

## LOW-END AND HIGH-END USE OF WITNESS TRAINERS, CONSULTANTS, AND LIFE- COACHES

### I. Introduction

No matter how big or small case, no matter how simple or complicated your issues, no matter how fancy or plain your evidence and exhibits, the most important part of your case is your client. Your client is the person that the judge and the jury will want to hear from the most. Your client is the reason you are in the courtroom. Whether your client is a sophisticated businessman, politician, or public figure, or a person of little education and humble means, your client has to be educated regarding the language of the courtroom. Witness trainers, consultants, and life coaches can provide an invaluable service to your client regardless of his or her background. These people can assist you in educating your client regarding the issues of the case, deciphering the complexities of the legal system, and translating both the language of the court and the specific issues of each case.

### II. Rules & Law

Witness trainers, life coaches, and other consulting experts are governed by the Texas Rules of Civil Procedure and the applicable case law.

Texas Rule of Civil Procedure 192.3(e) states:

*Testifying and consulting experts.* The identity, mental impressions, and opinions of a consulting expert whose mental impressions and opinions have not been reviewed by a testifying expert are not discoverable.

Texas Rule of Civil Procedure 192.5(a) defines work product as:

material prepared or mental impressions developed in anticipation of litigation or for trial by or for a party or a party=s representatives, including the party=s attorneys, **consultants**, sureties, indemnitors, employees or agents (192.5(a)(1)) or a communication made in anticipation of litigation or for trial between a party and the party=s representatives or among a party=s representatives, including the party=s attorneys, **consultants**, sureties, indemnification, insurers, employees, or agents (192.5(1)(2))

Consulting expert witnesses are protected from disclosure. To be protected, a consulting expert witness must have been retained in anticipation of litigation. The consultant=s reports documents, and opinions cannot be or have been reviewed by a testifying expert. The consultant cannot have facts independent of his job as a consultant. For instance, one cannot designate a treating physician or mental health care professional as a consultant because that treating individual has facts regarding the client independent of the litigation. However, a mental health care professional can be hired in anticipation of litigation to conduct a mental health evaluation of the client. A client=s CPA cannot be designated as a consulting only expert if that CPA has prepared the books, records, and tax returns of the client prior to the litigation. However, a CPA can be hired in anticipation of litigation to consult with the client and the lawyer regarding issues such as tracing and characterization or valuation, and to review the quality of your client=s bookkeeping.

Once the work of the consultant is reviewed by the testifying expert, the reports, documents and opinions of the consultant become discoverable. **Do not let your consultant test the actual physical evidence. Do not let your testifying expert review any work or opinions of the consultant.** Otherwise, you may turn your consultant into a testifying fact witness.

### III. Witness Trainers

#### A. How to identify who needs a Witness Trainer - those who do not think they need it at all.

Your client may be a star athlete who is used to communicating with his coaches, with his teammates, with the press, and with the public. Your client may be the chief executive officer of a Fortune 500 company who is accustomed to addressing very knowledgeable directors and shareholders. Your client may be the 6:00 p.m. anchorwoman of the top rated news show in Houston, Dallas, or San Antonio. Your client may be the minister of the largest church in town. Your client may even be a well known trial lawyer. These clients are typically the people that need witness training the most because of their overconfidence that they need witness training the least.

#### B. How to identify who needs a Witness Trainer - those who know that they do need it.

Your client may be a small businessman with few, if any, employees. Your client may be the stay-at-home mom. Your client may have never had to talk to a group of people larger than his family or his church friends. These clients lack confidence in their ability to effectively communicate in a forum with which they are totally unfamiliar. A witness trainer can assist the client in developing communication skills which will help the client be more confident in the courtroom.

#### C. Rules for Witness Training - No matter what.

**Preparation** - Direct and Cross-Examination is a unique form of communication. It is not used in the boardroom. It is not used at the dinner table. It is rarely, if ever, used as form of communication in any other forum other than a courtroom. Lawyers, however, must use this form of communication, usually within a limited time, to present the evidence in a way that is clear, concise, and understandable. Most judges are not shy about asking questions to clarify a point, but such questions can be embarrassing. Jurors are not permitted to ask questions. Truth is also identifying what your client thinks the truth is. Your client who is the star athlete or wealthy socialite

at all. So, it's up to you and your client to present an effective story.

