



## ***Fox Rothschild Podcast***

# **Texas Family Law Podcast Series: The Role of Mental Health Professionals in Divorce**

***Featuring Laura S. Hayes and Jamie-Lee Denton of Fox Rothschild LLP and Dr. Ray Levy, PhD of Ray Levy Ph. D., P.C. & Associates***

**Laura Hayes:** Hi, I am Laura Hayes. Welcome to the Fox Family Law podcast. We are here today for episode number seven in our series of eight. I am here with my associate Jamie-Lee Denton and our guest today is Dr. Ray Levy who is a clinical psychologist here in Dallas focusing his practice on collaborative divorce and reunification. He also has a general practice seeing adults, adolescents and children. Welcome to our podcast, Dr. Levy.

**Dr. Levy:** Thank you very much. Glad to be here.

**Laura Hayes:** We are happy to have you. We wanted to talk today about the role of a mental health professional in a divorce case. We want to touch on what you do in the collaborative law area as well. I will let you start telling us how mental health professionals can help people going through a divorce, or a high conflict custody case.

**Dr. Levy:** As I am sure you are aware, any divorce, even if it is not high conflict, involves a lot of emotions, and very painful emotions. We are talking about the loss of a dream, the loss of a union. This is very similar to a death. People will go through the stages of grieving for this. It is important not to just let people go through it without someone else there. Many times, we need a professional, or someone to help keep them from being stuck. I am sure you and I know a ton of people that have been divorced for years and they are still very resentful, still very angry. They have not been able to move on. They are stuck. These are the people who I think can really benefit early on from some mental health intervention. Many of are trained in how to do that—who to help people going through divorce. I have helped quite a few people, either as a couple or individually, just be able to move through it and get through it even though it feels awful. It is just like any other death. You have to keep your feet moving.

**Laura Hayes:** Right. I have a lot of clients who come to me when they are blindsided, or surprised, by the divorce. It is very, obviously, upsetting. I find that being able to proceed with a divorce, whether it's we go to mediation or we go to a trial, if they're not past that initial emotional stage of grief, or just dealing with the process of a divorce, if they're not there, it's hard for me to make them comfortable with the process of divorce. So I try to refer clients to people like you who can address those things. I think it is really important, like you said to address them early on. Otherwise, the whole process becomes a lot more difficult than it already is.

**Dr. Levy:** Absolutely. These people really get way too stuck. People either going into a divorce wanting it; sometimes we have those who really feel divorce remorse. Basically, they feel that they gave away everything in their divorce—"I want the divorce, my wife didn't, I'm leaving the kids, I'll give them everything, the house, the car the 401K. I'll just live on meager rations because I wanted out." Sometimes there is another person who wants it all. They go to court expecting they are going to talk to a judge and the judge is going to say, "oh my gosh, yes, life has been very unfair, your spouse has been awful, we're going to give you everything." Neither one of those are good, and neither one of those usually happen. There is something in between and that is usually what happens. Both people in a litigious divorce often end feeling very upset and very misrepresented. It is nothing about the lawyers; they just think that they should be getting everything. This is a mindset they often have, and this needs to be changed. That is not how divorce is. It is kind of like a war. No one ever leaves feeling great—there are always casualties.

**Laura Hayes:** Absolutely. That is true between the parties, but also the kids. I try to, and I think you can probably provide a lot more insight than I can on this, explain to parties even if they are upset at their spouse for whatever they did to cause the divorce, if they fight and they litigate it for months or years, at the end of the day it is the kids who suffer. The kids can feel all of that tension. If you go and you sling all the mud at trial, how are you going to co-parent? I explain it to my clients, it is hard to co-parent anyway, but if you have gone and pulled up all the dirt and ugly parts of your marriage, and you have had your day in court, it is even harder to co-parent. How would you repair that relationship when you have kids that you still have to deal with, even after the divorce is over?

**Dr. Levy:** That is one of the toughest questions, Laura. One of the things we know, and there is a bunch of research on divorce is that it is not the divorce that is so upsetting for the kids, it is the conflict. The conflict between the parents, whether they are married or not married. The conflict is what is the most disturbing and the most upsetting, it causes the most mental health issues later on. Parents need to be able to co-parent. Again, they may not want to be husband and wife, but they are still mother and father. They struggle with doing that if there has been a contentious and litigious divorce. It is very, very difficult to negotiate and talk about the day-to-day activities with someone who you absolutely hate and abhor, or who may feel the same about you. People do struggle with that and we really try to help clients understand that to be able to co-parent, they need to let go of some of this anger and stop personalizing it so much. It is harder with some people because they personalize everything, but we definitely recommend that.

