

**NAVIGATING YOUR FAMILY LAW MATTER WHEN SOMEONE
WITH A PERSONALITY DISORDER IS INVOLVED**

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CHAPTER 9

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SPEECHES AND PAPERS:

Innovations: Breaking Boundaries in Custody Litigation
“Different Strokes for Different Folks,” February 2017

Advanced Family Law Conference
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National Business Institute
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Houston Volunteer Lawyers, Family Law Seminar, October 2015
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Houston Bar Association, Family Law Section
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Family Law Technology 360: Everything You Need to Know for Your 21st Century Practice
“What Judges Think Is (and Isn’t) Persuasive With the Use of Technology in the Courtroom,” December 2014

Texas Lawyer CLE Breakfast
"How to Make Your Case in Family Court," June 2014

HVL Family Law Seminar
"How to Make a Judge Happy," May 2014

37th Annual Marriage Dissolution Institute
"Default Judgment Practices," April 2014

28th Annual Family Law Conference
"A Conversation with the Judges: The Ideal Lawyer," March 2014

Advanced Family Law Drafting Course
"Enforcement and Contempt Essentials," December 2013

39th Annual Advanced Family Law Course
"Enforcement – Mock Trial," August 2013

36th Annual Marriage Dissolution Institute
"How to Take a Default Judgment and Hold It," April 2013

27th Annual Family Law Conference
"Moving Away? Residency Restrictions," March 2013

Houston Bar Association, Family Law Section
"Tax Returns, Decoded," February 2013

HBA Enforcement – A Mock Trial Presentation
"Property Enforcement," November 2012

Texas Military Forces Joint Legal Workshop
"A View from the Bench," September 2012

38th Annual Advanced Family Law Course
"The Texas Story: Implicit Bias and Disproportionality," August 2012

HBA Conference on ADR
"What's New in Family Law Mediation," May 2012

35th Annual Marriage Dissolution Institute
"Marriage Dissolution 101 – Judges Panel," April 2012

HBA Family Law Institute
"Reimbursement," April 2012

HBA Essentials of Family Law Evidence
"Expert Witnesses: Pitfalls and Warnings," November 2011

National Business Institute
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Annual Civil Judicial CLE
"Family Law and Domestic Violence," August 2011

25th Annual Family Law Conference
"Fine Tuning Your Case for Court," April 2011

2011 HBA Continuing Legal Education
"Meet the New Judges," April 2011

Texas Center for the Judiciary
"Beyond the Bench," Team Leader, April 2010

South Texas College of Law Family Law Conference
"Enforcement: Nuts & Bolts," March 2010

National Institute for Trial Advocacy
"Trial Skills for Juvenile and Family Courts," February 2010

25th Annual Conference – Texas Association of Domestic Relations Offices
"View from the Bench on Modification of Child Support," November 2009

HBA Ad Litem/Amicus Boot Camp, September 2009
"Q&A: Ask the Experts"
"Perspectives from the Bench and in Mediation"

Advanced Family Law Course
"Changes in SAPCR Issues and Trends for the Future, August 2009

South Texas College of Law Family Law Conference
"Fine Tuning Your Case for the Judge," March 2009

South Texas College of Law Grandparent and Kinship Care Seminar
"The Practical Approach to and Mechanics of Pursuing Conservatorship," November 2008

South Texas College of Law Family Law Conference
"Forms, Checklists and What to Bring at Entry," March 2008

University of Texas – The Definitive Short Course on Parent-Child Relationships
"Presenting Your Temporary Order to the Court," November 2007

National Institute for Trial Advocacy
"Trial Skills for Juvenile and Family Courts," November 2007

South Texas College of Law Family Law Conference
"Getting Information from Your Client and Presenting It to the Court," February 2007

2006 HBA Family Law Institute
"Prosecuting & Defending the Child Support Enforcement Case," March 2006

South Texas College of Law Family Law Conference
"Parenting Plans and Parenting Coordinators," February 2006

2004 HBA Family Law Institute
"Child Support: They Owe It, Now Go and Get it," April 2004

Burta Rhoads Raborn Family Law Inn of Court
"Uniform Parentage Act," October 2003

South Texas College of Law Family Law Conference
"The Initial Interview: Forms and Checklists," February 2002

South Texas College of Law Family Law Conference
"Winning Strategies and Tactics for Temporary Hearings: Property, Support, Custody and Extraordinary Relief," February 2001

3rd Annual Family Law Institute – South Texas College of Law
"Advocacy with Time Constraints or "I have a ten hour hearing and the Judge has one hour," March, 2000

South Texas College of Law Family Law Conference

“Checklists and Forms You’ve Got to Have, including a Discussion of How to Keep your Clients Informed as to Court Requirements and Ongoing Ethical Obligations,” February 2000

9th Annual South Texas College of Law Family Law Conference

“Unusually Obtained Evidence,” February 1999

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Member, Texas Bar Foundation, 2004 through the present
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CAREER PROFILE

Practiced family law with Ausley, Algert, Robertson & Flores, L.L.P. since August, 1995 and became a partner in December, 2001.
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“Closing the File,” Advanced Family Law Seminar - Boot Camp, State Bar of Texas, August 17, 2003.

“Post Trial Basics & Closing the File,” Advanced Family Law Seminar - Boot Camp, State Bar of Texas, August 8, 2004.

“Effective Use of ADR in Family Law Cases,” 2005 Poverty Law Conference, Texas Lawyers Care, March 30 - April 1, 2005.

“Closing the Friendly and Unfriendly File,” Advanced Family Law Drafting Course, State Bar of Texas, December 8-9, 2005.

“Traveling Light: Collaborative Law Without Paralegals or Assistants,” Collaborative Law Spring Conference 2008, State Bar of Texas, February 28-29, 2008.

“Collaborative Law,” Alternative Dispute Resolution Course, University of Texas Law School, Professor Cynthia Bryant, March 6th, 2008.

“Child Support (What Do Judges Do in Various Counties) Above & Below the Guidelines, the High Income Earners (Death of the Obligor),” Marriage Dissolution Institute, State Bar of Texas and Family Law Section, April 17-18, 2008.

“Closing the File,” Summer School - State Bar College, State Bar of Texas, July 17-19, 2008.

“Closing Documents Other than QDROs,” Advanced Family Law Drafting Course, State Bar of Texas, December 4-5, 2008.

“Putting Agreements on Paper,” Collaborative Law Course 2010, State Bar of Texas and Collaborative Law Institute of Texas, March 4-5, 2010.

“Closing the File,” Advanced Family Law Drafting Course, State Bar of Texas, December 9-10, 2010.

“We’re Done! (Or are we?) - Closing the File,” Advanced Family Law Drafting Course, State Bar of Texas, December 5-6, 2013.

“Closing the File 101,” Marriage Dissolution 101 Course, State Bar of Texas, April 23, 2014.

“Closing the File 101 – The Long Good-Bye,” Marriage Dissolution 101 Course, State Bar of Texas, April 8, 2015.

“Proving Significant Impairment,” Advanced Family Law Seminar, State Bar of Texas, August 1-4, 2016.

LECTURER

“Creative Discovery,” Family Law Essentials, Family Law Council, Nacogdoches, Texas, June 4, 2004.

“Post Trial Basics & Closing a File,” State Bar Convention - Boot Camp, June 25, 2004.

“Closing Out Your File,” Williamson County Family Law Seminar, October 29, 2004.

“How to Study for and Pass the Board Certification Exam,” Advanced Family Law Course, State Bar of Texas, August 10, 2005.

“Trends in Family Law,” 2009 Statewide Assistant Attorneys General Conference, Austin, Texas, July 10, 2009.

“Changes in SAPCR Issues and Trends for the Future,” 35th Annual Advanced Family Law Course, State Bar of Texas, August 3-6, 2009.

“Collaborative Law,” Travis County Family Law Section Luncheon, January 6, 2010.

“The Paradigm Shift,” Nuts & Bolts of the Collaborative Process Course, State Bar of Texas and the Collaborative Law Institute of Texas, March 3, 2010.

“Characterization & Tracing: An Overview,” Advanced Family Law Course, State Bar of Texas, August 4, 2011.

“Know When to Hold Them, Know When to Fold Them: Settlement Agreements, Rule 11 Agreements, Informal Settlement Agreements and Mediated Settlement Agreements,” Author: Jimmy Vaught, Marriage Dissolution, State Bar of Texas, April 19, 2013.

“Know When to Hold ‘Em, Know When to Fold ‘Em, Accepting and Firing Clients,” The Austin Bar Family Law Section Spring CLE, May 13, 2016.

“Parental Alienation – Analyzing/Reassessing the Problems and Solutions,” Advanced Family Law Seminar, State Bar of Texas, August 7-10, 2017.

COURSE DIRECTOR/PLANNING COMMITTEES:

Planning Committee - Collaborative Law Course 2010

Planning Committee - Advanced Family Law Course 2010

Course Director - Family Law Boot Camp 2010

Planning Committee and Course Director, Marriage Dissolution 101 Seminar, April, 2013.

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EDUCATION

St. Mary's University School of Law, Juris Doctorate, San Antonio, Texas

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- Phi Delta Phi, Legal Fraternity (membership based on academic achievement), Member
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Baylor University, Bachelor of Arts, Waco, Texas

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PROFESSIONAL AFFILIATIONS AND MEMBERSHIPS

- Annette Stewart American Inn of Court, Associate Member
- Dallas Association of Young Lawyers, Member
- Collin County Bar Association, Member
- Dallas Bar Association, Family Law Section, Member
- State Bar of Texas, Family Law Section, Member
- Texas Family Law Foundation, Member

AWARDS AND HONORS

- Joseph P. McKnight Best Family Law CLE Article, 2014
- Best Lawyers Under 40, D Magazine, 2018
- Best Lawyers in America, Woodward and White Press, 2018
- Texas Rising Stars, Thomson Reuters, 2014, 2015, 2016, 2017, 2018
 - Up-and-Coming 100: Texas Rising Stars, Thomson Reuters, 2017, 2018
 - Up-and-Coming 50: Women Texas Rising Stars List, Thomson Reuters, 2017, 2018

PAPERS AND PRESENTATIONS

- *High Conflict Family Law Matters, Personality Disorders, and the Effects on Parenting and Children's Experiences* with Hon. Roy L. Moore, Leigh de la Reza, and Jonathan Gould, Innovations: Breaking Boundaries in Custody Litigation, State Bar of Texas, 2018
- *Direct and Cross of a Tracing Expert Demonstration*, with Hon. William Harris, Douglas K. Fejer, and Diana S. Friedman, Advanced Family Law on a Shoestring, Tarrant County Family Law Bar Association, 2017
- *High Conflict Family Law Matters and Personality Disorder*, Dallas Area Paralegal Association, Family Law Section, 2017
- *Is a 50/50 Possession Schedule Right for Me?*, Goranson Bain Blog, 2017

- *Direct and Cross of a Tracing Expert (including Characterization Issues)*, with Hon. Roy L. Moore, Douglas K. Fejer, and Diana S. Friedman, Advanced Family Law Course, State Bar of Texas, 2017
- *Different Strokes for Different Folks*, with Hon. Denise Garcia, Hon. Graham Quisenberry, Brian Webb, and Diana S. Friedman, Innovations: Breaking Boundaries in Custody Litigation, State Bar of Texas, 2018
- *Direct and Cross of a Tracing Expert*, with Hon. Roy L. Moore, Jonathan Bates, Douglas K. Fejer, and Diana S. Friedman, Advanced Family Law Course, State Bar of Texas, 2016
- *Married or Not Married, That is the Question: Common Law Marriage in Texas*, Goranson Bain Blog, 2014
- *High Conflict Family Law Matters and Personality Disorders*, with Beth E. Maulsby, Advanced Family Law Course, State Bar of Texas, 2013
- *Taking Notes and Testifying in Courts*, with Laurel Arnold Clement, Dallas Metro Counseling Association, 2010
- *Legal and Ethical Issues Dealing with Divorced Families and Stepfamilies*, with Laurel Arnold Clement, Ethics Seminar for the Dallas Association of Marriage and Family Therapists, 2009
- *Eldorado, A Case Study: Duties of an Attorney Ad Litem*, with Laurel Arnold Clement, Dallas Bar Association and North Dallas Bar Association, 2008

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HIGH CONFLICT FAMILY LAW MATTERS, PERSONALITY DISORDERS, AND THE EFFECTS ON PARENTING AND CHILDREN'S EXPERIENCES

INTRODUCTION.

