse has a strong emotional attachment to a third party, with or without sex, it 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. Monogamy may again begin to look appealing—especially if the lover has become burdensome over time.

Psychopathology. As mentioned above with respect to the lawyer that I primarily work with, psychopathology such as depression, anxiety, compulsive habits, or excessive anger is often a key factor in marriage difficulties. It can be a cause, an effect, or both, and merits therapy. In these cases it is important to note whether the symptomatic spouse has been in individual therapy. Multiple research studies have shown that when married people undergo individual therapy, they are at high risk for concluding treatment with the original problem resolved, but the marriage broken in the process (Heitler 1990, 2001). A treatment format that includes both individual and couple treatment components, however, can sometimes resuscitate these marriages, healing the iatrogenic (doctor-induced) damage.

Therapists

I generated the following list of 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 these 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 almost-divorced couples must be skillful at helping couples resolve their differences. The skills for working with high-conflict couples 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)

Experience. In this work it definitely can help to be a seasoned therapist. These couples are taking a last try at obtaining help. The therapist must be adept at the art of turning hostile opponents back into cooperative partners. Furthermore, these couples tend to feel pretty hopeless about reviving their lost love. The therapist needs to be able to inspire their hope, which requires radiating confidence—or be frank early on if building a more positive marriage relationship looks hopeless. Confidence generally comes from having experienced many couple therapy successes, but it also helps if the therapist is by nature an optimist.

High activity level. The therapist must work with a treatment methodology that is highly active. At the outset of treatment especially, remaining a calm presence is not enough. These couples are likely for years to have played and re-played conditioned angry responses, so much so that by the time they seek a divorce they may appear to be totally allergic to each other. Therapists who work with them need to be able to take charge to keep the session 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 therapist's role will not suffice.

Comfort with being in charge. How does a therapist know with calm confidence that he or she will be effective at keeping all therapy sessions safe and constructive? Former teachers may have developed this confidence; I used to teach junior high school, which has 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. This is one kind of work where children of alcoholics also sometimes have 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). A therapist who does not know clearly what healthy talking together and shared decision-making involve is unlikely to be able to make it 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 (89, Ballantine Books, NY) are essential reading. Ironically, the final chapter of **The Case Against Divorce** provides a particularly excellent decision tree for when divorce is an appropriate choice.

Special training needed

For a theoretical structure that guides treatment, I rely on the conflict resolution therapy model described in my book *From Conflict to Resolution* and illustrated in the video *The Angry Couple*. These publications detail how 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*.

Ethical considerations

Two ethical considerations are essential in work with couples for whom the referral represents a last chance of saving the marriage.

Practicing within one's areas of competency: A therapist must have the skills described above.

Confidentiality. To practice combined individual/marital treatment, a therapist must establish a clear policy on secrets, and explain this policy to both spouses at the outset of treatment (Heitler,2001). Many therapists set a policy of no secrets, explaining that anything said to the therapist by either spouse becomes open for the therapist to share with the other spouse. My policy is that anything said in individual therapy is protected by confidentiality; I will not disclose this information to the other spouse without consent of the patient. This policy enables treatment to address elephant-in-the-room situations such as affairs or other concerns that the spouses are afraid to mention in front of their partner.

Treatments Outcomes

Of the cases this initial and other subsequent lawyers have referred, my estimate is that between a half and two-thirds end treatment with saved and well-functioning marriages. The referring lawyer came up independently with a similar estimate, “well over half.”

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. The 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. It is important however to note that within this small number of cases have been several individuals who chronically have blamed others for their distress. From two of these cases I have been served with grievances for being the cause of the divorce. These grievances have been dismissed. However, a therapist who works with high conflict couples such as these needs to expect that a small percentage will turn out to be litigious.

Screening carefully by asking in your initial intake materials if either spouse has ever been involved in or filed a lawsuit is a vital precautionary action. Asking referring lawyers to refrain from referring such individuals also can reduce the therapist's risk.

Implementing this Practice Strategy

In general, there are few barriers to launching into marketing to lawyers. Once a therapist feels confidently prepared with high-conflict-couple treatment skills, the remaining steps are similar to what one would implement in any marketing plan for building a private practice.

Checklist to get started

- q Print business cards. Fancy brochures are not necessary, but something with your contact information is helpful for the lawyers to give to prospective referrals.
- q Find out what divorce lawyers in your community have positive reputations, or pick names from the Yellow Pages. Get their addresses and phone numbers.
- q Draft a letter introducing yourself and explaining the service you are offering. Be sure to get to the point right away in your first paragraph. Add supporting information in a subsequent brief paragraph or two, and conclude by saying you will follow up with a phone call to answer any questions they might have and to discuss possibly scheduling a brief meeting.
- q In the phone call, ask if they received the letter, thank them for taking time to read it, ask if they had questions, and ask to schedule a brief time when you might stop by their office to introduce yourself in person.
- q Send a thank you note for each referral, or phone a thank you. For confidentiality reasons, be sure you refrain from saying or writing any details of the case other than the name of the person whom they referred.
- q The lawyer may want to discuss the case with you. Explain that confidentiality ethics for therapists require that you refrain from saying anything. You can let the lawyer

talk about the case but, while you are glad to listen to what they would like to share, you cannot reciprocate.