**Laura Hayes:** Right and I think the hardest part for me when I talk to my clients—they want to litigate, they want their spouse to "pay" for whatever bad thing they have done, but I get a lot of the same questions about "how do I co-parent with someone who is a narcissist?" "How do I co-parent with someone who is alienating my child from them?" Those questions seem to pop up a lot. From your perspective, how would you help those clients who really truly want to co-parent

but believe they just cannot because of the various personality traits they believe the other spouse has?

**Dr. Levy:** Let me answer that in two parts. First, how do we help people co-parent? Then, how do we help them co-parent when there is a mental illness or personality disorder involved? First of all, some of the things we do with co-parenting is to literally teach them basic communication skills. Things that they know, but you forget when you are emotional. Remember, we all get drunk with emotions and we forget and lose our basic ability to talk and think rationally. So we will teach them I statements, or how to be empathetic and do empathetic listening, how not to talk over somebody. Just simple things—how to reframe and ask for clarification. Simple techniques that anybody can say “oh yes, at work we had a training and we learned all that stuff, I just don’t do it with my spouse, or ex-spouse.” Often we have to refresh that.

Now, when you have something like a personality disorder. I am talking about a personality disorder like a narcissist, or someone who has a borderline personality disorder, or someone who might be actively alienating the kid. It is very common that you will need a third party. These are things that you really cannot negotiate yourself. Obviously, if you are married to a narcissist, you’re getting a divorce probably, likely, due to the narcissism and because you felt like you couldn’t be heard, everything you said was turned around on you, what people often refer to as gas lighting. We often say, look, with a narcissist, you are not going to get them to change; you just want to get out as soon as possible. There is nothing you can say, there is nothing a therapist can say, there is nothing a lawyer can say, that is going to have a narcissist go “oh my gosh, thank you, you’re right. It was me.” It is just getting that distance and keeping things very clear. A lot of times, that is where a parenting plan comes in. In the divorce decree, that is very clear, there is no give or take on it. Your child has to be back at 5 p.m., not 5:15 p.m. These are things that sometimes narcissist, or people with personality disorders, sometimes need. They need the law to set some very clear criteria for what they have to follow. The problem is that it can get very costly for them. If the spouse does not follow it, you have to take them back to court.

We often say if you have a spouse that has some kind of personality difficulty, you want to get out as soon as possible, keep as much distance, and have as little contact. Use our family wizard, you text three sentences max that is it. We give them very specific rules. There is no wonderful way to co-parent with someone who is that sick. It just becomes too difficult.

**Jamie-Lee Denton:** We know that a lot of times people think their spouse is a narcissist, or has some sort of disorder, and you get in there and they really do not. How do you break that to the spouse who is convinced that is why their marriage is falling apart?

**Dr. Levy:** Very subtly, Jamie-Lee. That is a great question. You have to validate the person who is thinking my husband is a narcissist, or my wife is a narcissist. Then you say, well, this behavior shows me that they possibly may not be, or tell me about the behaviors and you have them

break down the behaviors. As you know, throughout the decades, there are certain diagnoses that are just very popular. Back in the 80's, it was ADHD or ADD. In the 90's it was Asperger's, or Autism. In the 2000's it was bipolar. Now it is narcissism and gas lighting. Many lawyers I've talked to tell me when a spouse comes into their office looking for a divorce, even if they are more collaborative or whatever, they often use the word narcissist to describe their ex, or soon-to-be ex. Many times, we get that, but it does not mean that they are. They have read a book, they have read something online, or they have talked to a friend and think for sure this guy is a narcissist. By the way, we usually see narcissist thrown around more as a description of men than women. Although men are just as good at throwing negative labels at their wives, so I do not want to pinpoint one gender. They are just as wrong. It is just gently nudging them and saying that is not exactly what I am seeing, maybe you want to look at it differently, or this is another way to see it. It is just a very subtle shifting them into that direction.

**Laura Hayes:** Right. You mentioned the word collaborative when you were answering that last question. Could you tell us a little bit more about a mental health professional's role in a collaborative divorce process? And how can that process help people talk about these grievances—they think their spouse is a narcissist, or they have borderline personality disorder—whatever the grievance may be? Resolving them during the divorce process rather than holding onto the bitterness for years like you were talking about in the beginning of our discussion.

**Dr. Levy:** When we see a couple that is going through a divorce, we try to take them through some basic processes like grieving, how to co-parent, how to talk. The beauty of being in a collaborative process is that teaching starts very early, and it continues throughout the entire process. In a collaborative process, you have two lawyers, one for the husband and one for the wife, but the lawyers really do not act in just talking to their client. They talk to both clients. Their whole focus is to get them divorced, not to represent and to be litigious, to represent the process. You also have a financial person helping them to get their finances untangled.