The majority of the cases in family law courts that require court intervention involve an intense, high level of conflict. In almost every high conflict case, you will find at least one party who has a high conflict personality that is driving the litigation train. Unfortunately, the high conflict personalities that most often appear in family law cases are often not recognized by the professionals involved in the case. And, even if the high conflict personality is recognized, many professionals fail to understand how to manage the high conflict case and implement the actions needed to stop or at least minimize any further destruction by the high conflict driven client. Instead, attorneys, judges, mental health professionals and mediators have a tendency to handle the case from the viewpoint of how clients ought to behave rather than understanding how it really is. As professionals, we often want the parties to just find a way to get along. However, because the high level of conflict observed in a family law case is often an extension of the conflict that existed in the marriage that was driven by a party with a high conflict personality, it is unrealistic for any of the professionals to think the conflict is going to stop because the parties have separated and a divorce action has been filed. In fact, many, if not most, the high conflict people will stay in the high conflict cycle their entire life.

Frequently, professionals involved in high conflict cases often make the situation worse by not understanding that there are personality traits and characteristics that make individuals refuse to disengage and get along. It is, therefore, nearly impossible to effectively stop or slow down the high conflict train if all of the professionals involved in the case do not take the time to educate themselves and develop a coordinated plan of action to deal with these families. By failing to be able to identify, manage, represent, and treat the real problem in a high conflict case, attorneys, judges, mental health professionals, and mediators contribute to perpetuating high conflict cases and litigation. The end result is often irreparable damage to families.

This paper will also explore personality disorders and their effects on parenting and children's experience of their parents' parenting behavior. Any diagnoses of a personality disorder must occur with knowledge of the demands of the situation and goals of the individual.¹ Knowledge of the specific emotion regulation strategies employed by an individual, in the absence of information about the situation in which they are used, provides little information about the individual's ability to regulate behavior and emotions effectively.² That is, we need to understand the context within which behavior occurs in order to understand its meaning and understand the degree to which an individual is able to regulate his behaviors and emotional reactions.

The purpose of this paper is provide legal and mental health professionals with information on how to recognize and understand the personality traits and personality disorders that exist in a high conflict case, discuss the role of the legal and mental health professionals and explore how to develop a plan for effective representation, treatment, management and resolution of these cases. A special thanks to Beth Maulsby for allowing us to use portions of a paper she co-authored with Katie Samler for this paper and to Jonathan Gould for his input and insight into this topic, including his research and preparation of the section on traits versus disorder.

IMPORTANCE OF IDENTIFYING AND MANAGING HIGH CONFLICT CASES.

It is important that legal and mental health professionals understand and learn to identify, represent and manage a high conflict personality. Individuals with high conflict personalities (or high conflict people) pose the greatest threat to the other party, their children, and to the professionals involved in the case. Specifically, high conflict people often feel justified in:

- Committing family violence.
- Destroying property.
- Hiding assets.
- Harassing and stalking the other party.
- Physically abusing children.
- Alienating children from the other parent.
- Making false allegations of child abuse.

¹ Gratz, K.L., & Roemer, L. (2004). Multidimensional assessment of emotional regulation and dysregulation: Development, factor structure, and initial validation of the Difficulties in Emotional Regulation Scale. *Journal of Psychopathology and Behavioral Assessment*, 26 (1), 41 – 54.

² Ibid.

- Making false allegations of domestic violence.
- Filing grievances against and suing legal and mental health professionals.
- Publicly retaliating against the opposing party and/or the legal and mental health professionals in the media and on the internet.

The following are key times of risk in a family law case for extreme behavior to occur by the party with the high conflict personality:

- When the other party states he/she wants to separate.
- At the time of separation.
- When the other party makes requests that represent a loss to the other party.
- When papers are served on the party that request relief that he/she will not like.
- When attendance is required at a court proceeding to obtain relief that the high conflict party will not like.
- When the judge issues orders against the other party.
- When the other party is not granted as much possession of a child as he/she sought.
- When the party has less contact with you than expected.
- When the court action ends.
- When the other party starts a new relationship, gets married or has a child.
- When the other party experiences a setback in his/her life.
- When a modification action is filed.
- When their attorney files a motion to withdraw.
- When their attorney files an intervention for attorneys' fees.

UNDERSTANDING WHAT DRIVES HIGH CONFLICT IN FAMILY LAW CASES.

High Conflict Personalities not Issues Drive the Conflict.

The first step to understanding the high conflict case is identifying what drives the conflict. Bill Eddy, LCSW, Esq., is the leading authority on the issue of the personality traits involved in high conflict family law cases. Eddy is a family law attorney, mediator and therapist who has over 30 years of experience working with families and children. Eddy specializes in working in disputes involving high conflict. After years of working with high conflict disputes in a wide range of areas, Eddy concluded that high conflict disputes were not driven by complex divorce issues, but rather, concluded that high conflict disputes come from the personality of an individual involved in the suit.

High Conflict People not High Conflict Families.

Over time, Eddy also concluded that most of the high conflict families were only comprised of one high conflict person. Therefore, Eddy started using the terms "High Conflict People" and "High Conflict Personalities" to shift the focus away from "high conflict families" and to describe and deal with the individuals that were causing the conflict.

UNDERSTANDING HIGH CONFLICT PERSONALITIES.

Indicators of High Conflict Personalities.

The following is a list of potential indicators of an individual with a high conflict personality:

1. Long history of relationship conflicts.
2. History of abuse in childhood or disrupted early-childhood relationships.
3. Views relationships as inherently adversarial.
4. Inability to accept and heal loss.
5. Lack of insight into own behavior.
6. Denial of responsibility in contributing to conflicts.
7. Perpetual self-identification as a victim.
8. Projection of own problems onto others.
9. Preoccupation with analyzing and blaming others.
10. Intense emotions overrule thinking.
11. All-or-nothing thinking.
12. High level of mistrust or paranoia.
13. Denial of responsibility for resolving conflicts.
14. Persistent drive to control others.

15. High level of aggressive energy.
16. Persistent drive to be center of attention.
17. Difficulty connecting present actions to future consequences.
18. Avoidance of mental health treatment.
19. Defensive about any feedback.
20. Unconscious distortions and delusions.
21. Conscious lying and fabrication of events.
22. Expects legal process to provide revenge and/or vindication.
23. Inappropriately involves others in disputes (children, neighbors, co-workers).
24. Views friends and family as either allies or enemies.
25. Triggers confusion and conflict among professionals.³

Enduring Pattern of Behavior.

Eddy found that individuals with high conflict personalities have an enduring pattern of behavior that includes:

1. Having chronic feelings of internal distress.
2. Thinking the cause is external.
3. Behaving inappropriately to relieve distress.
4. Distress continues unrelieved.
5. Receiving negative feedback about behavior, which escalates internal distress, but the individual with the high conflict personality thinks the cause is external and consequently behaves inappropriately, and on and on.

This pattern of behavior results in the following:

1. Repeatedly gets into interpersonal conflicts.
2. Constantly identifies self as a helpless victim.
3. Is unable to reflect on own behavior.
4. Does not absorb behavior-change feedback.
5. Vehemently denies any inappropriate behavior.
6. Denies responsibility for any part in causing conflicts.
7. Denies responsibility for resolving conflicts.
8. Avoids mental health treatment.
9. Seeks others to confirm that behavior was appropriate.
10. Focuses intense energy on analyzing and blaming others.

As a consequence, the behavior continues unchanged and the conflicts escalate.⁴

Cognitive Distortions.

“Cognitive distortions” are negative thoughts that just pop up in our mind based on past experiences but that do not fit the reality of the present. Mental health professionals have identified several common cognitive distortions that occur⁵:

- All-or-nothing thinking – seeing things in absolutes, when in reality little is absolute.
- Emotional reasoning – assuming facts from how you feel (i.e. I feel stupid, therefore I am stupid).
- Personalization – taking personally unrelated events, or events beyond your control.
- Jumping to conclusions – since you are evil, you must have done evil acts.
- Exaggerated fears – I know you are out to get me.
- Projection – seeing your own faults in others but not in yourself.
- Minimizing the positive, maximizing the negative – distorting reality to fit internal biases.

³ Bill Eddy, *High Conflict People in Legal Disputes* (2006).

⁴ Bill Eddy, *High Conflict People in Legal Disputes* (2006).

⁵ Bill Eddy, *Who are High Conflict People* (2012) <<http://www.highconflictinstitute.com/about-hci/who-are-high-conflict-people>>.

- **Overgeneralization** – drawing sweeping conclusions from minor or rare events. While most individuals are able to reflect on their own thoughts to assess whether they are seeing the situation clearly, individuals with high conflict personalities are often dominated by cognitive distortions. As such, any information that does not fit the distortion is unconsciously blocked as too confusing or threatening. Instead, high conflict people often defend their distortions to protect themselves, jump to conclusions, and internally feel powerless and out of control. These individuals will strike out at those that they feel are hurting them. They will engage in such actions as verbal abuse, spreading false rumors, and being physically violent. These actions will seem necessary to the survival of the high conflict person.

Splitting – All Good or All Bad.

Cognitive distortions are seen in high conflict family law cases. In a typical relationship with a high conflict person, the person first idolizes their partner and puts them on a pedestal. When the partner cannot meet their demands, the relationship begins to unravel and the high conflict person knocks their partner off the pedestal and begins to see the party as all bad. Then, when a divorce or custody action is filed, the high conflict party feels an even greater threat which, in turn, triggers their lifelong fears of abandonment and inferiority. The high conflict party will see the other party as all bad and unconsciously engage in acting abusively and/or making false statements. Eddy refers to this unconscious viewing of the other party as all bad or all good as “splitting.”

The adversarial nature of the court process encourages the unconscious splitting by a party with a high conflict personality. For example, in the court process, the parties are pitted against each other – it is Petitioner versus Respondent; victim versus perpetrator; and parent versus parent. This reinforcement of splitting in the legal process can be very threatening to the fragile individual with a high conflict personality. The result is often that the disordered person feels encouraged to lie and exaggerate about the other party when there is a forum (the courtroom) for placing all of the blame on the other party. What results is a high conflict case.

Target of Blame.

The individual with the high conflict personality will be driven by their cognitive distortions and select someone else to blame for their problems – a “target of blame.” This target of blame is generally someone close to the high conflict person (spouse, family member, best friend) or someone in a position of authority (supervisor, government agency, doctor, lawyer, police, politician). High conflict people take aggressive action against the target of blame, including filing lawsuits, filing grievances, submitting employment complaints, spreading rumors, and committing acts of violence, in an effort to get that person to go away or change their behavior.

Negative Advocates.

The individual with the high conflict personality will start to pursue others to help blame the target and persuade others to be “negative advocates” against the target of blame. The high conflict person looks for others who will agree that they are totally innocent and the target of blame is totally at fault. High conflict people generally recruit family, friends, and professionals as their negative advocates. Negative advocates may initially be convinced by the intense emotions of the high conflict person, but may subsequently abandon the high conflict person once they find out the truth. As a result, high conflict people are constantly seeking negative advocates. These negative advocates enable high conflict people to avoid confronting their own behavior, so the high conflict situations continue.

The Structure of the Court Process Matches the Personality Traits of the High Conflict Person.

Have you ever wondered why your client believes that it is all the other party’s fault and “wants his/her day in court” when the client’s position is not rational or likely to lead to a good result for the client? Once you begin to understand high conflict personalities and cognitive distortions, then you can grasp why our family law courts are full of high conflict cases. Indeed, the court process has a very similar structure to the personality traits of the high conflict person. Eddy created the following chart to illustrate this fact⁶.