Nothing is more effective to develop necessary communication skills than the constant preparation of your client. Preparation is not one meeting a few days before trial. Rather, it is an ongoing process that begins the moment your client first walks into your office. Whether you have a client who pays you \$5,000 a day, or a one time fee of \$5,000, you will never regret constant preparation. Think of the last time a lawyer told you that he or she wished that they had prepared less.

Spend some time in each in each interview directing and cross-examining your client. Explain what the hearsay rule is and train your client to anticipate it. Point out to your client how to respond when an objection is made. Remind your client that he will rarely win a contest of dueling wits with the opposing attorney. The judge or the jury will usually respect and always appreciate that you have taken the time to prepare your client and thus present your point succinctly.

**Truth** - Always present the truth and do so in a straightforward manner. Never prevaricate. Do not dance around the issue. The best way to diffuse a truthful but bad fact is to do so on direct examination. If you do not, that bad fact will be exposed on cross-examination. The fact-finder will know you wanted to hide the damaging evidence, and your opponent will be in control of the presentation of that truth.

The development of the truth is an ongoing process that may not be fully realized until the client has developed a rapport with you and your staff. Many facts that will be critical to your case may be highly embarrassing to your client. Lawyers should not expect that a client we have known for less than fifteen minutes will be ready to discuss the darkest facts of their sexual history, their addictions, or the abuse that they have suffered from a violent spouse. Some people simply are scared to tell the truth.

may actually believe that there are different rules for those with wealth and privilege. Your client may be the

abused spouse who truly believes it is her fault her husband beats her every night. Some people are either unwilling or unable to acknowledge what the truth really is.

It is sometimes difficult for the client to reveal these dark facts to his or her lawyer and to come to see what the truth really is. You bear the burden and the responsibility of building a relationship with your client wherein they must trust you with these facts. The client must feel that the lawyer is a person of integrity who will guard these secrets with safety and only use them with the greatest of sensitivity.

**Listen** - The key to preparing a client for cross-examination is teaching your client how to listen to the question. Ask this simple question: "Can you tell me what color the sky is?" Although most people will say "blue" or "grey" or some other color, the correct answer is either "yes" or "no."

Teach the client to respond to the question. Many times a client will avoid the question altogether in an attempt to say what they want to say. This will always draw a non-responsive objection. It will also frustrate the court and the jury. Teach your client it is not the death of their case to say "yes" to a damaging question. The other lawyer will probably be anticipating an attempt by your client to rationalize, justify, or explain away his or her answer. Assure the client that you will know when he or she will want to offer an explanation to "yes" or "no" that, standing alone, would be damaging and that you will be able to rehabilitate on re-direct examination. Remind your client that it is a rare day that even the best of witnesses will win points on cross-examination by trying to spar with the opposing counsel. The development of a rapport with the client will give confidence to your client that you will be able to rehabilitate those difficult "yes, but..." and "no, but..." questions.

**Story** - We all want to hear a good story. We also want to be able to tell a good story. The art of preparing a client for testimony is to allow the story to be told without that story being mired in the minutiae. To tell

the story in a question and answer/direct examination format requires preparation. Indeed, it becomes a dance between the lawyer and the client where the lawyer directs the client to tell his story in a straightforward, compelling, and heartfelt way.

**Preparing their heart** - Offering testimony before a judge or a jury is one of the most frightening things a person can do. If you are so inclined, encourage your client to spend a few minutes prior to the hearing in meditation, prayer, or some other quiet time to help the client focus his or her mind and heart on the task ahead.

#### D. High-End Witness Training

A high-end witness trainer will assist you in developing a rapport with the client, establishing with the client what the truth is, and building a relationship with the client so that the client is able to make high-risk self disclosure with confidence. A client may be embarrassed to tell a bad fact to his lawyer. The client may have done something that the lawyer specifically told the client not to do. The witness trainer can serve as a liaison between the lawyer and the client to minimize the risk (in the eyes of the client) of telling the lawyer the truth that the lawyer so critically needs to know.