The mental health professional is doing more than just leading the meeting and making sure everything goes smooth. He or she is also monitoring the conversation, making sure that everyone is talking in collaborative, or co-parenting, lingo. We do not talk about possession schedules, in other words, kids are not possessions. We talk about time-sharing, or parent time-sharing. We want them to get used to addressing each other. This is something we often look for in a meeting, one spouse will say something pretty rough to the other, and it's up to the mental health professional to stop them and say, "hold on, can you say that differently so it can be heard?" Or, "That may not be the best way of putting it." Hearing from a third party, they do not get immediately defensive. They are more likely to sit back and go "hold it, maybe I did say that too rough." Doing that, not just at the beginning, but throughout the entire process, sets the couple up to have a much better co-parenting solution and relationship after the divorce

**Laura Hayes:** Right. How do you address a client who says, "I can't even stand to be in the same room as them. There is no way I can go through a collaborative divorce process." Or, even if it is

a modification—cannot stand to be in the same room with them, there is no way that will work for us.

**Dr. Levy:** That is a great question. There are two ways to get around that. Sometimes, if they cannot stand to be in the same room and are so disgusted with the person, collaborative may not be the best option, actually. The other thing is, thanks to COVID, I guess it there is something positive to come out of COVID, we are now doing a lot of it on Zoom and you don't have to be in the same room. You are in the Zoom room together, but you are not in the actual, physical same room. That offers people, spouses, some safety, so they do not feel so violated, they do not feel so vulnerable in the same room. They are able to stop their video. They are able to get up and walk away. We are able to use breakout rooms. That makes it a lot easier for people. When we do mediation, we will often caucus, which means we will put one spouse in one room, another spouse in another room, and the mediator will go back and forth because it makes it safer. The same thing can happen somewhat similarly in a collaborative meeting except everyone is on the Zoom call and it makes it a little bit safer for clients. Sometimes it is just that even the anger is so intense that on a Zoom meeting they cannot control it, and that is where possibly collaborative may not be the best choice. Collaborative is a great choice, but it is not for everybody. It is not the panacea for all divorces.

**Laura Hayes:** Right. Absolutely. It is great when it works, right?

**Dr. Levy:** When it works, it is wonderful. We know that the kids are better, and that is really what parents want to know: what can we do to safeguard the kids as much as possible? There is no way to say that there is no negative impact from divorce, but we can mitigate it. We can make it a lot softer and easier for kids. We have had kids that we have talked to that have been through the collaborative divorce and they have a very different take on it, than kids whose parents have gone through a litigious divorce.

**Laura Hayes:** Right, because I guess you mitigate a lot of the high conflict, as much as possible, or you keep it contained at least anyway in these sessions. It is not as overt and in front of the kids, I would think, in the collaborative process. There is a time and a place to talk about it between the parties rather than leaving them to argue over it in front of the kids without professionals around.

**Dr. Levy:** Absolutely, correct. Remember, it is the conflict, not the divorce, which is the most harmful to the children. If you minimize the conflict, they are going to do much better.

**Laura Hayes:** Talking about kids and the effect of divorce on kids. I mentioned at the beginning that you do reunification therapy. Can you tell us what that is and what the role is of how to help children who either do not want to see one of the parents, or have not seen one of the parents for various reasons?

**Dr. Levy:** Yeah, that is a great question. Alienation is one of the stock terms that we hear today besides narcissism, gas lighting. Alienation is a big one. When parents go through the divorce, kids feel very conflicted. It depends on the age, but they can do very much of a black and white thinking—dad is all bad because he had an affair, or mom is all bad because she had an affair, or dad is leaving mom with no money. So they will not want to see the other parent, or it is that they just feel more comfortable with a parent. Many times, they will resist going over to the other parent's house. It is just a natural consequence of divorce, depending on the age. We will see it very commonly with 11-13 year old kids, but especially high school kids because they are busy. They have their own life and parents get in the way of their life. Often it has nothing to do with alienation. There are times, usually when there is a personality disorder with either spouse, that they will badmouth the other parent. This has been going on for a millennium. This is nothing new. People who are much older will say, "my parents were divorced and my mom always talked bad about my dad," or "my dad trash talked my mom and so we never saw until later and then I realized that dad was just lying to me." Or vice versa.

So this is nothing new, but recently the courts have realized that alienation is a form of emotional abuse. They made it, put it in law, so that if you get a court custody evaluation that shows that you have been alienating then you will be court ordered to reunification therapy. What that therapist does is try to reconnect the child with the alienated parent, or we call it "resist and refuse." We do not often like to use the word alienation. That is such a strong word that has a very negative connotation. But that does happen where therapy is court ordered.

**Jamie-Lee Denton:** Have you seen circumstances where it is really one of the parents that is pushing away the children, rather than vice versa?

**Dr. Levy:** I am sorry; one of the parents is what?

**Jamie-Lee Denton:** You were talking about how the children could be pulling away from a parent, or not wanting to spend time with the parent, but if the parent is pulling away from one of the children, have you seen cases like that?