⁶ Bill Eddy, *High Conflict People in Legal Disputes* (2006).

Characteristics of High Conflict Personalities	Characteristics of Court Process
Life-time preoccupation: blaming others.	Purpose is deciding who is to blame; who is “guilty.”
Avoid taking responsibility.	The Court will hold someone else responsible.
All-or-nothing thinking.	Guilty or not guilty are usually the only choices.
Always seeking attention and sympathy.	One can be the center of attention and sympathy.
Aggressively seeks allies in their cause.	Can bring numerous advocates to Court.
Speaks in dramatic, emotional extremes.	Can argue or testify in dramatic, emotional extremes.
Focuses intensely on others’ past behavior.	Can hear and give testimony on others’ past behavior.
Punishes those guilty of “hurting” them.	Courts are where our society imposes punishment.
Try to get others to solve their problems.	Try to get the Court to solve their problems.
It’s okay to lie if they feel desperate.	Lying (perjury) is rarely acknowledged or punished.

The adversarial nature of the court process attracts individuals with high conflict personalities because they want their day in court. The party with a high conflict personality is highly skilled at and invested in the adversarial process. They see the judge as fulfilling the role of the all-powerful person who will punish or control the other spouse for them. They often perceive that the focus of the court process is to fix blame, and the high conflict person will use or attempt to use their attorney to champion their cause. The high conflict person will also attempt to manipulate the mental health professionals involved in the case to believe their story and make recommendations that the high conflict party perceives as punishing the other party. If the high conflict person is successful, the family law court process can be very unpredictable and inadvertently encourage false allegations, aggressive (and sometimes violent) behavior, and intense blaming of the parent that does not have a high conflict personality. Ironically, because the issues of the individual with the high conflict personality are internal, these issues will never be resolved in court.

HIGH CONFLICT PERSONALITIES AND/OR CLUSTER B PERSONALITY DISORDERS.

Attached as Appendix A to this paper is a summary of the DSM-5 Criteria for Cluster B Personality Disorders for further review.

Cluster B Personality Disorder + Persuasive Blamer = High Conflict Personality.

Not every high conflict person has a personality disorder and not every person with a personality disorder has a high conflict personality disorder. Only those individuals that have both a personality disorder and are a “persuasive blamer” also have a high conflict personality. Eddy describes a “persuasive blamer” as being able to “persuade others that their internal problems are external, caused by something else or someone else. Once others are persuaded to get the problem backwards, the dispute escalates into a long-term, high conflict situation - one that few people other than persuasive blamers can tolerate.”

Persuasive blamers that are involved in high conflict disputes are typically one of the Cluster B personality disorders – histrionic, narcissistic, borderline and/or antisocial. These personality disorders are grouped together in Cluster B because they involve disorders with characteristics of dramatic, emotional or erratic behavior. It is these characteristics that make individuals attracted to ongoing intense conflict on a regular basis. Indeed, Cluster B personality disorders are the most prevalent personality disorders that appear in family court today.

Differences Between High Conflict Personalities and Cluster B Personality Disorders.

Not every individual with a Cluster B personality disorder has a high conflict personality. People with a Cluster B personality disorder do not generally focus on a “target of blame” and are often not able to sustain an attack against another person in the way individuals with high conflict personalities do. And, because people with Cluster B personality disorders do not generally focus on a target of blame, they generally do not recruit negative advocates. Therefore, to determine whether an individual with a Cluster B personality disorder also has a high conflict personality, it must be determined whether the individual has a target of blame and has recruited negative advocates to support them in assessing the blame. If the individual has a diagnosed Cluster B personality disorder, a target of blame, and has recruited negative advocates, then they also have a high conflict personality.

High Conflict Personality + Cluster B Personality Disorder = Danger.

The combination of a Cluster B personality disorder and a high conflict personality is particularly dangerous because high conflict people are able to manipulate and persuade others that their problems are caused by something or someone else. High conflict people with Cluster B personality disorders are able to keep high-conflict disputes going by their distortions and lies, which are difficult for others to detect.

Similarities between High Conflict People and People with Cluster B Personality Disorders.

High conflict people may not have a diagnosable personality disorder; however, high conflict people most likely have some maladaptive personality traits that are similar to a Cluster B personality disorder. High conflict people and individuals with Cluster B personality disorder share the following three characteristics:

- They lack self-awareness, especially of the effects of their own interpersonal behavior on others.
- They don't change their behavior, even after receiving repeated negative feedback.
- They externalize responsibility for problems in life, blaming forces beyond themselves.

TRAITS VS. DISORDER.

A distinction is drawn in the empirical research between individuals with Personality Disorders and individuals with Personality Traits that do not meet the criteria for a disorder. This is an important distinction. Many people have traits or qualities of various personality characteristics that are functional. These are people who do not carry a diagnosis of a disorder. In fact, empirical examination of risk to children from parents with personality disorders compared with parents with personality traits associated with specific disorders shows risk to children from those who are disordered only.⁷

All personality characteristics may be conceptualized as falling along a dimension from mild to severe. Those with mild or moderate level of particular personality characteristics would fall into the trait category. Mild to moderate trait behaviors are not dysfunctional although they may be idiosyncratic and, to others, challenging to handle. They are not, however, reflective of the severity of a disorder.

BORDERLINE PERSONALITY DISORDER – I HATE YOU – DON'T LEAVE ME.

Description and Symptoms.

Individuals diagnosed with Borderline Personality Disorder (“BPD”) have been found to display frantic efforts to avoid real or imagined abandonment, show a pattern of unstable and intense interpersonal relationships, poor impulse control, inappropriate and intense anger, and identify disturbance. Impulse control issues are often found in at least two areas that create self-damage that may include substance abuse, binge eating, sexual promiscuity, and/or uncontrolled spending.

Individuals diagnosed with BPD struggle with their emotional life. They experience emotional instability manifest in extreme swings from emotional closeness to distance. They may hold chronic feelings of emptiness, recurrent thoughts of suicide or suicide attempts, and display transient stress-related paranoid ideation.

Diagnosis and Treatment.

Clinicians who are trained to diagnose and treat those with BPD will watch for “extreme” and frequent ups and downs, inordinately harsh self-judgment and behavior that is best described as being a “drama queen.” The symptoms of BPD are most often confused with Bipolar Disorder. John Gunderson, a psychoanalyst specializing in BPD gives the following criteria in order of importance in diagnosing BPD:

- Intense unstable relationships in which the BPD always ends up getting hurt. Gunderson admits that this symptom is somewhat general but considers it so central to BPD that he says he would hesitate to diagnose a patient as BPD without its presence.
- Repetitive self destructive behavior, often designed to prompt rescue.
- Chronic fear of abandonment and panic when forced to be alone.
- Distorted thoughts or perceptions, particularly in terms of relationships and interactions with others.

⁷Eyden, J., Winsper, C., Wolke, D., Broome, M. R., & MacCallum, F. (2016). A systematic review of the parenting and outcomes experienced by offspring of mothers with borderline personality pathology: Potential mechanisms and clinical implications. *Clinical Psychology Review, 47*, 85-105.

- Hypersensitivity, meaning an unusual sensitivity to nonverbal communications. Gunderson notes that this can be confused with distortion if practitioners are not careful.
- Impulsive behaviors that often embarrass the person with BPD later.
- Poor social adaptation – characterized by people with BPD not knowing or understanding the rules regarding performance in job and academic settings.

Persons with BPD are among the most difficult to treat. These individuals are here one day and gone the next – physically, emotionally, behaviorally, or attitudinally. The individual that suffers from BPD is not likely to feel that he/she needs help. However, for those who seek treatment, various forms of talk therapy have been effective in altering some of the behavior, including dialectal behavior therapy (DBT). DBT involves both individual therapy and group therapy components. The individual therapy component is primarily utilized to keep suicidal urges or uncontrolled emotional issues from disrupting group sessions. The group therapy component utilizes four skill modules (core mindfulness, interpersonal effectiveness, emotional regulation, and distress tolerance) to learn specific skills and provide practice regulating emotions and behaviors in a social context. Medications can also help the individual with BPD. Unfortunately, treatment of individuals with BPD is typically very difficult due, in part, to their lack of insight in how their behaviors affect others and often believe that they do not require treatment.

Some research has shown that remission may occur as a result of natural maturation. Those diagnosed with BPD frequently experience symptomology through their twenties and thirties. A significant number of individuals diagnosed with BPD no longer meet the diagnostic criteria by the age of 40.⁸

Effect on Marriage and Parenting.

In a word, BPD is “traumatic” for family members. A spouse or parent with BPD can appear quite functional in their interactions with others - highly competent, focused, and driven to be successful – but there is intense inner chaos that tends to be projected only onto close family members. It is particularly difficult to deal with the family member’s suicidal threats, attempts and hospitalizations. Women with BPD tend to choose narcissistic men as their spouses. In these marriages, the narcissistic husband initially finds his BPD wife attractive, but later becomes abusive or abandoning.

Several parenting behaviors have been associated with individuals diagnosed with Borderline Personality Disorder. Borderline parents have been reported to fail to acknowledge that their child may have positive relationship with a person that the parent does not like. They often display inconsistent parenting by oscillating between neglect and over-involvement. Their expressed love toward their child is unpredictable, oscillating between withholding love and expressing love for their child. These parents feel threatened by their child’s movement toward autonomy, seeking age-appropriate independence that results in their parent feeling angry and aggressive toward the child. Similarly, borderline parents feel threatened when their child voices feelings and opinions different from the parent, leading the parent to become angry and aggressive toward the child. Finally, these parents display an inability to love unconditionally with their children often forced to compensate for their parents’ feelings of inadequacy.

Empirical studies have also found that mothers with BPD swing between over-involvement and under-involvement with their children. Several observational studies have reported BPD mothers display intense dysfunctional interactions with their infants. They have been observed to be insensitive, hostile, controlling, and display frightening and disoriented behaviors toward their infant.⁹

One study found of maltreating mothers found that all parents diagnosed with BPD reported having unresolved trauma related to abuse and neglect in their childhoods. Unsolved trauma was found among maltreating parents diagnosed with BPD and maltreating parents without a personality disorder diagnosis, however the BPD mothers were significantly more likely to have experienced multiple traumas that continued to affect their parenting and other areas of functioning.¹⁰

Among maltreating mothers, those diagnosed with BPD were significantly more likely to have physically abused their children compared with those without a PD. There was no difference in the likelihood of neglect between the maltreating mothers with and without a BPD diagnosis.¹¹

⁸ Laulik, S., Allam, J., & Browne, K. (2016). Maternal Borderline Personality Disorder and risk of child maltreatment. *Child Abuse Review*, 25, 300 – 313.

⁹ Laulik et al. (2013).

¹⁰ Op. Cit.

¹¹ Ibid.

Within the context of parenting, the main characteristics of a parent diagnosed with BPD negatively affect children's attachment to their parent.

Parents diagnosed with BPD have been observed to have significant difficulties with emotional regulation. Difficulties with emotion regulation play a role in the development and maintenance of maladaptive behavioral responses. Emotional regulation dysfunction has been associated with increased risk for childhood abuse, particularly childhood physical abuse.¹²

A recent study examined two high-risk groups of parents likely to physically abuse their children (with or without high BPD features). The two groups did not differ in their perception of problems with their children. The authors concluded that the higher abuse potential scores obtained by the high child physical abuse risk parents with elevated BPD features did not appear driven by their perceptions of their children as being particularly bad or having greater difficulties. Instead, the higher physical abuse potential was associated with the features of BPD. The increased risk for physical abuse was associated with BPD parents' level of distress, emotional instability, rigid beliefs, unstable interpersonal relationships and identify disturbance.¹³ Said differently, higher risk for physical abuse was related to difficulties in emotional regulation.

Here is a list of areas of empirical examination raising concerns about the myriad of ways in which the parenting behaviors and attitudes of parents with Borderline Personality Disorder are negatively affected.