A high-end witness trainer can be an invaluable resource to polish a client who thinks that they need no polish at all. The witness trainer can not only decipher and unpack the language of the courtroom, but can also teach your client to speak that language better than your opponent or the opponent's lawyer. How does the witness trainer accomplish this?

§ By developing a rapport with the client so that the client is comfortable with the truth and the process.

§ By teaching the client the language of the courtroom, how to listen to the question presented, and to make an appropriate response depending on whether it is you or your opponent asking the question.

§ By taking the client to the courthouse in order to witness one or more live proceedings. The witness trainer can review with the client Ado=s@ and Adon=ts@ using real people in live trial settings. A trip to the courthouse will also allow the client to become comfortable with the setting, the layout of the courtroom, and even become accustomed to the style and demeanor of the judge.

§ By using other lawyers to conduct mock-direct and mock-cross examination exercises so that the client can adapt to the different styles of different lawyers.

§ By videotaping the client so he or she can see their performance on camera.

§ By presenting the client videotape to a focus group of potential jurors or other lawyers to obtain impressions of the client=s performance.

§ By conducting a live mock-jury trial to evaluate the client=s performance in a simulated but realistic setting.

§ By offering opinions on appropriate dress and grooming.

E. Low-End Witness Training

If you cannot hire a trainer, spend time with your client developing a rapport so that he or she will be comfortable sharing intimate details. Listen to your client without judgment. Affirm the client as a person. Remember that witness training is not a one time even a few days before trial. It is a process that begins when your client first meets you and ends only when his last testimony is made before the Court.

Prepare and practice direct and cross-examination yourself. Perhaps your staff can observe the process. You can also have a colleague, as a consultant, observe the direct and cross from a fresh perspective. Prepare the client for questions without having him read from a script. If you practice the cross-examination yourself, be

mindful not to beat up your own client, as you may actually have the reverse effect of causing your own client to withdraw from you instead of responding to you.

There are a number of excellent State Bar articles that have been presented at a number of seminars, the mere reading of which will make your client a better witness.<sup>1</sup>

Most of you should be able to afford a video camera, a tripod, and a television for your office. You are an experienced lawyer. You know what looks good and what does not. Videotape your client yourself. Have you, your paralegal, and your client watch the videotape.

When you have a hearing regarding another case, have your client meet you to observe the process. You may also try to find out when your opposing counsel is going to be having a contested hearing. Inform your client of this and have him or her go to the courthouse and observe your opponent.

Most of you know, or should know, how to dress for court and to be groomed appropriately. Do not be shy about telling your client how to dress. Be mindful though of who your client is. If he is an asphalt paver who does not even own a suit and tie, don=t sent him to Brooks Brothers to buy a new suit the day before trial. He will be uncomfortable and the discomfort will affect his testimony. Make certain that you affirm with your client that he or she needs to be himself.

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A particularly good article is *Preparation of the Client and Witnesses in a Temporary Orders Hearing, Deposition, and Trial*, presented by David. R. McClure at the 2000 Advanced Family Law Course.

IV. **Consulting Experts**

A. High-End Use of Consultants - limited only by your imagination

***Custody Evaluation/Psychological Evaluation*** - If you are concerned about the mental health of your client, hire a respected psychologist to conduct a mental examination. Once a thorough mental examination has been undertaken, you will have a much better understanding of the strengths and weaknesses of your client and your case. No human being is perfect. We all have our flaws and weaknesses. We also have our strengths. A thorough mental examination will allow the lawyer to have a greater understanding of her client, to know what makes her tick. If serious concerns are raised by the mental examination, the lawyer will be able to make recommendations whether the client should be participating in individual therapy or more intensive treatment for mental illness or substance abuse.

The consultant can assist in preparing the client for a court ordered mental examination. A mental examination and psychological testing is not something that people do everyday. People have a basic tendency to be fearful and apprehensive of the unknown. The divorce process is stressful and filled with apprehension. The client will respond better to any court ordered mental examination if he or she knows what to expect, and your consultant can play a valuable role in this process. How can a consultant assist in preparing the client for a mental examination?

§ By advising the client of the format of the actual clinical tests (MMPI-2, MCMI-3).

