

Lessons for
Matrimonial lawyers FROM
True-Crime TV
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- I. Introduction: Fatal vows
 - a. 7 seasons
 - b. Scores of divorces
 - c. Scores of lawyers involved
 - d. Scores of litigants committing heinous acts
 - e. Scores of litigants becoming victims of such acts
 - f. While not *typical*, these stories remind matrimonial lawyers that divorce can be murder!

- II. Case #1: Kahler case (Season 1)
 - a. 1995: Kraig & Karen Kahler marry
 - b. 1991/1993/1999: Kids Emily/Lauren/Sean are born
 - c. 2008: Karen begins a relationship with a woman; family moves from TX to MO
 - d. 2009: Karen hears Kraig has had an affair, files for divorce
 - e. Kraig is arrested for battery, Karen gets PFA, Karen & kids move out
 - f. Kraig loses job, moves to KS
 - g. Karen & kids visit Karen's grandmother in KS Thanksgiving weekend
 - h. Kraig goes to Karen's grandmother's house. shoots everyone but Sean
 - i. Karen, Emily, & Lauren die that day, Karen's grandmother 3 days later
 - j. Kraig is arrested the next day walking down a country road
 - k. 2011: Kraig gets death sentence (appealed to SCOTUS arguing he was denied an insanity defense under KS law, lost—a topic for another talk!)

- III. Divorce Danger zones
 - a. Temporal
 - i. Leadup (when it's clear marriage's days are numbered)
 - ii. During (when lawyers are actively involved)
 - iii. Aftermath (when it's over, but not really)
 - b. Emotional
 - i. Hurt/Anger/Resentment
 - ii. Fear/Desperation
 - iii. Narcissism/Entitlement/Sociopathy

- IV. Potentially-Elevated risks
 - a. Disappearing Assets
 - b. False Accusations
 - c. Missing Children
 - d. Violence Toward Multiple Possible Victims
 - i. Spouse

- ii. Spouse's Affair Partner
 - iii. Self
 - iv. Kids (& Potentially Other Relatives)

- V. Case #2: Tomassoni case (season 4)
 - a. 1983: Gary & Helen Tomassoni marry
 - b. 1985/1993: Kids Jack & Ryan are born
 - c. 1989: Gary starts gambling at a local casino
 - d. 2005: Gary wins \$250,000 at the casino, pays off debts, takes Helen on trip, continues gambling and loses a lot of what's left of the money, Helen demands Gary stop & get treatment & he agrees to
 - e. 2007: Helen is murdered in the marital home, evidence shows Gary kept gambling, lost everything, mortgaged home
 - f. 2008: Gary is convicted of murder for insurance money, gets 45 years

- VI. Disappearing Assets
 - a. In many cases, diversion of marital assets predates divorce
 - i. Gambling
 - ii. Affairs
 - b. In many cases, diversion of marital assets ramps up when divorce is impending
 - c. Lawyers can help stop the bleeding & recoup some lost assets or get offsets for clients

- VII. Case #3: Case of the Fractured Family (early-career custody-evaluation case)
 - a. Child had Osteogenesis Imperfecta
 - b. Parent A offered ER records to prove Parent B negligent & unfit
 - c. Statistical analysis of fractures showed:
 - i. More fractures occurred during Parent B's parenting time
 - ii. Parent B also had more parenting time
 - iii. Controlling for parenting time, slightly more risk with Parent A
 - d. Parent A did *not* seem intentionally fraudulent
 - e. Parent A *did* seem angry with & disrespectful of Parent B, self-righteous, & desperate to minimize loss of parenting time

- VIII. False accusations
 - a. In many cases, litigants falsely allege domestic violence.
 - b. In many cases, litigants falsely allege child abuse.
 - i. Sometimes, it's deliberate (i.e., abusive in itself).
 - ii. Other times, it's genuinely believed yet still false.
 - c. Lawyers can help whether representing accused or accuser (sometimes accusers think an accusation is their only hope or is justified by emotional abuse).

