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DIVORCE DISMISSALS: A FIELD STUDY

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IN THE writing and research on divorce, the subject of divorce dismissals has been neglected. Casual reference occasionally is made to the surprising dismissal statistics, and there has even been some speculation on why there are so many dismissals.¹ But no effort prior to this has been made to determine the reasons for and implications of these dismissals.

Divorce is one of the most common types of modern litigation. For example, in Kansas, divorce suits make up one-half of all civil suits filed in the district courts, the courts of general first instance.² A somewhat similar situation exists in the other states. But this heavy volume of filings does not create as great a burden on the courts as it would seem, and the reason for this is that a large percentage of divorce suits filed are dismissed.

Statistics on dismissals are spotty and incomplete. Those that are available indicate that between 20 and 45 per cent of all divorce cases filed are dismissed.³ In Kansas, where an accurate record was kept, for

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¹ Alexander, *What is a Family Court, Anyway?* 26 CONN. BAR J.L. 243 (1952); MARSHALL AND MAY, *THE DIVORCE COURT*, vol. 2 (Ohio), pp. 293-294 (1933).

² KAN. JUD. COUNCIL BULL. (Oct. 1952), p. 61. For the year ending June 30, 1952, 43 per cent of all civil and criminal cases filed in the district courts of Kansas were divorce suits. *Id.* at pp. 56 and 61.

³ In Kansas, from 1937 to 1950, 31 per cent of the divorce cases disposed of were dismissed. Cases disposed of include dismissals, divorces granted, and divorces denied. This computation is based on statistics in the KANSAS JUDICIAL COUNCIL BULLETIN, 1937 to 1951.

In Missouri, from 1940 to 1947, for 77 counties, divorce dismissals and denials together averaged about 20 per cent of the divorce cases filed in the same period. *Missouri Marriage and Divorce Statistics 1940-47*, 4 J. OF THE MO. BAR. 36 (1948).

The Friend of the Court in Detroit has reported that in the 20-year period ending in 1943, 35 per cent of all divorce cases filed in Wayne County, Michigan, were dismissed. Pokorny, "Friend of the Court" Aids Detroit Judges in Divorce Cases, 29 J. AMER. JUD. SOC. 166 (1946). In Wayne County, Michigan, during 1948, 13,728 petitions for divorce were filed, 9,036 divorces were granted, 37 were denied, and 5,583 were dismissed. This gives a ratio of 41 divorce cases dismissed for every 100 cases filed. *Virtue SURVEY OF METROPOLITAN COURTS DETROIT AREA* 27 (1950).

In the 70-year period from 1875 to 1945 approximately 30 per cent of the divorce cases

every 100 divorce suits filed last year, 44 such suits were dismissed⁴

To determine as much as possible about the dismissal of divorce cases, this study was conducted which involved interviews with dismissing plaintiffs and an examination of the court files in their cases. Forty-seven cases, selected at random from the district court files of closed cases in five Kansas counties, are included in this study. The study was conducted during 1952, and all of the cases were filed and dismissed between 1946 and 1952.

The major conclusions from this study are these:

- (1) The reason for nearly all dismissals is that the parties become reconciled and go back to living together.
- (2) In a large percentage of cases the reconciliation does not last and divorce eventually follows.
- (3) Dismissal is much more likely if there are minor children in the family, and the most common motive for dismissals given by plaintiffs is the good of their children.
- (4) Financial inability to proceed with the litigation and inability to prove a case as a matter of law rarely are factors of importance in dismissals.
- (5) Advice on the desirability of dismissing is frequently but not usually sought. Lawyers and judges seldom perform this counseling function.