§ By advising the client that he or she will be expected to give a history and to balance the important points without mirroring the evaluator in the minutiae.

§ By reassuring the client that the court ordered ***Home Study*** - If you know that the court is going to order a home study, a home study consultant will help you prepare your client for that home study. In a close case, the difference might be things you or your client

mental exam is not some magical, mystical process.

§ By reminding the client that the court appointed mental examiner is not the client's therapist, but is an evaluator. The consultant will be able to explain the difference.

§ By reminding the client that they may be asked to describe their soon to be ex-spouse to the evaluator.

§ By advising, the client that although personal, questions will be asked, the client should not take those questions personally.

The consultant conducting the mental examination can assist you in preparing your client for deposition and trial testimony by educating the client on the definitions of certain terms of art surrounding the evaluation and by reviewing the evaluation with the client.

Although the work, records, reports, and opinions of a consultant cannot be reviewed by a testifying expert, the opposite is not true. There is nothing to prevent your consultant from reviewing and commenting on your opponent's expert report or the report generated by the court ordered evaluator. Further, ask the court to release the raw testing data generated by the court ordered evaluator. Your consultant can then review the data and assist you in developing probative direct and cross-examination of the court ordered evaluator. It even gets better - you can obtain the raw testing data developed by the court ordered evaluator not only on your client, but also on the opposing party. Wow! Imagine how your consultant, a trained psychologist, reviewing the other party's data, could assist you in your trial preparation. Also imagine how that consultant can point out errors of the court ordered evaluator.

might never consider, such as safety plugs in the electric sockets, child proofing a medicine cabinet, or re-arranging the furniture so a toddler will not hit his head on a sharp corner. The consultant will remind the client

not to overlook something as simple as keeping the house clean.

**Financial** - In a case with significant property issues, a financial expert can be worth her weight in gold. Valuation, tracing separate property claims, spotting reimbursement claims, and developing economic contribution claims are only some of the ways a financial expert can assist you.

The first thing any financial expert should do is to examine the books and records of your client, and if applicable, your client's business. What is the quality of the bookkeeping? Have the tax returns been appropriately filed? Is there unfinished business such as quarterly payroll reports that should be completed?

A financial expert will also be able to spot the problems of your tracing case and offer suggestions on how to fill in the gaps.

Many of us only think about the characterization of the property and the size of the marital estate. How often do we think about the best way to divide property? A financial representative can assist the lawyer in giving the best possible advice on how the property should be divided. Is your client the non-monied spouse who is in instant need of cash? If so, is \$100,000.00 in a tax deferred IRA or 401(k) awarded to your client that she is going to immediately liquidate really \$100,000.00? Are there other assets that can be divided? On the other hand, is your 45 year old stay-at-home mom really going to be able to live off of the significant financial settlement for the rest of her life? With proper financial planning, maybe so. You should consider having an expert to advise your client about the tax consequences of liquidating a tax-deferred account. A financial planner can evaluate the realistic goals of a client and assist the client and the lawyer in making a sound assessment of the division of the marital estate.

The financial consultant will be able to review and critique the report of your opponent's expert, as well as be able to assist you in developing an effective cross-examination of your opponent's expert report.

**Appraisers** - If you can afford a financial expert, chances

are that there may be significant personal property that needs to be appraised. In a high dollar divorce, it might not be unusual to have personal property, jewelry, and artwork valued in the hundreds of thousands of dollars. Do not overlook what some might take for granted as the pots and pans, but are in fact items that may comprise a significant portion of the marital estate.

**Portfolio Examination** - A financial planner can evaluate the goals of a client and assist both the client and the lawyer in the best way to divide an estate to meet the goals of the client. The financial planner can also evaluate the actual investments that comprise the stock account, the IRA, the 401(K), etc. Although the front of the account statement says the account is worth \$500,000.00, is the portfolio made up of sound investments that have had a consistent return on investment? Or is the portfolio made up of high risk technical stocks that could lose ninety percent of their value overnight?