- Lower sensitivity to infants and their distress and needs;
- Increased intrusiveness;
- Overprotective;
- Attempts to control through guilt;
- Decreased level of maternal warmth toward children;
 - Fewer hugs;
 - Fewer outward signs of physical affection;
 - Fewer outward verbal and physical expressions of love and affection;
- Increased hostility;
- Increased overreactivity;
 - Increased frustration;
 - Increased irritability;
- Harsh punishment;
- Increased level of rejection
- Decreased ability to accurately read their children's signals;
 - Poor level of emotional recognition of children's distress and needs;
- Self-perception of parenting as more stressful;
- Self-perception of parenting as distressing;
- Higher ratings of their children as "difficult children";
- Decreased positive interactions with their children;
 - Less smiling at their children;
 - Less physical touch with their children;
 - Less playing with their children;
 - More frightened/disoriented interactions with their children characterized by fearful and hesitant interactions;
 - More silent interacting with their children (withdrawal);
 - Lacking in validating, engaging, and agreeing with children's opinions;
- More likely to personalize disagreements and differences with children;

¹² Hiraoka, et al. (2016).

¹³ Ibid.

- More likely to pressure children to agree without rational explanation;
- More conflicting emotional cues to children;
- Higher level of unresponsiveness to infant emotional cues;
- Lower levels of physical and emotional involvement with infants and toddlers;
- Less available for positive engagement.

Children have been found to be:

- Less available for positive engagement;
- Less responsive to mother's attempts to engage;
- Less eye contact with mother, especially during times of stress.

Recognizing BPD.

Because individuals with BPD seldom recognize that they have any problems, it is rare that the person has already been diagnosed as having BPD. The following list of behaviors that can help legal and mental health professionals determine if an individual is suffering from BPD. The more criteria that are present, the more likely it is that the individual has BPD:

- Does the party impulsively engage in a pattern of self-destructive or even addictive behavior involving alcohol, drugs, sex, etc.?
- Does the party only feel "good" when he or she feels "right"?
- Is the party being victimized or is your client victimizing the other party?
- Has the party set about destroying every aspect of the other party's life that is important to them:
 - By falsely accusing the other spouse of criminal or immoral behavior;
 - By disrupting the other spouse's ability to earn a living;
 - By threatening to sever the other spouse's relationship with the children;
 - By wasting all of the wealth and savings;
 - By compromising the other spouse's standing in your community and among his/her peers;
 - By making the other spouse's life a living hell at home when no one "sees" what is going on behind closed doors;
 - By alienating the children from the other spouse;
 - By physically attacking the other spouse in the hopes of intimidating you or provoking you to retaliate;
 - By creating 10 times as many problems as any human could solve;
 - By driving a wedge between the other spouse and his/her friends and family?
- Is the person having an affair-perhaps with the other spouse's best friend in spite?
- Does the spouse treat the children like objects rather than people?
- Does the spouse demonize the other spouse to others?
- Does the spouse blame the other spouse for everything that is wrong in his or her life?
- Does the spouse frequently manifest an inappropriate rage and resentment toward the other spouse?
- Does the spouse project onto the other spouse his or her shortcomings (e.g., you lie, are unfaithful, aren't good enough, don't try hard enough, are not trustworthy)?
- Does the spouse seem to lack the capacity to see his or her imperfections?
- Does the spouse sincerely believe he or she is always right?
- Does the spouse suddenly deny what she or he said or did as soon as it becomes apparent that the earlier statement or act will no longer produce the result he or she wants?
- Does the spouse have sexual identity issues or "misuse" sex or have a hedonistic attitude toward sex;
- Is the spouse's behavior intended to subjugate others to her or his will?

In addition, individuals with BPD will engage in the following types of behavior:

- Tell you to start something and then deny that they told you to do it.
- Be manipulative or appear to be manipulative because of inconsistent behavior.

- Love you when you make them look good; but if you drop the ball for a second, they will be all over you.
- Idealize you and experience great disappointment when their unconscious hopes are not fully realized.
- Give you profuse compliments.
- Experience any efforts you make to set limits as rejection and may act out in an impulsive way.
- Are likely to sue you and/or assert a sexual harassment claim.

NARCISSISTIC PERSONALITY – WOULD YOU LIKE TO BASK IN MY LIGHT? I THOUGHT SO.

Description and Symptoms.

The interpersonal relationships of persons with Narcissistic Personality Disorder (“NPD”) are typically impaired due to their lack of empathy, disregard for others, exploitativeness, sense of entitlement, and constant need for attention (called “Narcissistic Supply”). Individuals with NPD typically fall into two categories. The individual with NPD may be "cerebral" and derive their Narcissistic Supply from their intelligence or academic achievements. Or, the individual with NPD may be "somatic" and derive their Narcissistic Supply from their physique, exercise, physical or sexual prowess and romantic or physical "conquests." The individual with NPD may be either overbearing or charming and seductive. The individual with NPD assumes that everyone else will accept their point of view and they will not hesitate to use gross or subtle coercion to achieve their goals. The individual with NPD will tend to blame others for any relationship or business problems and attempt to avoid looking at their own contribution. Individuals with NPD feel injured, humiliated and empty when criticized. They often react with disdain, rage, and defiance to any slight, real or imagined.

Symptoms of NPD may include:

- Believing that they’re better than others.
- Fantasizing about power, success and attractiveness.
- Exaggerating their achievements or talents.
- Expecting constant praise and admiration.
- Believing that they’re special and acting accordingly.
- Failing to recognize other people's emotions and feelings.
- Expecting others to go along with their ideas and plans.
- Taking advantage of others.
- Expressing disdain for those they feel are inferior.
- Being jealous of others.
- Believing that others are jealous of them.
- Trouble keeping healthy relationships.
- Setting unrealistic goals.
- Being easily hurt and rejected.
- Having a fragile self-esteem.
- Appearing as tough-minded or unemotional.

Diagnosis and Treatment.

The prognosis for an adult suffering from NPD is poor, though his adaptation to life and to others can improve with treatment. The common treatment for patients with NPD is talk therapy. Talk therapy is used to modify the narcissist's antisocial, interpersonally exploitative, and dysfunctional behaviors, often with some success. Medication is prescribed to control and ameliorate attendant conditions such as mood disorders.

Effect on Marriage and Parenting.

When the narcissist reveals his true colors, it is usually far too late. His victims are unable to separate from him. They are frustrated by this acquired helplessness and angry at themselves for having failed to see through the narcissist earlier on. A spouse and parent with NPD often treats their spouse and child the same – idealizes them at first and then devalues them in favor of alternative, safer and more subservient, sources. Such treatment is traumatic and can have long-lasting emotional effects. The inability of the parent with NPD to acknowledge and abide by the personal boundaries set by others puts the child at heightened risk of abuse – verbal, emotional, physical, and, often, sexual. The narcissist’s possessiveness and negative emotions, such as rage and envy, hinder the individual’s ability to act as a proper parent. The NPD individual’s propensities for reckless behavior, substance abuse, and sexual deviance may also endanger the child's welfare, or even his or her life.

Recognizing the Client with NPD.

Clients with NPD will engage in the following types of behavior:

- Have difficulty in understanding a different point of view.
- Will take any experience of defeat as humiliating and may express and want retaliation.
- Will react negatively to anything they perceive as criticism.
- Can have a sense of entitlement that has to be fed and handled.
- Are prone to exaggerate the facts.
- Dislike any reality testing.
- May want to manipulate and exploit others.
- May be difficult to get along with.
- Can litigate or be violent when they feel slighted.

HISTRONIC PERSONALITY – PAY ATTENTION TO ME – I’M SO PRETTY.

Description and Symptoms.

The individual with Histrionic Personality Disorder (“HPD”) displays an enduring pattern of attention-seeking and excessively dramatic behaviors. Individuals with HPD are charming, energetic, manipulative, seductive, impulsive, erratic, and demanding. They conspicuously seek attention, are dramatic and excessively emotional. The party with HPD’s lively and expressive manner results in easily established but often superficial and transient relationships. Their expression of emotions often seems exaggerated, childish, and contrived to evoke sympathy or attention. People with a HPD are prone to sexually provocative behavior or to sexualizing nonsexual relationships. Some individuals with HPD also are hypochondriacal and exaggerate their physical problems to get the attention they need. The HPD individual expresses a strong need to be the center of attention. Individuals with HPD exaggerate, throw temper tantrums, and cry if they are not the center of attention. Individuals with HPD are naive, gullible, have a low frustration threshold, and strong dependency needs. Further, HPD has a unique position among the personality disorders in that it is the only personality disorder explicitly connected to a patient's physical appearance – the individual with HPD is overly concerned with appearance.

Diagnosis and Treatment.

A diagnosis of HPD can usually be made by the person's appearance, behavior, and history. However, there is no test to confirm this diagnosis. Because the criteria are subjective, some people may be wrongly diagnosed as having the disorder while others with the disorder may not be diagnosed. Treatment is often prompted by depression associated with the ending of a romantic relationship. The diagnosis of HPD is complicated because it may seem like many other disorders, and also because it commonly occurs simultaneously with other personality disorders.

Medication does little to affect HPD, but may be helpful with symptoms such as depression. Psychotherapy may also be of benefit. HPD may require several years of therapy and may affect individuals throughout their lives. Some professionals believe that psychoanalytic therapy is a treatment of choice for HPD because it assists patients to become aware of their own feelings. Individuals with HPD utilize medical services frequently, but they usually do not stay in psychotherapeutic treatment long enough to make changes. They tend to set vague goals and to move toward something more exciting.

Effect on Marriage and Parenting.

Deep cracks that develop in one’s personality due to suffering from HPD make it difficult to become a good spouse or parent. The individual with HPD tends to have clashes with family members on minor issues. There is a high rate of separations, affairs and divorce in cases involving individuals with HPD. When the client with HPD appears in the family court, they may have similarities to BPD but with less anger and more chaos.

Recognizing a Client with HPD.

The mnemonic (“PRAISE ME”) is frequently used to describe characteristics of a person with HPD:

- **P**rovocative (or seductive) behavior.
- **R**elationships are considered more intimate than they actually are.
- **A**ttention seeking.
- **I**nfluenced easily.
- **S**peech (style) wants to impress, lacks detail.

- **E**motional lability, shallowness.
- **M**ake-up; physical appearance is used to draw attention to self.
- **E**xaggerated emotions, theatrical.

Clients with HPD will engage in the following types of behavior:

- They will want and sometimes demand frequent reminders they are valued and appreciated.
- They will make dramatic presentations about the way that they have been wronged by their spouse and will assume the role of a victim who needs to be rescued.
- They will telephone on the spur of the moment when unforeseen events happen regarding a spouse or children.
- They will tend to exaggerate the importance of selective interactions and will try to convince you of the accuracy of their perceptions, most of which are based on unconscious emotional storminess.
- They will not provide you with details and specifics.
- They will most likely be late.
- They will be generally happy but if they get distressed they will make everyone miserable.
- They will at first seem receptive and agreeable to requests to bring in organized data necessary for the case and then will not follow through.
- They will need enormous reassurance that they can go through old files, cabinets, accounts, and letters and search their memory to retrieve data and organize it.
- They will be seductive when avoiding their responsibility of thinking and behaving logically. If they are having an affair or abusing substances, they may deny this in spite of evidence to the contrary and even show indifference to the importance of this information.
- An overriding characteristic is repression. They can unconsciously make believe that something does not exist or is not important, and not only believe it, but act accordingly.

ANTISOCIAL PERSONALITY DISORDER – I DON'T CARE ABOUT ANYONE BUT ME.

Description and Symptoms.

Antisocial Personality Disorder (“APD”) is one of the most violent and aggressive of the various personality disorders. Also known as psychopathic personality or sociopathic personality disorder, APD describes a complete disregard for the rights, feelings, or safety of others. People with an APD show callous disregard for the rights and feelings of others. Dishonesty and deceit permeate their relationships. People with an APD act out their conflicts impulsively and irresponsibly. They tolerate frustration poorly, and sometimes they are hostile or violent. Often they do not anticipate the negative consequences of their antisocial behaviors and, despite the problems or harm they cause others, do not feel remorse or guilt. Rather, they glibly rationalize their behavior or blame it on others. Frustration and punishment do not motivate them to modify their behaviors or improve their judgment and foresight but, rather, usually confirm their harshly unsentimental view of the world. People with an antisocial personality are prone to alcoholism, drug addiction, sexual deviation, promiscuity, and imprisonment. They are likely to fail at their jobs and move from one area to another. People with an antisocial personality have a shorter life expectancy than the general population.