- IX. Case #4: Case of the Kidnapped Kansans
 - a. 2014: Mid-divorce, Bogdana Mobley flees to her native Russia taking:
 - i. Her daughter from a previous marriage
 - ii. Her daughter with then-husband Brian Mobley, Sophia, now 6

- iii. Her then-unborn second child with Brian, Isabella, now 5
 - b. 2014-2017: Bogdana lets Brian see the girls by Skype, demands cash for visits
 - c. 2017: Bogdana returns to KS to file child-support paperwork
 - i. Arrested by FBI
 - ii. Charged with international parental kidnapping & attempted extortion
 - d. 2019: Bogdana gets 7-year sentence
 - e. 2020: Fed. appeals court overturns extortion convictions, Bogdana is released having already served the max. for parental kidnapping, kids remain in Russia according to National Center for Missing & Exploited Children

- X. Parental Kidnapping
 - a. D.O.J. National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (dated, early 2000s)
 - i. ~200,000 cases in a yr. (9% of all kids who go missing)
 - ii. Most taken from home (7% from school)
 - iii. Usually were with perpetrator immediately prior
 - iv. Almost always in divorce/split-custody situation
 - v. ½ boys, ½ girls, 44% < age 6
 - vi. Fathers more than twice as likely to perpetrate
 - vii. Same racial breakdown as general population
 - b. D.O.J. National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children
 - i. 35% summer (Jun.-Aug.)
 - ii. 91% returned
 - 1. 79% < 1 mo.
 - 2. 46% < 1 wk.
 - 3. 23% < 1 day
 - iii. 6% not returned but located
 - iv. ~2% not returned/located (deceased?, overseas?)

- XI. Case #5: Vallow
 - a. 2003: Charles & Lori Vallow marry
 - b. 2019: Charles petitions for divorce, alleges Lori threatened his life, gets a PFA, Charles petitions for full custody of their adopted son Joshua (7), Charles alleges Lori said she was a god helping Christ to return in 2020, Charles then dismisses divorce petition, Charles is shot & killed by Lori's brother, who claimed self-defense, Lori's brother dies (of "natural causes," under investigation), Lori marries recently-"widowed" (since charged with 1st-degree murder of his previous wife) Chad Daybell, Joshua & Tylee (Lori's daughter from a previous marriage, 17) go missing
 - c. 2020: Joshua's & Tylee's remains found on Chad Daybell's property
 - d. 2021: Chad Daybell & Lori Vallow charged with the kids' 1st-degree murders

- XII. Murder
 - a. *Violence and Gender* 2019
 - i. 2237 domestic-partner homicides in 2017

- ii. 1527 female victims
 - iii. Doesn't include homicides of/by affair partners
- b. Divorce as precipitating factor
 - i. Chances of someone involved in a divorce getting murdered are higher when there has been:
 1. Domestic-violence history
 2. Infidelity (multiple potential perpetrators, motives, & victims)
 3. Financial trouble (window closing on opportunity &/or fear of future)
 4. Child-custody issues (especially fear of loss of custody)

XIII. Tragic Divorce Outcomes

- a. Financial devastation
- b. Reputations ruined
- c. Kids losing parents
 - i. Death
 - ii. Long-term separation (e.g., parent in prison)
 1. Kidnapping
 2. Prison (lasting conflict about what to believe)
- d. Kids being killed

XIV. Tips for lawyers

- a. Consider *not* offering free consultations for divorces (to discourage efforts to “conflict you out”).
- b. Watch for erratic behavior (on either side).
- c. Listen for erratic talk (e.g. , about “confronting” _____).
- d. Counsel clients about realities of court orders (PFAs, custody...)
- e. Keep a list of local resources
 - i. Psychologists (therapists as well as potential experts)
 - ii. Shelters
- f. Counsel clients about complications of “moving on” prematurely.
- g. Review relevant professional-conduct rules.

XV. Model Rules

- a. Rule 1.6, Confidentiality of Information, Client-Lawyer Relationship
 - (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).
 - (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
 - (1) to prevent reasonably certain death or substantial bodily harm;
- b. Model Rule 1.16, Declining or Terminating Representation
 - (b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:
 - (4) the client insists upon taking action that the lawyer considers repugnant or

- with which the lawyer has a fundamental disagreement;
- c. Model Rule 1.18, Duties to Prospective Client
 - (a) A person who consults with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.
 - (b) Even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information, except as Rule 1.9 would permit with respect to information of a former client.
 - (c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).
 - d. Model Rule 3.1, Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.
 - e. Model Rule 3.4, Fairness to Opposing Party and Counsel

A lawyer shall not:

 - (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
 - (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
 - (f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
 - (1) the person is a relative or an employee or other agent of a client; and
 - (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.
 - f. Model Rule 4.4, Transactions With Persons Other Than Clients
 - (a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.