I. METHODS OF INVESTIGATION USED IN THIS STUDY

In every case the dismissing plaintiff was interviewed after the case was closed. The interviewing was done by seven law students, each of whom did the field work on a group of cases.⁵ The interviewers were

filed in Ohio were dismissed. Alexander, *What is a Family Court, Anyway?*, 26 CONN. BAR J. 243, 264 (1952). In Lucas County, Ohio, for the years 1947 to 1950, the percentage of divorces sought that were granted varied from 52.6 per cent to 67 per cent. ANNUAL REPORT 1950, COURT OF DOMESTIC RELATIONS AND JUVENILE COURT, LUCAS COUNTY, OHIO. As almost no divorce petitions were denied, and as the backlog of undisposed of cases remained fairly constant during this time, the percentage of divorce suits filed in Lucas County that were dismissed averaged about 40 per cent from 1947 to 1950, with one year approaching 50 per cent.

In Oregon, from 1936 to 1950, about 21 per cent of all divorce cases filed were dismissed. No express record of dismissals in that state is kept, but this is the percentage of divorce suits filed that were not tried during this period, as disclosed by the biennial reports of the Secretary of State, State of Oregon. In a fourteen-year span, this percentage should be an accurate indication of dismissals because divorce suits are usually tried or dismissed within a year or two of filing so that large backlogs cannot develop that would make the above figure incorrect.

⁴KAN. JUD. COUNCIL BULL. (Oct. 1952), pp. 60-61. The year in question is the one ending June 30, 1952.

⁵The student interviewers were Irwin Brown; Margaret Carey; Shirley Friedman; George Gould, Jr., now of the Dodge City, Kansas, bar; Charles Kennedy; Carman Payne, now of the Olathe, Kansas, bar; and Lee Turner, now of the Great Bend, Kansas, bar.

asked to obtain answers to a series of questions, but if possible to secure the answers in a general conversation on the subject without suggesting them.⁶ No questions were read to those persons interviewed, nor were any notes taken in their presence. The interviewers were instructed to write up the responses as soon as they had left the place where the interview occurred. The interviews varied in length from ten minutes to an hour.

The response to the interviews was good. Only a few persons refused to discuss their action in dismissing, and no one resented being asked to cooperate in the study. Many of those interviewed welcomed the opportunity to unburden themselves and were anxious to discuss all aspects of their marital difficulties. The interviewers showed great tact in discussing these very delicate matters.

In order to increase the chances of the persons interviewed being willing to submit to interviewing, they were not informed in advance of the nature of the inquiry, and in most cases they were contacted in person at their homes or work without prior appointment. The interviews were conducted in private without any third person being present. Neither the other spouse nor the attorneys for the parties were informed of the interviews.

Prior to the interviews, a list of cases for possible study was selected from the local court records, and a summary prepared of all relevant information appearing on these cases in the court dockets and files. The cases were selected at random, except that they all had to be fairly recent, and cases were excluded when no lead as to the plaintiffs' whereabouts could be found in court files, telephone books, or city directories. Locating the present addresses of dismissing parties was often difficult. Many persons could not be located by the interviewers or it was found that they had moved from the community. The larger

⁶The interview questions were these:

1. Why did you dismiss? Influence of your feelings as to the good of your children. Have you lived with your spouse since the dismissal?
2. Whom did you discuss the question of dismissal with prior to dismissing? For example: lawyer judge, clergyman, doctor, relative.
3. Have you ever filed for divorce before filing this case that was dismissed? What disposition of any prior suit? Have you been married before? Reason for termination of previous marriage.
4. Have you filed for divorce again since the dismissal? If so, what disposition of this subsequent suit?
5. Do you think that the court should hire someone to help with reconciliations?
6. Did you file suit for divorce with the hope that it would get your husband (or wife) into line and you could then dismiss it?
7. Approximate age of the plaintiff. (You need not ask this. Estimate it on your own observations if it does not appear in the court records.)

the city, the greater the problem of finding the persons to be interviewed.

No effort was made during this study to apply psychiatric knowledge or techniques. The interviewers were not competent to do this, nor could the rapport conditions have been developed for many such interviews by the methods used in this study.