**Jury Consultants** - thousands of pages have been written regarding the use of jury consultants, and a complete discussion of this topic is the subject of another article altogether. However, once you have identified the issues that you will be presenting to a jury, a jury consultant, with the assistance of a mental health care consultant, a financial consultant, or both, will assist you in evaluating the persons who would be the most favorable jurors on the panel. What kind of a juror or personality profile do you need to win your Ahome run@ case or to keep your opponent from prevailing on their important issues?

A jury consultant can also reinforce for your client that many jurors may be functionally illiterate, are losing time away from his or her minimum wage job, and simply do not care about how your client's wife spitefully threw away your man's gold Cartier golf tees. With that being said, many studies show that most jurors try to take their jobs seriously. A jury consultant can prepare your client so that the jury will appreciate concise testimony, avoid irrelevancies, and avoid acting contrary to the decorum of a courtroom.

A jury consultant will also be able to assist you in preparing an appropriate power-point presentation for opening and closing statements, and other technical points. Remember that a picture is worth a thousand words. In the battle between the eye and the ear, the eye wins every time. Instead of having your client or expert explain in minutiae the tracing issue, have a power point presentation using simple slides and language to unpack the complexity.

The jury consultant can also assist you during the trial by observing the demeanor of the jury during the trial and will assist you in making adjustments during the trial based on those observations.

Finally, a jury consultant can be extremely valuable in helping you conduct a mock-trial.

**Local Counsel** - If you are trying a case outside of your usual jurisdiction, consider hiring local counsel. A local attorney can familiarize you with the local rules, the personality quirks of the clerks, and the tendencies of the judge.

A respected local counsel can give you valuable intelligence about local opposing counsel. Is your opposing counsel one who can be trusted implicitly? Do you need to paper every transaction in writing? Does your opposing counsel have an unusual respect from the judge? Is your opposing counsel typically not well thought of? Does he or she have certain issues that will set her off that you can use to your advantage before a judge or jury? Is your opposing counsel a capable advocate, knowledgeable of the law, and well-versed in the rules of procedure? Or was the last time he opened a law book in 1972 to study for the bar exam?

A well respected local counsel can also give you valuable insight as to the judge. Is he or she political in nature? Is there an unwritten pecking order before the judge, perhaps based on political contributions or church membership? Where do non-local counsel fit into that pecking order? Is the Judge a Joe Friday type person? Is he incredibly formal? Is she one to invite counsel into her chambers before every hearing to get a preliminary feel for the case. I once had a case

where the judge loved dogs but hated guns. This was helpful to learn because the opposing party was (1) a hunter and, in an incident completely unrelated to gun use (2) had at one time been cruel to my client's dog. I once also had a judge who insisted that counsel question each witness while standing at a podium and who also adhered to a strict Adirect-cross-redirect format. If it was your turn to cross-examine a witness, and you did not get what you had to say during your one shot at cross-examination, you did not get a second chance. A respected local counsel can smooth the way for entry into an unfamiliar court.

**Other** - Remember that the use of a consulting expert is limited only by your imagination and the facts of your case. Whatever the facts of the case, a consulting expert can be hired to assist you in making the best possible representation of your client.

B. Low-End Use of Consultants - also limited only by your imagination

**Custody Evaluation/Psychological Evaluation** - Admittedly, you may not be able to hire the best psychologist in Houston, Dallas, or San Antonio. You may not even live in a county that has a licensed psychologist. However, if you practice family law, sooner or later you will have a case where the court orders a psychological evaluation. If you respect the work of the evaluator, even if his or her ultimate opinion is detrimental to your immediate case, develop a rapport with the psychologist. Treat the psychologist with dignity and respect (as you should do with every person). You may not be able to afford to hire that person as an independent consultant in every case. However, you might develop a relationship where you can pose the occasional hypothetical question or bounce something off of you. You will undoubtedly know a family member, a friend, a church member, or a member of the Rotary Club with whom you can ask the occasional question. Most people whose opinions you will value will give you background information in exchange for gratitude and a healthy professional relationship.