- q In general, schedule for both spouses to come in together for the first session. Within that framework, take some time alone with each.
- q In the first session be sure to ask at the outset what each spouse wants to accomplish, so everyone shares the same understandings of the agenda items. And be sure to explain your confidentiality policies with regard to information discussed in individual versus couple treatment sessions.

Billing logistics: How do I get paid?

These cases can be billed as you would any others in a private practice. In general I have found that these referrals are particularly willing to pay full fee, as my relatively high fees seem low next to the costs of legal work and the losses incurred from splitting an estate as a result of divorce.

One further suggestion—having people pay session-by-session prevents the build-up of large balances which then could be left unpaid by a spouse who is angry, or out of money, from a divorce.

Clinical Outcomes

The following three cases illustrate the kinds of cases that lawyers might refer, the kinds of interventions called for, ethical considerations, and outcomes. They are the three most recent cases referred to me by my main lawyer referral source.

A Saved Marriage

When my referring lawyer called me to ask if I had room in my practice to accept Jack and his wife Sandy (names changed) 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, is experiencing a lifting of the depression, is optimistic about the marriage, and is improving the relationships with his children.

Couple treatment focused initially on helping the wife see how she inadvertently 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 tape at home, she was shocked and dismayed to hear the accuracy of the observation. To her credit, she immediately strove to shift her listening mode from criticizing to listening for what was valid and interesting in her husband's comments.

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, he sat up straighter, spoke with a normal voice volume, and began 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 to understand along with Jack the family of origin sources of his transference patterns of nervous agitation when he was at his house, followed by a tendency to withdraw or leave the house. With this understanding, she 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 the anxiety he was repeating from having grown up in a trauma-ridden family, and resume the adult self-confidence he tended to feel outside of his home environment. Happier at home, he lost interest altogether in escape methods such as affairs or divorce.

Jack had identified in individual treatment his transference sources of depressed withdrawal at home, but 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 is the same (both are family) and what is different (virtually everything else now that Sandy no longer deprecates and dismisses him) between his father and his wife, Jack is gradually freeing himself from the long-held pattern of disappearing that he learned in a painful childhood.

Lastly, Jack and Sandy currently are learning marriage communication and conflict resolution skills. Their repertoire had lacked routines for making shared decisions without 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.

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 any new life into their dead marriage, they appreciated therapeutic help in bringing it to a non-argumentative closure. They were not interested in learning better communication or shared decision-making skills to use with each other, but they appreciated having access to a therapist who could guide these processes. They used therapy to safely land the plane of their relationship and 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. In the course of brief treatment (four sessions), Bill decided he would file for divorce, and left home never to be seen again by his wife. Lily accepted that Bill was not interested in becoming the kind of husband she wanted. Both spouses then chose to continue in individual treatment with me.

Bill's individual treatment goal was to obtain help with grieving the death of his first wife. 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. Her treatment, which is still in progress, has enabled her to let go of a chronically undependable relationship that had provided economic security without emotional sustenance or commitment.

Therapy plus a marriage communications skills course (Power of Two) has given Lily better communication skills, ending the long-standing habits of complaining and emotional escalations that had made her prior relationships difficult, interfering also with 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 this point her predominant feeling toward the divorce is relief that it is bringing a frustrating marriage to a clear ending, and she is looking with positive anticipation toward a better future.

Lawyer’s Comments

I asked the main lawyer who refers 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 and communicate about their children so they're not blaming each other. I've sent you a dozen of those at least, and you've been very good at those."
- 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). I tell my clients that I refer to you because if anyone can save the marriage, you can."
- 2) "I think you have a better 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 lead 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 Have Lawyer Referrals Changed My Practice?

As I indicated earlier in this chapter, the vast majority of my lawyer referrals have come from just one lawyer. Other lawyers sometimes refer, but one lawyer can send enough cases that, along with referrals from other sources, my practice generally runs full. So while I have made no further attempts to network with lawyers, I have long felt reassured by the knowledge that so many potential referring professionals are out there. That thought reassures me that my private practice is likely to be financially secure, and also that my colleagues and I can take in new therapists to our suite and know that, if they are experienced with couples, our new colleagues also can be successful in building a referral base.

In addition, 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.

Lastly, 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, I see the same couple gradually build the kind of loving marriage that they had hoped for when they said “I do.” That progress is very gratifying. The couple’s transformation validates the theories I have presented in my publications--and it is so rewarding to have been able to play a part in helping them to be able to enjoy the many blessings that that come from being able to create and sustain a strong and loving marriage.

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