II. DETAILED FINDINGS

All of the persons interviewed, with one exception, lived in the county seat where their suit was filed at the time they were interviewed; and none of them were farmers or married to farmers at the time of dismissal. No farmers were included because only a few dismissal cases involving farmers appeared in the court records, and it would have been too difficult to locate and interview the plaintiffs in those cases. The five counties from which the cases were selected are located in central or eastern Kansas. They vary in population from 20,000 to 165,000; and their county seat towns vary from 10,000 to 125,000.

The persons and families included in this study seem to be a representative cross-section of Kansas urban families involved in divorce cases that are dismissed. The random manner of selection made this probable. The writer has a feeling, based in part on impressions gained elsewhere and in part on hunch, that the findings of this study would be substantially duplicated if similar studies were made in other parts of the United States. Divorce conditions in Kansas appear to be sufficiently typical of the nation as a whole so that the findings of this study should have some value at least for formulating hypotheses about dismissal conditions elsewhere in the United States.

On some of the matters as to which facts were sought, inadequate information was obtained. As a result, some of the summaries of findings appearing in this report include less than 47 cases. Inadequate information was obtained because the persons interviewed could not or would not express themselves clearly on the point in question, and in a few of the first group of cases because the field workers were not instructed to secure the information and the subjects could not later be located to correct this deficiency.

Of the 47 plaintiffs interviewed, 34 were White, 10 Negro, and 3 Mexican. Forty of them were women and 7 were men. The interviewers estimated the ages of the plaintiffs at the time of interviewing.

By subtracting the years since dismissal, all were determined to be over 20 at the time of dismissal, with one possible exception; 8 were in their twenties, 27 were between 30 and 50, 6 were over 50, and there is inadequate information on 5. These figures in most instances are based merely on what the interviewers thought the subjects' ages were from looking at them, a method that can give only a rough approximation, especially as most of those interviewed were adult women, a class that specializes in disguising age.

In most of the cases there were minor children in the family at the time of dismissal. This was true in 34 cases. In 29 of these cases, the children were issue of the marriage involved in the divorce suit, in 4 cases only one of the spouses was the natural parent because the children had been born of a previous marriage, and in 1 case there were children of both the marriage in question and a previous one. In 13 instances the parties had no minor children in the family, but in 1 of these cases the parties had adult children who were influential in bringing about the dismissal.

Most of the cases involved marriages which had lasted more than 5 years before the dismissed suit for divorce was filed. In only 2 of the cases had the parties been married less than a year at the time of filing; in 6 cases they had been married from 1 to 3 years; in 8 cases, from 3 to 5 years; in 8 cases, from 5 to 10 years; in 22 cases, for over 10 years; and in 1 case there was inadequate information.

In all but 3 cases studied, the dismissals took place because the parties became reconciled and went back to living together. But at the time of the study, only 30 of the couples were still living together. The 3 cases in which no reconciliation ever took place deserve individual consideration. In one of them the defendant filed a cross-petition alleging that he and the plaintiff were not married because plaintiff had never been divorced from her first husband, who was still alive. Later the husband had the marriage terminated in another proceeding. It seems likely in this case that the reason the plaintiff dismissed her suit was because the defendant's cross-petition allegation was true. In checking through the court files selecting cases for study, only 2 other cases were found indicating that the dismissal took place because plaintiff could not prove a case as a matter of law. In one the defendant had died since the suit was filed, and in the other the defendant had gone to

another state and secured a divorce before the Kansas case could be heard. As the plaintiffs in both of these latter cases had since left the state, their cases were not included in this study. The two cases are unusual in that the reasons for the dismissals could be determined from the court files. This is rare. In Kansas, dismissals are usually accompanied only by a brief motion and order requesting and granting the dismissal.

In another of the cases in which there was no reconciliation, the plaintiff said that she dismissed because she had no money to complete the case. She said that her husband had deserted her 7 years earlier and she intended to file again when she could afford it. Her suit was dismissed for want of prosecution. In the third case, the plaintiff's reasons were not clear. She said that the dismissal was for "business reasons," that she and her husband were in business together, and that she intended to file again shortly when the business problems were straightened out.