Diagnosis and Treatment.

APD is not as difficult to diagnose as some personality disorders. Many cases of APD are discovered when the person seeks medical attention or when an evaluation is court ordered. In such cases, the person with APD can be expected to resist both diagnosis and treatment. For a diagnosis of APD, a childhood diagnosis of conduct disorder is required (or evidence that the person met the diagnostic criteria for conduct disorder as a child).

Like many other personality disorders, APD has symptoms that can be explained by the presence of other conditions, and these conditions must be ruled out during diagnosis. Such conditions include manic episodes and schizophrenia, as well as other personality disorders, including:

- Narcissistic personality disorder.
- Histrionic personality disorder.
- Borderline personality disorder.
- Paranoid personality disorder.

Therapy has been used to treat APD, with limited success. Group therapy at the outset is not recommended, given the person with APD's preferences for confrontational and manipulative interaction. Intensive, long-term, inpatient treatment has been shown to be successful if the patient is cooperative. Ultimately, time appears to be the best treatment for APD. Medications are not generally advised, as the sociopath will either not take the medication, or, in many cases, abuse it.

Effect on Marriage and Parenting.

The poor impulse control, lack of patience, and uncaring attitude, causes individuals with APD to have trouble staying in relationships such as marriage. Spouses with APD are experts at manipulation and hidden agendas. Despite their behavior on the surface, there is likely a self-serving goal underneath. The spouse with APD is not concerned with how their spouse feels about anything, but they are concerned about their feelings and their situation. The spouse with APD will feel entitled to torment their family due to the divorce process. Among all the personality disorders, persons with APD are more likely to abuse and neglect. They will often hold property hostage as they deal in the divorce. They will also make a variety of threats, the most common being "I'll quit my job so you'll not receive child support!" or "I'll move away where the court can't find me!" The individual with APD is typically not a good parent – there will be little emotional attachment and a lack of bonding with the children.

Recognizing a Party with APD.

Parties with APD will engage in the following types of behavior:

- They will be self-centered with little regard for anyone or their feelings.
- They can be very charming and quite manipulative.
- They are skilled in being very chameleon-like and can shift in attitude and behavior as the situation demands.
- They can withhold, exaggerate, distort, and lie about information with absolutely no regret.
- They will do the absolute minimum in any situation – they will take a shortcut and not learn from their experience.

THE ROLE OF THE LEGAL AND MENTAL HEALTH PROFESSIONALS IN HIGH CONFLICT CASES.

The family law courts are the vehicle for dispute resolution in cases involving families. We know that the family law courts are monopolized by cases in high conflict disputes. The court process is intended to play a vital role in protecting the vulnerable, including the victims of high conflict personalities. The legal and mental health providers have the opportunity and the obligation to provide intervention and structure in these high conflict cases to minimize the damage to the other party and children. However, to be effective in representing, evaluating, treating and managing high conflict cases, the legal and mental health professionals involved need to avoid certain mindsets and pitfalls.

Avoid the Mindset that All Parties are Equally at Fault -- Shoes Don't Always Come in Pairs.

Many legal and mental health professionals have the mindset that "both parties are equally to blame." This default mindset may be the single most frustrating factor that parties in family law cases experience. If the professionals are going to have a positive impact in a high conflict case, they have to guard against the automatic thought process that the parties in a high conflict case are often not equally at fault and understand that the combat is not always mutual. In particular, the attorneys, judge and evaluators should not be neutralized by mutual allegations without looking deeper. Otherwise, because of their personality style, the high conflict party is often able to continue their offending and harmful behavior by either being skilled at looking good and obtaining the professionals endorsements or by lying to neutralize the other party's allegations and obtaining a neutral outcome. Every attorney, judge, therapist, evaluator and mediator involved in a high conflict case needs to ask the following questions to determine if the case involves unilateral versus bilateral conflict:

- Which party is driving the conflict?
- Is each party contributing to the to continuing hostility, disputes, and re-litigation or is one party merely responding to being attacked?
- Has one party tried to disengage with the other party?
- Does the party acknowledge any responsibility for the conflict?
- Is the party receptive to changing his or her behavior?

Attached to this paper as appendices are the following documents created by Bill Eddy to assist legal and mental health professionals in handling high conflict cases: Appendix B - Tips for Judicial Officers Managing the High Conflict

Case; Appendix C: Identifying and Managing High Conflict Personalities; and Appendix D: Before You Go to Court. In addition, attached to this paper as Appendix E are tips for the spouse of a high conflict person, created by Deborah Lyons, Ph.D., a mental health professional in Austin.

Avoid the Mindset that, “You Married Him so it’s Your Problem not Mine.”

How many times have you said, or heard other professionals say, to a party, “you married him/her so it’s your problem not mine.” The message that is being delivered to the party is that he/she used bad judgment in selecting the other party for a spouse so he/she should not expect others in the family law court system to help fix the problems he/she caused by having a relationship with a high conflict person. This statement reflects a lack of knowledge of the course of the relationship with a high conflict person and what occurs when a person attempts to extract them from the relationship, particularly one with a Cluster B personality disorder.

Individuals with a Cluster B personality disorder seem to have two personalities – one good and one bad. When you first meet an individual with a Cluster B personality disorder their problems are not readily apparent. These individuals first appear very charming, interesting, engaging, and intelligent. Based on this “good personality”, they are able to suppress their dysfunctional behavior and seduce an unsuspecting person into a serious relationship with them. In the beginning of the relationship, the person is showered with attention, adored and worshipped. This portion of the relationship will not begin to dissipate until it has been cemented in some way such as marriage or having children. By the time the extreme and dysfunctional behavior surfaces, the other individual finds himself/herself too far into the relationship to back out.

It is only after the person has been in the relationship for a while or seen the high conflict person in a crisis situation, that the other personality of the high conflict person begins to appear. Issues like relationship problems with family and co-workers or business dealings that have gone bad will surface. The high conflict person will feel that they are the victim that has been wronged. Initially, the person feels compelled to try and help the high conflict person overcome these problems and supports the theory that they have been wronged. However, with time, the high conflict person will turn on the other party and they will be faulted for all that is wrong in the high conflict person’s life.

Extracting oneself from this high conflict relationship is no easy task. The other party is usually emotionally blackmailed to stay in the relationship. They are told by their high conflict partner that they are at fault for the problems in the relationship and made to feel guilty. At the same time the high conflict person will not admit any wrongdoing or seek professional help. As a result, a person stays in the relationship in search of finding a way to do something to make the relationship work. If there are children, they may try even harder to find a way to make the relationship work.

Therefore, when the person is finally able to separate from the high conflict person and take action to protect themselves, their children and their financial estate, it is an enormous slap in the face when the person turns to the very process that is charged with the responsibility to resolve disputes to be told “you married him/her so it is your problem.” Taking the first step to extract themselves and their children from a very dysfunctional family unit is difficult for the spouse of the high conflict person. This person is entitled to have the professionals involved in the family law process to assess the situation from a platform of knowledge and not frustration of having to handle yet another case involving conflict.

Avoid Becoming Emotionally Hooked and a Negative Advocate.

Individuals with high conflict personalities often have an intensity that convinces the legal and mental health professionals that what they say is true. They are often so charming, desperate and driven that they can achieve a high level in the bonding process with the professional. However, this intensity is a characteristic of high conflict people and is independent from the accuracy of their claims. Nonetheless, professionals often become “emotionally hooked” because emotions are contagious. It is therefore critical that the legal and mental health professionals learn to analyze the situation by obtaining input from third parties and/or concrete evidence. The following are ways to avoid becoming emotionally hooked and ways to avoid becoming a negative advocate:

- Monitor your own emotional level and make sure that you do not become so emotionally engaged in the case that your logical and higher thinking shuts down.
- Maintain a healthy scepticism. If you find yourself totally believing a client, then you are probably emotionally hooked.
- Resist automatically reacting to the situation that the client presents as though it is a crisis. Ask yourself “is this really a crisis?” If it is not a real crisis, then you have time to think logically and employ problem-solving skills.

- Avoid using “all-or-nothing” solutions. High conflict clients will want you to eliminate or totally blame the other party. If you take action to achieve this outcome, then it is a sign that you are emotionally hooked and not attempting to find a constructive solution.
- Be a positive advocate. Don’t go beyond the boundaries of proper advocacy and exercising common sense.
- Learn in advance to appropriately respond to an emotionally intense client.
- Obtain another perspective to help manage your own responses.

Lying – What the Legal and Mental Professionals Can Do to Stop It.

We have all had high conflict cases with frequent and repeated hearings. Often in these cases each party’s testimony on a subject is completely opposite from the testimony of the other party and we all know one party has to be lying. Yet, it is rare, if ever, that the lying party is ever sanctioned for doing so or for the havoc the lying has heaped on the other party’s life. The result is that the high conflict person is bolstered to just keep lying.

In the high conflict case, the adversarial nature of the family law court process actually encourages lying and distortions. “Winning” is the end goal of the party with the high conflict personality regardless of the truth. Therefore, in high conflict cases where the legal and mental health professionals find themselves faced with having to rely on “he said, she said” statements to make decisions, it is critical to understand the patterns of lies that are typically seen. Lying may be justified in the high conflict person’s eyes – possibly to bring a reconciliation or as a punishment. A party with a BPD may lie out of anger or to retaliate against the other for “abandoning” them. The party with the NPD may lie to put the other party down and to boost themselves. The narcissist enjoys manipulating the truth and the other party’s life and may experience a sense of power when lying. A person with an APD fabricates very detailed events to use the court to get revenge against the other party. The HPD often lies and engages in fabrication as part of their highly dramatic personality. If we are going to overcome the inherent problem of lying and distorting in high conflict cases, the following needs to be done:

- **More time with the Judge:** Most of the decisions in family law courts are made based on the testimony given in short hearings. In these short proceedings there is little time to present the facts needed to defeat the lies and distortions of the individual with the high conflict personality. In this short period of time, judges determine conservatorship, possession schedules, child support, spousal support, restraining orders, use of property and payment of debt. Because the court has little, if any, time to analyze the differences in testimony and determine who is lying, it is often assumed that both parties are lying and embroiled in mutual combat. The court will frequently lecture the litigants to stop this behavior. When the case involves a party with a high conflict personality, this lecture has little impact and may even have the opposite effect. More time with the judge in the beginning of the case could reduce lying from the start and help the court gain knowledge as to which party is driving the conflict.
- **More use of mediation:** Mediation takes the high conflict case out of the adversarial arena (where the high conflict party feels lying is needed to “win”) and shifts the focus on problem-solving.
- **More research of the facts:** In a high conflict case the attorney cannot afford to advocate for their client’s statements without doing an investigation to determine the truth of the statements. Instead, attorneys should educate themselves on the patterns of lying that clients with a high conflict personality engage in and learn to question clients and seek evidence that corroborates the evidence. Attorneys need to also challenge their client’s thinking and not accept their declarations at face value. More time should be spent educating the high conflict client to focus on negotiating solutions, rather than escalating blame.
- **More therapist awareness:** Therapists usually form their opinions based on their interaction with the client and not on any external evidence. As a result, they believe what the client tells them and will strongly advocate for them in court. However, therapists involved in high conflict cases need to be careful that they are not manipulated by the high conflict client involved in a court case. When testifying, the therapist should be careful to not testify beyond their own observations of the client. Therapists also need to help clients challenge their own thinking about their own role in the dispute, about the accuracy of their view of the other party, and about their high expectations of the court.
- **More consequences:** If we have rules and never enforce them, then it stands to reason that such rules are disregarded and readily broken. Lying in court is illegal; however, perjury is virtually never prosecuted. Therefore, if there is no specific consequence for committing perjury, then any risk of lying is very low. If there is going to be any sanction for committing perjury in a family law case, it is up to the judge in the family law case to issue sanctions. The judge should make greater use of the statutory provisions permitting the court to award

attorney's fees to stop the high conflict person's behavior that results in unnecessarily increasing the conflict and costs of litigation.