**Financial** - How many of you have filed a tax return? How many of you have an IRA? A 401(k)? Life Insurance? How many of you think that these financial professionals may want your continued business? These professionals in your community may be willing to review your client=s financial information, including their tax returns and investments. It may not be the same as hiring a top forensic expert or financial planner, but they may be able to give you valuable insights into issues that you had not considered. Also, these people are good sources for the occasional Ahypothetical question.@

**Home Study** - Your client may not be able to afford a full scale home study. However, you certainly know people who have children and you know mothers and fathers whom you believe are good parents. Perhaps you have a paralegal who has children. Get input and a fresh perspective from these people as to what makes a safe and comfortable home. How big of an apartment is your client going to rent? How many bedrooms? Is it in a gated apartment complex? Is there a playground? What should a parent, many times a father, do to create a safe and warm environment for a child? Get this information from people you trust, and with this information in hand, do the run-through of your client=s home yourself. Make recommendations.

**Jury Consultants** - If you live in a smaller county, you may be able to get the list of all of the people on the venire panel in advance of trial. Think about befriending the court clerks at not only the district and county level, but also the municipal court and J.P. clerks and judges. A typical municipal court clerk might deal with ten to twenty local citizens every day. They tend to know a great deal about people in general. Who is it whose brothers and sisters are always in trouble with the law? Who is the housewife who thinks she is above the law? Who is it that, in spite of receiving a traffic ticket, was respectful to the court and the court staff? This type of information will be extremely valuable when you receive your jury list and will allow you to more intelligently voir dire your panel.

When faced with conflict of such a personal nature, many people simply retreat or give up. They dig a hole for

## V. Life Coaches

A life coach is a person with whom we all have some experience. It is a person who, based on wisdom and past experience, can mentor someone through a particular process. In a law firm, this person is probably your managing partner or your mentor. In your church, this person is probably your pastor or priest. If you are in a 12 step recovery group, this person is your sponsor. It might also be your therapist. It could even be a friend or neighbor that you turn to when you need advice or perhaps nothing more than a sympathetic and listening ear. A life coach is a person with whom you can make an authentic and high risk self-disclosure about yourself and receive unfiltered but non-judgmental feedback. A life coach will provide a client with an atmosphere of community and confession in a time of extreme need.

Litigation is one of the most unnatural processes many people will ever go through. While most people avoid conflict, litigation is a process that is designed to focus on and even use conflict as a means to resolve the dispute between the parties. The conflict in a divorce is unlike any other. People enter into a marriage with the hope and even the expectation that their spouse will be the person with whom they will share passion and intimacy, build a life, and bear children. These expectations are what many people define as love. However, people going through a divorce experience the opposite of love. It is not hate. It is fear. People need to have healthy mechanisms with which to deal with this fear and to face it head on.

A litigation lifeBcoach will assist people in getting through the divorce process. Based on past experience, wisdom, and sympathy, a life coach can guide a litigant through the very real pressures of litigation. A litigation life coach can provide a client an environment of safety within which the client can express his or her anxieties, fears, and frustrations.

themselves and crawl in, intending never to come out. Some people even become so comfortable in this misery

that they begin to decorate their hole so it will be a more comfortable place to live.

A life coach can help the client root out the fear that drives so many people into this hole. What is the client afraid of losing? What issue is the client afraid of facing? A life coach can help the litigant muster courage to tell the Abad facts@ to his or her lawyer, those facts critically important that the lawyer needs to know to avoid being blind sided in the courtroom. It could be the fear of losing one=s children. It could be facing an economic fear, from Alosing what I have worked so hard to earn@ to Ahow am I going to make it on only so much child support?@ It could be the fear of losing one=s reputation, especially in a close-knit community.

A life coach can assist the client before a court hearing or a deposition. We lawyers can become desensitized to the stress that these events cause to a client. Although a witness trainer can prepare a client for testimony or deposition, a life coach can help the client deal with the very real fears of the process.

Some people, based on their past experience, are excellent life coaches. They can be sympathetic and supportive to the client. They can provide an atmosphere of safety. However, they may know nothing of the intricacies of the litigation process and are unable to train a witness how to respond to direct and cross examination. On the other hand, some people are excellent witness trainers who can transform a shy, quiet person into a posed and polished witness. This excellent witness trainer may, however, be a lousy listener who is not sympathetic to the therapeutic needs of the client.