Many of the dismissing plaintiffs had been involved in previous divorce suits. In 14 out of 26 cases for which information was secured, the dismissing plaintiffs stated that they had been married previously to other spouses. Six of these 14 marriages ended in divorce, 3 in death, and no statement was made on the other 5. Ten plaintiffs admitted that they had previously filed suit for divorce against the spouses involved in the suits under study and dismissed these previous suits. One of the 10 said that she had filed and dismissed more than 1 prior suit. Two plaintiffs said that the other spouse had filed and dismissed an earlier suit for divorce. Twenty-seven plaintiffs stated that the cases under study were the first ones filed against the spouses involved in those cases, and there was inadequate information in 8 cases on this question.

A similar record of divorce action exists subsequent to the dismissal of the 47 cases. Thirteen of the marriages have since ended in divorce, although in 1 instance the parties later remarried one another. Two of the 13 have since married others. In at least 1 other case, the dismissing plaintiff filed again and dismissed again, and in 2 cases a subsequent divorce suit is on file. This post-dismissal record of further divorce action is particularly striking in the light of the time intervals between dismissal and this study. In 21 cases this time interval was less than 1 year; in 9 cases, from 1 to 2 years; in 9 cases, from 2 to 3 years; and in 8

cases, from 3 to 6 years. Only 1 of the 13 cases in which divorce has occurred since the dismissals under study is in the group of 21 cases dismissed recently. Thus there have been divorces in 12 out of the 26 cases dismissed more than a year before this study was made. In 11 of these 12 cases a reconciliation took place and the parties lived together for a while after the dismissal. Dismissal plus reconciliation does not necessarily mean that the marriage has been saved.

In addition to the post-dismissal divorce actions actually started, several persons interviewed said that their reconciliations had not worked well and that they were planning to file again soon. A contrast to these statements were the statements volunteered by 5 subjects interviewed that they were very happy now. Three other volunteered that things were going along well despite occasional arguments. All but 2 of these 8 persons whose reconciliations have been successful dismissed their cases more than a year before this study, 2 of them more than 5 years before.

A variety of responses was received concerning the parties' motives for dismissing. With only a few exceptions, if there were minor children in the family, the good of the children was given as at least one reason for dismissal. Some mothers felt that divorce would mean insufficient financial support for the children, but most dismissing plaintiffs with children conceived of the good of the children to be having both parents available in the same home. For example, one husband said that so far as he was concerned his wife was no good, that he dismissed solely because of the children, and because he felt that a poor mother was better than no mother at all. Altogether, 22 dismissing plaintiffs attributed their action at least in part to a belief that it would be in the best interests of the children.

The next most common reason given for dismissal was that the other spouse promised to reform his or her ways. More specifically, it was indicated that this meant a promise to give up drinking, gambling, other women or "running around," conduct that had precipitated the crisis leading to the divorce action being filed. Other motives given for dismissal included pressure from relatives; pleas of an adult child; to avoid publicity feared by the other spouse; the "shame" of divorce; "I found that I still had a strong feeling for my husband"; "I decided that a woman should be married to only one man in this life"; "On further consideration I was afraid of being left alone"; "I realized how much

I really enjoyed married life"; "I realized that I had been expecting too much of my wife, that no one is perfect"; "I read an article on divorce that scared me to death"; "Because my husband quit bothering me and it was only to bring this about that I filed suit in the first place"; "Because my husband was sent to jail so was out of the way without my having to get a divorce." No doubt many of the responses were either conscious or unconscious rationalizations; and a few persons were unable or unwilling to give any understandable explanation for their action.