**Dr. Levy:** Yes, but when the parent pulls away from the child, or does things that are really not very conducive to parenting, it is called estrangement. This is really when the least favorite parent is doing things to make him or her even more unfavorable, and harder to come over to that household. Just to give a scenario, not trying to be gender-biased, but say the children live with the mom and they go visit the dad every other weekend. The dad is not letting these kids talk, or he is trying to push or introduce the new girlfriend too quickly. These are the things that are really pushing the kids away. Say they try to talk about how they do not like coming over his house because they do not like his food, and he just starts arguing with them. These things are called estrangement. That is really not alienation, although he can sit there and go "you are doing this because mom told you to say that." That is really not the case. So we see it both ways

that someone can alienate and then sometimes people can push their kids away by just having bad parenting skills.

**Laura Hayes:** Right. There are so many nuances to every case. A lot of people come into a divorce or custody case saying, “No, I don’t need mental health professional help. I am good. It’s the other parent who needs it, or it’s my kids who need it.” Actually, a lot of people are resistant to even having their kids get involved with mental health professionals. It sounds to me like, no matter what the circumstances are, whether it’s high conflict or not, someone like you can really help during the actual process and by getting a mental health professional involved early on, it can really mitigate what the long term effects of are, whatever the case is, whether it’s divorce or custody.

**Dr. Levy:** Yes, it can. I would not say that every case needs it. I can think of many times where I have talked to the kids, the parents brought them in because they wanted to make sure they were OK, and the kids were fine. They really were adjusting OK. The last thing you want to do is put a kid in therapy who does not need to be in therapy. That is like going to the pediatrician’s office and hanging out there. After a while, you are going to get sick, you are going to catch something. So, as much as I want to advocate for therapy and therapists, it is not for everybody. It needs to be assessed. Some people are not ready for it. I’ll tell you what I do find the most helpful, and we have been getting a lot more, is parents who are getting a divorce and realize it’s going to be tough, come to me and ask what is the best way to tell the children. I thank them profusely. That is because there is a way to tell kids, and a format to tell kids, that works better. It is not great—no one is going to be thrilled and happy—but it is going to be least damaging. It is going to really lessen the shock that the divorce will have on these kids, and it is going to allow them to open up and talk more. So I like at the very beginning before parents have even told kids or moved out, when they come to me and ask for a session or two on what we tell the kids, how do we tell the kids, when do we tell the kids. Those are very important questions.

**Laura Hayes:** That is really interesting. I think that something that a lot of people do not think about and/or may disagree on is when to tell the kids, so that is very interesting. Most of the time, by the time we see a divorce case as lawyers, someone is being served or they are ready to file immediately. That is interesting how coming to someone like you beforehand, from both parties, could really help address that for the kids.

**Dr. Levy:** I do that about once every two weeks, I have a client come in and ask that, and it is just wonderful. We give them a lot of information, a lot of literature. There are books for the kids to read, depending on the age of the child obviously—for younger kids it is a coloring book with animals, older kids get books written by teenagers. Things like that are just very, very helpful. One parent telling the children, it does not work too well. I do not care how gentle they are, it usually comes out very biased and very harsh. So we recommend that both parents tell them, and we find that much better and much easier. The kids do not feel so much of a divided loyalty.

That is the biggest problem with kids, they feel divided. They feel that they have to take a side. When a parent encourages that, it is where we get the alienation from.

**Laura Hayes:** Right. Interesting. Well, that is great. We are right about at the end of our time. This has been really fascinating and really helpful. We really appreciate you being on our podcast today. We are going to end it with our fun question we have been ending each episode with. So, Jamie-Lee, I will let you ask the fancy question.

**Jamie-Lee Denton:** Right, it is a difficult one: What is your favorite divorce movie or TV show.

**Dr. Levy:** Favorite is *Kramer vs. Kramer*. That is an old movie. I am probably dating myself by saying that. Dustin Hoffman was in it. What I like about it was not how the couple split, but how Dustin and his son got along. At first, the first scene with the parents divorced, the son was out of control, like many kids are. They are scared about it, and they do not act in a fearful way, they act in an obnoxious, acting out way. That is much more common for boys. This kid was acting out and you saw them about six months later getting along. It was just like clockwork in the morning where the dad and the kid got up, got ready for school and work, and got out the door. They were just working beautifully. I love that because it gives people who are divorced hope. Their biggest fear is usually the kids, how it is going to affect the kids. It shows that yes, it can work, and they can get along with the kids. So that is my favorite.

**Laura Hayes:** Well that is perfect. I will have to watch that one now. I have not seen that one.

**Jamie-Lee Denton:** Yeah, I will go watch it, too.

**Laura Hayes:** Perfect. Well, thank you again for appearing on our episode today. We look forward to talking to you again.

**Dr. Levy:** Thank you very much for having me.