- More training: Legal and mental health professionals need to educate themselves that they cannot tell who is lying by simple observation. To better assess when a party is lying and the patterns of lying, the professionals have to learn personality dynamics and where to look for evidence.
- More protection for the mental health professional: Mental health professionals do not have sufficient protection from having grievances or lawsuits being filed against them in Texas. The result of this lack of protection when the professional is conducting an evaluation is that (1) the mental health professional may only describe personality traits and will not take a firm position against the disordered party for fear of having some action filed against them; or (2) if the mental health professional makes a diagnosis and takes a firm position against the high conflict person, then the professional becomes a target of blame and is at risk for having an action filed against them. Over the years, many of the best evaluators have ceased to be involved in the family law process because of grievances and suits being filed against them. If we want competent mental health professionals to continue to be involved in the family law process and we want them to be able to provide their findings and recommendations without fear of being retaliated against, then the family law community needs to work on enacting laws to provide protection for these professionals.

DEFENDING A TARGET OF BLAME IN A HIGH CONFLICT CASE.

Take an Assertive Approach.

Because the nature of the family law court process seems to reward combative thinking and behavior, it often results in the reasonable person who attempts to use cooperative and problem solving skills to risk losing their case. If the target of the high conflict person takes a passive approach, then the high conflict person's allegations appear to be unchallenged and therefore true. On the other hand, if the target responds too aggressively, then they may give the appearance of being the abusive, controlling person that the high conflict person has accused them of being. In the end, taking an assertive approach to a high conflict case is the most effective way to respond to false allegations.

The client needs to be assertive by:

- Immediately documenting the other party's abusive behaviors, focusing on actual behaviors and statements.
- Avoiding acting out of frustration and anger and thinking strategically, not reactively.
- Being honest and admitting their own shortcomings.
- Gathering evidence regarding the high conflict person's false statements, pattern of abuse and the truth about themselves.
- Quickly providing credible factual information to the court.
- Trying to be as perfect as possible in every way during the court process. The client does not want to give the high conflict person something to legitimately use against you.
- Preparing for the lies. The client may have the truth on their side but they need to be prepared for the lies.
- Exposing false statements and serious misbehaviors of the high conflict person with credible evidence. Take depositions of the high conflict person and their negative advocates.
- Not being emotional during the court process. Emotions in family court can be seen as a sign of a psychological problem.
- Making a BIFF (brief, informative, friendly and firm) written response to communications from the high conflict person.
- Being willing to proceed to court to set limits and consequences to the high conflict person's behavior.

Preparing for the Custody Evaluation.

The custody evaluation may be the most important piece of evidence that the judge and jury consider in determining the child related issues. For this reason, it is important to provide the evaluator with sufficient factual evidence for them to determine the true facts and make recommendations in the best interests of the children. The evaluator needs to be provided with:

- Accurate, verifiable and organized documents and information.
- Responses to each allegation that the high conflict person makes against your client.
- Collateral sources that do not have a vested interest in the case but have information that confirms your client's version of the facts.

Your client needs to be prepared to not complain to the evaluator or slam the other party. If they do, then they run the risk that the evaluator will view both parties as being difficult.

What to Expect from the High Conflict Person's Attorney.

The high conflict person will seek an attorney that they feel will manipulate the system and win at all cost. They will often shop for an attorney that will be a negative advocate who contributes to the high conflict case. The negative advocate attorney will believe everything that the client says and will be aggressive in their approach in the case. The negative advocate attorney for the high conflict person can make the other attorney's and client's lives miserable. They will escalate the conflict, make constant demands, and set unnecessary hearings. The reality is that some of these attorneys are habitual negative advocates. It is not uncommon for problem solving attorneys to have a list of negative advocate attorneys that they will not take a case with under the theory – "life is too short." The highly aggressive attorney often does not "win" the case for their client.

If the high conflict person hires a problem-solving attorney, then the attorney may get fired if they try too hard to control the individual. If so, then the high conflict person will be searching for an attorney that suits his dysfunctional needs.

Settling Out of Court.

A case can only be resolved by an agreement or by a trial. To reach an agreement, both parties have to be willing to make compromises. Parties who are rational and reasonable, want to end the adversarial process which is both emotionally and financially costly, as quickly as possible, and not prolong it. However, when dealing with a high conflict person, it is often unlikely that a settlement can be reached, or at least, not until there has been a great deal of emotional and financial expense because these individuals are not rational or reasonable.

High conflict people are not good at negotiation because of their all-or-nothing thinking. They will refuse to compromise to avoid feeling abandoned and/or they feel that they are superior and should receive much more than is reasonable. At the same time, the high conflict person will pressure the other party to give them much more than a court would give them because of the high conflict party's belief they were abandoned or are superior. When trying to settle with the high conflict person, you may also encounter "oppositional withholding." In oppositional withholding, if there is something that the other party wants, no matter how small or insignificant, the high conflict person will not agree to let them have it, thereby delaying resolution of the case. At the same time, giving in and making concessions will often not expedite getting the case finalized. Instead, by giving in to the high conflict person's unreasonable demands, you may have just set a dangerous precedent which will only fuel the high conflict person to make more unreasonable demands. So, while it is tempting to just give in, long term resolution is not reached by this method.

In the event that you are able to reach a settlement out of court, then it is critical that the agreement be written in an enforceable manner and as specific and as detailed as possible. By doing so, you can avoid the high conflict person trying to change or add terms to the agreement and causing delay in getting the order entered. Also, you will need to draft the agreement with the thought that the high conflict person will try and violate the agreed to terms.

How to Defend Against the High Conflict Person with BPD.

It is not only difficult to diagnosis BPD, but it is also difficult to defend against it. So, it is important that you and your client gather information and documents to help the judge or evaluator determine that the spouse is indeed suffering from BPD. If you believe that the opposing spouse suffers from BPD:

- Prepare your client for the possibility of false allegations. You need to guide your client to protect themselves from false allegations. Your client should not be alone with the spouse with BPD and they should not have telephone conversations that are not recorded or witnessed by a third party.
- Caution your client to be on the defensive and offensive at the same time and to be aware of not putting themselves in harm's way.
- Counsel your client to not take the bait of the spouse with BPD. Your client needs to remain above the fray and have clean hands at all times. You don't want the judge and/or evaluator to believe that your client is engaging in "mutual combat" with their spouse.
- Ask your client to outline the BPD spouse's behavior that best identifies them as having BPD, such as self-destructive behavior, false allegations, wasting of assets, sexual affairs, etc. The client needs to be as specific as possible. You need to know dates, locations, times and the names of the persons that can provide information on each of these behaviors.

- Work with your client on the sources from which you can gather documents to reveal the lies and distortions of fact by the party with BPD.
- During this process, don't reveal to the opposing attorney that you believe that their client is suffering from BPD – this revelation may impede your ability to gather much needed evidence.
- Ask the opposing counsel for releases so you can get documents directly from a source – if the opposing attorney does not yet know what you are looking for, they may be more likely to provide you with the releases.
- Send a request for production of documents to gather documents from the opposing party.
- Identify and interview witnesses that can provide information on the behavior of the party with BPD. Get the witnesses to provide you with a written statement about the facts they know.
- If the parties are involved in a custody evaluation, you will want to outline the behaviors for the evaluator and then provide the evaluator with the documents and witness statements to support your position.
- Prepare your client for their interaction with the custody evaluator. Stress to them to not “slam” the other spouse and to not pronounce that they have diagnosed their spouse as having BPD. The client needs to stick to just the undisputable facts.
- If your client is testifying at a hearing or in trial, again make sure that your client does not “slam” the other spouse and sticks to just the facts. If your client stoops to bad mouthing the other parent, they will lose credibility. And more importantly, the judge will not be able to ascertain that both parties are not equally to blame for the conflict or who is telling the truth.

How to Defend Against the High Conflict People with NPD.

The party with NPD has a sense of entitlement that is endless and will malign and disparage the other party. In the mind of the narcissist, the other party is worthless and deserves nothing. The narcissist will be vindictive and often stalks and harasses the other party. There are two primary ways of coping with the vindictive narcissist in a custody case. The first method is to frighten them by exposing their lies and embarrassing them. If sufficiently deterred, the narcissist may disengage and give up everything they were fighting for and sometimes make amends. The second method is to neutralize the narcissist by offering them continued Narcissistic Supply until the war is over.

The following are techniques for defending against the opposing party with NPD:

- 1. Expose the Lies of the Narcissist:** It is possible to "break" a narcissist, even a well-trained and prepared one if you and your client are prepared. Narcissists are superhuman in their capacity to distort reality by offering highly "plausible" alternative scenarios, which fit most of the facts. It is essential to be equipped with absolutely unequivocal, first rate, thoroughly authenticated and vouched for information. The following actions can be used to expose the lies of the narcissist:
 - Ask your client to outline the narcissist's lies and distortions of fact for you. The client needs to be as specific as possible. You need to know dates, locations, times and the names of the persons that can provide information on each lie.
 - Take each lie and look for how the lie leads to another and another. Because the narcissist has been lying for years, they are not likely to have taken the steps to conceal their lies or realize that one lie begets another lie.
 - As you are gathering and outlining the lies, be careful how much you reveal to the opposing attorney. Often the opposing attorney will not realize that their client is a full-blown narcissist and is lying and distorting the facts until much later. You will have a better opportunity to collect the evidence you need to expose the narcissist's lies if the opposing attorney has not yet discovered that their client is liar.
 - Work with your client on the sources from which you can gather documents to reveal the lies and distortions of fact.
 - Ask opposing counsel for releases so you can get documents directly from a source – if the opposing attorney does not yet know what you are looking for, they may be more likely to provide you with the releases.
 - Send a request for production of documents to gather documents from the narcissist.
 - Draft interrogatories that you know the narcissist will not be able to resist providing untruthful answers to and for which you have evidence to demonstrate that the answer is a lie.
 - Draft a request for admissions that you also know the narcissist will not be able to resist providing untruthful answers to and for which you have evidence to demonstrate that the answer is a lie.
 - Identify and interview witnesses that can demonstrate the narcissist is lying. Get the witnesses to provide you with a written statement about the facts they know.

- If the parties are involved in a custody evaluation, you will want to outline the lies for the evaluator and then provide the evaluator with the documents to reveal the lies. Also, provide the evaluator with the witness statements.

- 2. **Provoke the Narcissist:** The narcissist reacts with narcissistic rage, hatred, aggression, or violence to an infringement of what he perceives to be his entitlement. Any insinuation or hint that the narcissist is not special will often result in the narcissist losing control and exposing their true colors. The narcissist finds the following devastating:
 - Any statement or fact which seems to contradict their inflated perception of their grandiose self.
 - Any criticism, disagreement, exposure of fake achievements, or belittling of "talents and skills" which the narcissist fantasizes that he possesses.
 - Any hint that the narcissist is subordinated, subjugated, controlled, owned or dependent upon a third party.
 - Any description of the narcissist as average and common, indistinguishable from many others.
 - Any hint that the narcissist is weak, needy, dependent, deficient, slow, not intelligent, naive, gullible, susceptible, not in the know, manipulated, and/or a victim.

- 3. The narcissist may lose control if you state to them:
 - That he does not deserve the best treatment.
 - That his needs are not everyone's priority.
 - That he is boring and that his requirements can be catered to by an average practitioner (medical doctor, accountant, lawyer, psychiatrist).
 - That he and his motives are transparent and can be easily gauged, and that he will do what he is told.
 - That his temper tantrums will not be tolerated.
 - That no special concessions will be made to accommodate his inflated sense of self.
 - That, like everyone else, he is subject to court procedures, etc.

How to Defend Against High Conflict People with HPD.

The suggestions made in the section on BPD can be adapted and used when defending against the HPD opposing party.

How to Defend Against the High Conflict People with APD.