About one-half of those interviewed flatly denied seeking advice from anyone on the desirability of dismissing their divorce actions or reconciling with their spouses. Two persons admitted discussing the matter with their parents, 4 discussed it with other relatives, 2 with friends, 2 others with friends and relatives, 2 with the judge before whom the case was pending, 1 with her minister who in this case took the initiative in bringing the matter up for discussion, 2 with physicians. In no case was there any indication that a psychiatrist or professional marriage counselor had been consulted. In most of the cases there was some kind of communication between the clients and their lawyers about the dismissal as most of the dismissals were made on the motion of the plaintiffs. But in only 5 cases was there a clear indication that attorneys for the dismissing plaintiffs gave or were asked to give advice or counseling on the desirability of a reconciliation and dismissal. In 4 of these cases the lawyers advised the parties to dismiss and to try again with their spouses. In the other case, the attorney told the plaintiff that she was running a big chance if she did dismiss, because she had had her husband arrested the day before the divorce suit was filed and the lawyer thought that a recurrence of these difficulties was probable.

One of the matters discussed with those interviewed was whether or not the courts should hire someone, such as a marriage counselor, ready to give advice on reconciliations. Twenty-four of the plaintiffs interviewed said yes, 4 said no, 5 expressed an opinion only in their own cases and said it would have been of no value in them, and 14 made no comment.

The period of time between the filing and dismissal of the cases studied varied considerably, from a minimum of 10 days—3 suits were dismissed in 10 days—to a maximum of 29 months. In 15 cases the dis-

missals were ordered of record in less than 1 month from the time of filing; in 4 cases, from 1 to 3 months from the time of filing; in 9 cases, from 3 to 6 months; in 9 cases, from 6 to 12 months; in 7 cases, from 1 to 2 years; and in 3 cases, in more than 2 years. The fact that the court order for dismissal was not made for many months after the suit was filed does not mean that the parties were not reconciled in a much less period of time. Eight of the cases were dismissed for want of prosecution which means that the plaintiffs in those cases probably lost interest and decided to do nothing about them, including a decision not to pay their attorneys, long before the court decided to dismiss. In some of the other cases there was evidence that the plaintiffs failed to dismiss until some time after reconciliation, possibly because of a belief that they could easily resume efforts to secure their decrees if the reconciliations were unsuccessful.

In every case studied, there was, of course, an attorney of record representing the plaintiff. But in 38 cases there was no attorney of record representing the defendants, and in 9 cases the defendants were represented. A total of 31 different attorneys were of record in the 47 cases, and only 3 of them appeared in more than 3 cases. One lawyer was attorney of record for 8 plaintiffs and 1 defendant.

Although in this study attention was centered on divorce dismissals and not divorce filings, some incidental information was obtained on divorce filings. For example, in most of the 47 cases the identical statutory grounds for divorce were alleged in the divorce petitions. In 36 petitions, the only grounds alleged were extreme cruelty and gross neglect of duty, and in all the other cases either extreme cruelty or gross neglect was one of the grounds. Two petitions contained allegations of extreme cruelty and habitual drunkenness; 1, of extreme cruelty, gross neglect, and habitual drunkenness; 1, of gross neglect and habitual drunkenness; 3, of gross neglect only; and 4, of extreme cruelty only. So in 47 cases, only 3 of the 11 grounds for divorce in Kansas were used;⁷ and there appears to be a well-developed pattern of relying exclusively on the extreme cruelty, gross neglect form of incantation in Kansas divorce petitions.

⁷The other 8 grounds for divorce in Kansas are abandonment, another spouse living at the time of the subsequent marriage, adultery, impotency at the time of marriage, pregnancy of the wife by another man at the time of marriage, fraudulent contract, conviction of a felony and imprisonment therefor subsequent to the marriage, insanity. KAN. G. S. 1951 Supp., 60-1501.

The interviewers frequently were given explanations of what the plaintiffs claimed were the real reasons for their filing divorce actions. Many of the persons interviewed seemed to feel a compulsion to explain why they started legal proceedings. In one-half of the cases in which such reasons were given, excessive drinking was stated to be a factor. In all of these alcohol cases, husbands were the defendants. It may be that women who do not get on with their husbands find a more sympathetic hearing from their friends and relatives if the impression can be created that they have been suffering along with an alcoholic.