A. High-End use of Life Coaches - Litigation Life Coach

A litigation life coach is all of the things that have been discussed above. This is a person who can be hired, as a consultant, to assist the client through the litigation process

B. High-End use of Life Coaches - Collaborative

Law Life Coach

More and more people are using collaborative law to resolve their divorce disputes. Because the collaborative law process can be as stressful to the client as litigation, many people hire a collaborative law coach to assist the parties and the lawyers through the process. If the case primarily involves custody, the collaborative coach can be a therapist whom the courts respect. If the case primarily involves issues of property, the collaborative coach might be a financial expert whose expertise can be trusted by both parties and both lawyers. The collaborative coach may even be a well-respected lawyer who knows the law and has experience with a wide array of issues.

A significant amount of work is done by the parties and the lawyers during collaborative group meetings. Usually, each meeting will have a specific agenda. A collaborative law coach can make certain that the lawyers and the clients stay on the collaborative trail and maintain an appropriate focus on the process.

Inside the Group Meeting

§ If one or both lawyers become too hostile during the process, the collaborative coach can offer an objective voice to either or both of the lawyers to ease tension.

§ If one or both of the clients become too hostile, the collaborative coach can be a facilitator to ease the tension.

§ A collaborative coach can establish the goals of the litigation early on and can assist the parties and the lawyers in maintaining that focus during each of the group meetings.

§ A collaborative coach can offer alternative solutions so that each party can obtain his or her goals and the process can be Awin-win@ for both sides.

§ A collaborative coach can offer guidance to maintain an environment for the group meetings in which all parties can be comfortable, including input on where people will be seated and rules as to when and how each person will speak.

§ A collaborative coach can make certain that both parties have an equal voice in the process.

§ Most importantly, a collaborative coach can insist on an air of civility about the entire process.

#### Outside of the Group Meeting

The collaborative coach also takes an active role outside of the group meeting and can engage in any activities authorized by the parties and their lawyers.

§ The collaborative coach can obtain information. For instance, if neither party trusts the other lawyer to suggest a neutral financial expert, the collaborative coach can be given the authority to either recommend or select such an expert. If there is a child with special needs, the collaborative coach can investigate the best facility for that child. Many clients are more willing to trust the selection of a joint expert or course of action if suggested by a neutral collaborative coach.

§ When tensions run high, the collaborative coach can work with the lawyers and the clients to ease that tension.

§ When the parties and the lawyers begin to lose focus on the goals of the collaborative process, the coach can re-focus all parties to the goals of the litigation.

§ The collaborative coach can work with the parties and the lawyers to implement goals and to suggest alternatives. An example is child visitation. If both parties have a goal of equal

§ If your client has a history of addiction but is in

time, the collaborative coach can suggest how that goal is implemented whether it is a 2-2-3 visitation schedule, a week-on/week-off, or some other schedule.

§ The collaborative coach can meet with the lawyers when the lawyers are becoming too confrontational and losing sight of the collaborative nature of the process.

#### C. Low-End use of Life Coaches

A client without significant financial means will still experience stress and fear during a divorce. Remember to reassure your client that soon litigation will be over. Life can go on, and it can begin going on right now. Your client may not be able to afford to hire a therapist to negotiate him or her through the process. As such, always take a few minutes of each meeting to take off your lawyer hat and visit with your client. Ask him how he is doing. Ask the client what she is doing to take care of herself. Consider alternatives to help your client survive the litigation process so that he or she realizes that there is a light at the end of the tunnel.

§ Contact psychologists whom you know and respect who have completed court appointed evaluations. Ask for referrals for good therapists at reasonable rates for your client.

§ Encourage the client to meet with his or her pastor. Obtain the client=s permission (in writing, of course!) to briefly discuss the matter with his or her clergy so that you can give that person insight to what the client/parishioner is facing. If the client is not a church-goer, encourage him or her to seek meaningful spiritual intervention.

§ Suggest divorce recovery groups. Many churches and civic organizations sponsor divorce recovery workshops. Become familiar with the programs being offered in your community.

recovery, encourage the person to meet regularly

with his or her sponsor during the divorce process.

VI. **Conclusion**

Lawyering is a service business. The creative and effective use of witness of trainers, consultants, and life coaches will allow you to give the best possible service to your client during the difficult process of a divorce litigation.