The suggestions made in the section on NPD and BPD disorder can be adapted and used when defending against the APD opposing party. In addition, if your client involved in litigation with an individual with APD:

- Be on guard if your client's APD spouse offers to do something nice for your client. For example, if the APD spouse offers to pay your client's telephone bill, the APD spouse may actually be looking for a ticket to your client's finances, their calls, and a reason to call, visit, scream, and discuss each and every phone call your client makes for the next few years.
- Don't let your client negotiate with the APD spouse. There is an imbalance of power and your client cannot negotiate with the APD spouse on any kind of equal footing.
- When confronted with any threat, assume a neutral position and don't threaten back.
- Be prepared for the APD spouse to engage in a variety of different manipulations. They may buy a new car during divorce negotiations, hoping the debt will lower his child support; undermine your client's authority with the children or blame your client for the divorce; call your client's family and friends to give his side of the story; report a miraculous religious conversion; or develop an incurable medical condition. Expect anything.

What to Expect at a Trial with an Individual with a High Conflict Personality.

The more successful that you are in presenting facts to the court about the high conflict person's behavior, the more extreme the high conflict person's attack will be on you and your client. The following are the primary problem areas in a trial with a high conflict person:

- Procedural manipulations – The negative advocate attorney will often improperly give notice of a hearing, seek continuances and miss discovery deadlines.

- Disputes over evidence – The high conflict person will not be forth coming with documents responsive to discovery requests and they will not agree to the pre-admission of documents that are clearly admissible.
- Trouble with testimony – The high conflict person will seek to get in hearsay testimony to bolster their lies. They will seek to present testimony on issues that are the subject of a motion in limine and excluded by the court. They will attempt to have their experts testify to matters that they are not qualified to testify about.
- Emotional persuasion versus factual persuasion – The high conflict person will want to flood the judge or jury with emotional persuasion. However, the longer the trial the more opportunity you have to present factual testimony versus emotional testimony. It is important to get as many facts presented as possible so that the court does not make decisions based on emotional persuasion.
- Obtaining enforceable orders – If the trial does not result in very specific enforceable orders, then not much has been gained. In order to stop the behavior of the high conflict person, the orders will need to be very detailed and specific. If there are loopholes in the order, then the high conflict person will use it as a justification for non-compliance.

REPRESENTING CLIENTS WITH HIGH CONFLICT PERSONALITIES.

Individuals with high conflict personalities seek out attorneys who they believe will take up their cause and launch an assault on the other party. High conflict people will fire attorneys who they believe are not aggressive enough. High conflict people can feel they have not been properly represented and threaten or file grievances with the State Bar of Texas. High conflict people resist sound, reasonable and rational legal advice, and will flood the attorney and their staff with incessant phone calls and emails. It is critical that if you are retained by a high conflict person that you know how to effectively manage this client. The following are common issues facing attorneys and their staff with high conflict clients:¹⁴

- Extreme of behaviors.
- Difficult relationships.
- Preoccupied with own issues.
- Chronically adversarial and blaming.
- Views everyone as an enemy or an ally.
- Rigid, similar responses to wide range of events.
- Lying and/or distorting events.
- Can be extremely appealing and charming.
- Life-long problems.
- Takes little or no responsibility for their problems.
- Family members often protect them from consequences.
- Legal problems are common.
- Manipulative.

How to Identify and Manage High Conflict Clients with BPD.

Identifying signs:

- Dramatic mood swings.
- Impulsive, risk-taking and self-destructive behaviors.
- Sudden and intense anger even at benign events.
- Sometime suicidal, delusional, chemically dependent and violent.

Relationship issues with attorneys/staff:

- Preoccupation with fears of abandonment.
- Unstable relationships with extremes of idealization and devaluation.
- Manipulative, attractive and seductive.
- Pushing the limits.
- Splitting attorney/staff against each other.

¹⁴ <<http://www.highconflictinstitute.com/about-hci/who-are-high-conflict-people>>

Methods of management:

- Provide consistent contact.
- Be modest and matter-of-fact.
- Provide structure and limits to the relationship with the client.
- Be very matter-of-fact about your role and function and try not to give extra attention.
- Set limits early in the relationship.
- Be wary of their profuse compliments.
- Be aware they either make extra demands on your time and energy or ignore you.
- Empathize with their frustrations.
- Request discipline, and insist on compliance and promptness with appointments and with information you request from them.
- Monitor telephone calls with your staff regarding feelings of anxiety and abandonment.
- Advise your staff not to over-react to the client's accounts of his/her personal crisis.
- Don't always trust the BPD client's motives because they are emotional rather than rational.
- Try not to overreact to their swift and extreme moods.
- Try to represent a factor of practical stability in their chaotic functioning.
- Avoid personal relationships with them. If you threaten to withdraw they can do serious harm.
- You need to be stable. Reinforce good behavior and set firm, gentle limits.
- Give constructive criticism in a positive context.
- Avoid criticism and anger.
- Provide realistic expectations and boundaries.

How to Identify and Manage High Conflict Clients with NPD.

Identifying signs:

- Preoccupied with himself or herself.
- Arrogant, wants excessive admiration.
- Manipulative, exploitative of others.
- Lacks empathy.
- Sometimes easily hurt and enraged, chemically dependent and violent.

Relationship issues with attorneys/staff:

- Manipulative, attractive and seductive.
- Expects special treatment, exceptions to the rules.
- Devalues and criticizes attorney.
- Frequent suggestions and demands.

Methods of Management:

- Recognize their real strengths.
- Provide structure and limits to relationship.
- Listen with empathy.
- Share decision making.
- Ask them to use their "good intelligence" to understand another person's point of view or need.
- Explain the benefits of following your advice.
- Acknowledge their minor accomplishments, even if they are routine.
- Try to avoid or minimize the concept of win-lose in the divorce process.
- Be aware of the vulnerability and poor sense of self-worth that lies underneath their confident surface.
- Minimize the extent to which you can achieve their idealized and expected goals.
- Require facts and corroborating evidence in order to verify their exaggerations.
- Set out the limitations of family law and make sure they understand you.

- Use confrontation sensitively, be very specific and gentle.
- Don't argue with them.
- Avoid direct criticism and anger.
- Flatter their idea but explain why it might not produce the result wanted.
- Explain consequences of future misconduct.
- Firing them needs to be done delicately.

How to Identify and Manage High Conflict Clients with HPD.

Identifying signs:

- Repeatedly wants to be the center of attention.
- Highly emotional, jumping from topic to topic.
- Highly dramatic and sometimes fabricates description of events.
- Difficulty focusing on any task or decision.

Common relationship issues with attorney/staff:

- Can be very charming at first.
- Wants lots of attention.
- Difficulty getting to the point in a discussion.
- Often forgetful, easily distracted.
- Bad news triggers highly emotional and unfocused response.
- Has a hard time accepting assignments and following through.

Methods of Managing:

- Avoid direct criticism and anger.
- Empathize with client's fees, not the dramatic details.
- Help keep client focused and on track in discussions.
- Educate client and be realistic about issues and expectations.
- Acknowledge and build on small successes.
- Acknowledge their exaggerated and theatrical descriptions of specific incidents, but be sure to check out the information they provide.
- Ask for verifiable data that can corroborate their hunches, feelings and intuition.
- Provide detailed instructions when you request specific information, they need to be told what documents to get, how to organize them and why they are important.
- Give them personal attention and validation they want up to a point, but insist that they produce needed information and attend to the data they would rather ignore.
- Give them gentle reality based guidance by providing as much detail as you can, but not so much that they depend on you for every direction.

How to Identify and Manage the High Conflict Client with APD.

Identifying signs:

- Repeatedly breaks major rules of society.
- Repeatedly cons and deceives others.
- Irritable and aggressive.
- Cold, lack of empathy, lack of remorse, violent.

Common relationship issues with attorneys/staff:

- Manipulative, attractive and seductive.
- Reckless, continually creating new problems.
- Tricks and challenges attorney.

- Impulsive and uncooperative with planning.
- Projection of their own thinking or behavior onto attorney.
- Irresponsible, fails to honor financial obligations.

Methods of Management:

- Do not expect optimal cooperation.
- Inform the client that withholding, lying or exaggerating information that other people may have will lead not only to embarrassment for them but to an unsatisfactory resolution.
- Remain skeptical and cautious.
- Provide structure and limits to relationship.
- Avoid being swayed by their charm.
- Allow brief venting.
- Empathize with their frustrations.
- Examine their generalized statements and be aware that if they avoid giving requested concrete examples and data, they may be manipulating or lying.
- Look for inconsistencies between their own self-descriptions and other people's reports of them, documents, or any objective data.
- Set firm standards for working together and do not waiver.
- Help them understand the long term consequences of their actions, as they only respond to consequences.
- Teach them that by doing something in the right manner, there may be more advantages.
- Outline their responsibilities and monitor to see whether they follow through with agreements made.
- Make sure they are fulfilling their financial obligations to you.
- Be prepared to withdraw quickly, if necessary.

HOW TO MEDIATE A HIGH CONFLICT CASE.

A party with a high conflict personality is often defensive, particularly in conflict situations. Mediators must therefore be prepared to defuse this defensiveness as much as possible in order to assist the party in making his/her own decisions. Mediators, like all of the other professionals involved in the case have to avoid becoming "emotionally hooked." Mediators also have to avoid becoming too directive or it will appear that the mediator has taken sides which could lead to the mediator becoming the "target of blame" for the high conflict person. Instead, to be effective and help the parties reach an agreement, you have to be strictly balanced and neutral. When mediating a high conflict case:

- Pay the most attention to the relationship with the high conflict client.
- Resist appearing angry with the party with the high conflict personality and making such statements as "you're being unreasonable." Instead, make statements that reflect that you are empathizing with the high conflict client such as "I can empathize with how difficult this process is." "I can empathize with how important these decisions are to you." "I really respect the efforts you have made to present a thoughtful proposal." "I respect the research you put into preparing this proposal."
- Resist the urge to take sides and the urge to criticize or get angry at the high conflict person's self-defeating behavior.
- Start the mediation by giving a more detailed explanation of the mediation process and what is going to happen throughout each step of the mediation. You will want to structure the process around getting the high conflict party to focus on the future and making a proposal. Let them know if they start to slip into talking about the past that you will redirect them to make a proposal. You will need to keep repeating this process throughout the mediation.
- When faced with distorted information from the party with the high conflict personality (such as "he's hiding money - I know he is!"), avoid the urge to pressure one party to "just let it go" or the other party to "be more disclosing." Instead, validate that he/she "may be right" and then educate them about their options.
- Use indirect confrontations which are non-threatening statements that do not criticize the high conflict person and do not threaten your relationship with them; but rather, give external reasons for various consequences of various future options. For example, the high conflict party may propose settlement terms that are not permitted under the law or they may want you to write the settlement agreement in a manner that is not acceptable to you. In response

to these kinds of proposals, you should respond with statements like “you may not realize it, but the law does not allow you to make that kind of agreement” or “my policy is not to write a settlement agreement in this manner.”¹⁵

CONCLUSION.

Cases driven by people with high conflict personalities clog our courts with unnecessary litigation, which can be minimized if cases are properly addressed. It is important for legal and mental health professionals to understand and learn to identify, represent and manage individuals with high conflict personalities (including those with personality disorders) to enable the professionals and to understand the effects of the parents’ behaviors on their parenting and children’s experiences of their parents’ parenting behavior to develop a plan for effective representation, treatment, management and resolution of these cases.

¹⁵ <http://www.highconflictinstitute.com/articles/mediation-a-negotiation-articles/78-hci-articles/published-articles/111-high-conflict-mediation-4-tips-for-mediators>.

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Custody Evaluation and Mental Illness, <<http://www.drfraser.com/custody-evaluation-and-mental-illness.html>>

Histrionic Personality Disorder

<<http://www.clevelandclinic.org/health/health-info/docs/3700/3795.asp?index=9743>>

APPENDIX A DSM-5 CRITERIA FOR CLUSTER B PERSONALITY DISORDERS

BORDERLINE PERSONALITY DISORDER

DSM-5 CRITERIA: The DSM-5, describes borderline personality disorder (BPD) as a pervasive pattern of instability of interpersonal relationships, self-image, and affects, and marked impulsivity beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:¹⁶

- Frantic efforts to avoid real or imagined abandonment. Note: Do not include suicidal or self-mutilating behavior covered in Criterion 5;
- A pattern of unstable and intense interpersonal relationships characterized by alternating between extremes of idealization and devaluation;
- Identity disturbance: markedly and persistently unstable self-image or sense of self;
- Impulsivity in at least two areas that are potentially self-damaging (e.g., spending, sex, substance abuse, reckless driving, binge eating). Note: Do not include suicidal or self-mutilating behavior covered in Criterion 5;
- Recurrent suicidal behavior, gestures, or threats, or self-mutilating behavior;
- Affective instability due to a marked reactivity of mood (e.g., intense episodic dysphoria, irritability, or anxiety usually lasting a few hours and only rarely more than a few days);
- Chronic feelings of emptiness;
- Inappropriate, intense anger or difficulty controlling anger (e.g., frequent displays of temper, constant anger, recurrent physical fights);
- Transient, stress-related paranoid ideation or severe dissociative symptoms.
- miserable, and/or hopeless; difficulty recovering from such moods; pessimism about the future; pervasive shame; feeling of inferior self-worth; thoughts of suicide and suicidal behavior.
- Impulsivity (an aspect of Disinhibition): acting on the spur of the moment in response to immediate stimuli; acting on a momentary basis without a plan or consideration of outcomes; difficulty establishing or following plans; a sense of urgency and self-harming behavior under emotional distress.
- Risk taking (an aspect of Disinhibition): engagement is dangerous, risky, and potentially self-damaging activities, unnecessary and without regard to consequences; lack of concern for one's limitations and denial of the reality of personal danger.
- Hostility (an aspect of Antagonism): Persistent or frequent angry feelings; anger or irritability in response to minor slights and insults.

NARCISSISTIC PERSONALITY DISORDER.

DSM-5 CRITERIA: The DSM-5, describes the narcissistic personality disorder as a pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and presents in a variety of contexts, as indicated by five (or more) of the following:¹⁷

- Has a grandiose sense of self-importance (e.g., exaggerates achievements and talents, expects to be recognized as superior without commensurate achievements).
- Is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love.
- Believes that he or she is "special" and unique and can only be understood by, or should associate with, other special or high-status people (or institutions).
- Requires excessive admiration.
- Has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations.
- Is interpersonally exploitative, i.e., takes advantage of others to achieve his or her own ends.

¹⁶American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (2013).

¹⁷American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (2013).

- Lacks empathy: is unwilling to recognize or identify with the feelings and needs of others.
- Is often envious of others or believes that others are envious of him or her.
- Shows arrogant, haughty behaviors or attitudes.

HISTRIONIC PERSONALITY DISORDER.

DSM-5: The DSM-5 lists eight symptoms that form the diagnostic criteria for histrionic personality disorder (HPD):¹⁸

- Center of attention: Patients with HPD experience discomfort when they are not the center of attention.
- Sexually seductive: Patients with HPD display inappropriate sexually seductive or provocative behaviors towards others.
- Shifting emotions: The expression of emotions of patients with HPD tends to be shallow and to shift rapidly.
- Physical appearance: Individuals with HPD consistently employ physical appearance to gain attention for themselves.
- Speech style: The speech style of patients with HPD lacks detail. Individuals with HPD tend to generalize, and when these individuals speak, they aim to please and impress.
- Dramatic behaviors: Patients with HPD display self-dramatization and exaggerate their emotions.
- Suggestibility: Other individuals or circumstances can easily influence patients with HPD.
- Overestimation of intimacy: Patients with HPD overestimate the level of intimacy in a relationship.

ANTISOCIAL PERSONALITY DISORDER

DSM-5: The DSM-5, describes Antisocial Personality Disorder (APD) as a pervasive pattern of disregarding and violating the rights of others, occurring since 15 years of age. Diagnostic criteria for this disorder state that this pattern must include at least three of the following specific signs and symptoms:¹⁹

- Failure to conform to social norms with respect to lawful behaviors as indicated by repeatedly performing acts that are grounds for arrest.
- Deceitfulness, as indicated by repeated lying, use of aliases, or conning others for personal profit or pleasure.
- Impulsivity or failure to plan ahead.
- Irritability and aggressiveness, as indicated by repeated physical fights or assaults.
- Reckless disregard for safety of self or others.
- Consistent irresponsibility, as indicated by repeated failure to sustain consistent work behavior or honor financial obligations.
- Lack of remorse, as indicated by being indifferent to or rationalizing.

Other important characteristics of this disorder include that it is not diagnosed in children (individuals younger than 18 years of age), but the affected person must have shown symptoms of this diagnosis at least since 15 years of age. Additionally, it cannot be diagnosed if the person only shows symptoms of antisocial personality disorder at the same time they are suffering from schizophrenia or when having a manic episode.

¹⁸American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (2013).

¹⁹American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (2013).

APPENDIX B
TIPS FOR JUDICIAL OFFICERS MANAGING THE HIGH CONFLICT CASE

Bonding

1. There may be one or two high conflict people, so have relatively equal eye contact and comments.
2. High conflict people need to feel a positive connection with the Court to feel secure and to cooperate.
3. Empathize with their intense emotions, then focus on the task at hand.
4. Remember: They are in distress, can't solve this themselves and truly need your help.
5. Avoid getting emotionally hooked, because it's hard to be very emotional and rational.
6. You know you're hooked when:
 - You are suddenly angry.
 - You don't want to have eye contact.
 - You feel you have to argue with the high conflict person.
 - You feel you don't have any choices.
7. Use the One-Minute Scold, if appropriate:
Emotional voice: 30 seconds about disappointment with behavior (not person).
Soothing voice: 30 seconds about wanting to help person succeed and your belief that he or she can succeed at the next task.
8. Regularly (and briefly) give them your E.A.R. statement:
 - Empathy.
 - Attention.
 - Respect.
9. Be educational (think of a young child who truly doesn't understand).
10. Praise their strengths and skills; help them save face.

Structure

1. Remember: They are often in emotional chaos and need help focusing on next steps.
2. Contain emotions (acknowledge feelings without opening them up).
3. Focus them on tasks (give them homework).
4. Reduce expectations of the Court process.
5. Encourage a joint statement of issues.
6. Make detailed court orders; anticipate violations and build in consequences.
7. Build in step-by-step expectations; use review hearings to keep on track.
8. *Don't work harder than they do (Ask: What should we do about this?)*

Reality-Testing

1. When in doubt, safety first!
2. Explain your ambivalences about the evidence; ask for more information.
3. Remember: High conflict people have significant and unconscious cognitive distortions.
4. Stay open-minded throughout the case; avoid presumptions about behavior.
5. Tell the parties you will never know for sure.
6. Don't create an "invalidating environment": say it's *possible* they are correct.
7. Ask for *specifics* to support their broad complaints and emotional conclusions.
8. Expect lying, but recognize they may honestly believe their false statements.
9. Avoid arguing with the party's logic.
10. Focus on future decisions, based on where the evidence points you.

Consequences

1. High conflict people don't have insights from being criticized; they escalate instead.
2. Consequences are better than criticisms.
3. A credible threat of future consequences may be helpful.
4. Court orders need consequences built in.

5. Small sanctions are an excellent consequence.
6. Changes in schedule may be best consequence for parenting problems.
7. Cognitive-Behavioral Treatments can help (individual or group therapies).
8. High conflict people need a long-term program of change, just like addicts/alcoholics.
9. High conflict people are motivated by consequences, just like addicts/alcoholics.
10. Your positive comments can be a powerful motivator for these fragile parties.²⁰

²⁰Bill Eddy, *Managing High Conflict People in Court* (2008).

APPENDIX C
IDENTIFYING AND MANAGING HIGH CONFLICT PERSONALITIES²¹

Borderline	Narcissistic	Antisocial	Histrionic
Unconscious Drive			
Fear of being abandoned	Fear of being inferior	Fear of being dominated	Fear of being neglected
Constant Over-Compensating Behaviors			
Frequent anger, manipulation, efforts to control others	Self absorbed, bragging, shows disdain for others	Dominating, manipulating, controlling, deceiving	Attention-seeking, drama, emotionalism
Bonding			
Reassurance, arms-length, consistency, avoid excessive flattery	Recognize strengths, avoid confronting weaknesses	Be wary of false charm and false allegations about others	Empathy with person, not dramatics
Structure			
Provide security with clear relationship boundaries	Provide tasks, use strengths, share credit for successes	Avoid doing favors, focus on goals and good behavior	Keep focusing on tasks, encourage use of own skills
Reality Testing			
Avoid great expectations, avoid jumping to conclusions	Reduce expectations of easy success and need to be special	Expect lying, corroborate information, see consequences	Find out about real abilities, encourage self-sufficiency
Consequences (restraining orders; possible jail time)			
Skills training in regulating emotions, penalties for false statements	Cognitive therapy, penalties for false statements	Group program for abusers, penalties for false statements	Cognitive therapy, penalties for false statements

²¹ Bill Eddy, *High Conflict People in Legal Disputes* (2012).

APPENDIX D BEFORE YOU GO TO COURT

- Make Sure You Have Realistic Expectations

In Court, the judge or jury will never really know what is going on in your case. The Court's job is to decide narrow legal issues based on limited permissible evidence. Hearings and trials are mostly short and to the point. In real life, Court is not like most court cases on television or the movies – or even the news. Trials are rare, as most cases are resolved by hearings and/or settlement by agreement of the parties – often with the help of knowledgeable attorneys.

- Do Not Expect Validation or Vindication

The judge or jury does not decide your character as a person – or who has been “all good” or “all bad.” In Court, it is often assumed that both parties have contributed to the problem, and that it is a matter of relative liability for whatever occurred. Today, many courts focus on problem-solving. Interpersonal complaints are often seen as “he said, she said,” and the courts much prefer that these disputes be settled out of court.

- Avoid Emotional Reasoning

When people are upset, our perceptions can be distorted temporarily or permanently. Our emotions may cause us to jump to conclusions, view things as “all or nothing,” take innocent things personally, fill in “facts” that are not really true, unknowingly project our own behavior onto others, and unconsciously “split” people into absolute enemies and unrealistic allies. This happens at times to everyone, so check out your perceptions with others to make sure they have not been distorted by the emotional trauma of the dispute and related events. Many cases get stuck in court for years fighting over who was lying, when instead it was emotional reasoning which could have been avoided from the start.

- Provide the Court With Useful Information

The judge or jury does not know you or your issues, except for the information that is properly submitted to the Court. Make sure to provide important information, even if it is embarrassing. The Court cannot sense the behavior of each party. If you feel you have been abused by another person, the Court needs sufficient information to make helpful decisions. If you hold back on important information, it may appear that abusive incidents never occurred and that you are exaggerating or making knowingly false statements. If you are accused of actions you did not take, the Court will not know this information is inaccurate or false unless you sufficiently inform the Court.

- Be Careful About Un-verifiable Information

The accuracy of the information you provide to the Court is very important. Based solely on what you say in declarations or testimony in court, the judge or jury may make very serious orders regarding the other party, yourself, and your finances. If it later turns out that you made false or reckless statements – even if you were well-intentioned – there may be negative consequences, such as sanctions (financial penalties) or other restrictions in your future actions. A legal history may be a liability in future employment, relationships and court cases.

- Try to Settle Out-of-Court

Today there are many alternatives to going to court which can be used at any time in your case, including Mediation, Collaborative Law, Arbitration, negotiated agreements with attorneys, and settlement conferences assisted by a settlement judge. The expense for each of these is much less than for court hearings, trials, and prolonged disputes. You have nothing to lose, and you can still go to court afterwards if you do not reach a full agreement. By trying an out-of-court settlement, you can limit animosity and protect yourself and your family from the tension and cost of several months or years in court battles.²²

²² Bill Eddy, *Managing High Conflict People in Court* (2008).