The interviewers were instructed to determine if the plaintiffs filed their suits for divorce with the hope that this would bring the other spouse into line and with the anticipation that the action would then be dismissed. Of the 29 plaintiffs who adequately responded to this questioning, 8 said they did have such motives, and 21 said they did not; but 3 of the 21 said that in previous divorce suits filed by them, they had motives of this sort in mind.

Other motives given for filing suit for divorce included another woman, running around with the wrong people, bothering the wife after their separation, gambling, failure to support the family, husband's inability to hold a job permanently, the children now being grown and there no longer being a need to maintain a home for them, the husband beating the wife, the wife failing to stay home and care for the children, interference by in-laws, disparity in age between husband and wife, the husband working at night, and lack of similar interests on the part of the spouses.

One word of caution should be added as to some of the findings. Several of the questions often had to be put in such a manner as to suggest an answer, or at least to present an issue that might never have been previously formulated in some of the subjects' minds. This was true of the questions concerning the good of the children as a factor causing dismissal, the desirability of the court hiring someone to help with reconciliations, and whether or not suit was filed to get the other spouse in line. The interview conditions available in this study made it impossible to secure information on these matters in most cases without using suggestion type questions.

III. IMPLICATIONS OF THIS STUDY FOR THE FAMILY-COURT MOVEMENT

The most significant divorce-law reform currently being advocated is the establishment of family courts.⁸ Important features of these new courts would be their investigation and counseling services, and their broad jurisdiction. Special family courts would have exclusive jurisdiction over all matters pertaining to the family and juveniles, including among other matters divorce, annulment, non-support, child custody, adoption, and juvenile delinquency. Attached to the court would be a staff of trained counselors available to assist spouses and parents by counseling and therapy in marriage and other family problems. These counselors would be under the supervision and control of the family court judges, as would a staff of investigators with the duty of making independent fact studies at the judges' request. These family courts would resemble the larger juvenile courts, but with much broader jurisdiction. Probably the nearest thing to this type of proposed family court now in existence is the Court of Common Pleas, Division of Domestic Relations, Lucas County (Toledo), Ohio, presided over by Judge Paul W. Alexander, who has written so ably and extensively on divorce.

One argument against family courts is that the marriage counseling provided would come too late to be of value. By the time divorce suits are filed, it is argued, marriages have disintegrated to a point where they cannot be revived. This study shows that in many cases such a conclusion is wrong. Even without any expert counseling, possibly as many as one-third of all divorce suits are dismissed and the parties to them reconciled, at least temporarily. Many marriages are not dead merely because suit for divorce is filed. Is it not fair to assume then that with skilled counseling, the number of satisfactory and permanent reconciliations after divorce filings would be increased? And is it not also fair to assume that some of the unsatisfactory reconciliations that follow the filing of suits for divorce could be avoided by counseling that would show the futility of reconciliation in those cases, thereby eliminating prolonged suffering and hardship from marriages that are inevitably doomed? Good marriage counseling has as its aim not only reconciliation, when this is possible, but the termination of marriages when there is no hope for their continuance, and the adjustment of the parties to

⁸ On family courts generally see Chute, *Divorce and the Family Court*, 18 LAW & CONTEMP. PROB. 49 (1953); the symposium on family courts in 26 CONN. BAR J.L. 239-301 (1952); Johnstone, *Divorce: The Place of the Legal System in Dealing with Marital-Discord Cases*, 31 ORE. L. REV. 297 (1952).

divorce when they are having difficulty making an emotional adjustment. This study indicates that there is a great need which family-court marriage counseling could fill.

Undoubtedly there are many difficulties standing in the way of widespread adoption of family courts. Perhaps, if there are limitations in community financial and personnel resources, more can be done to ease family discord by making other use of the resources available than by judicial reorganizations.⁹ But these are separate questions from the preliminary one as to whether or not marriage counseling at the family-court level could be effective.

IV. SUGGESTIONS TO LAWYERS ON REFERRALS IN DIVORCE CASES

The post divorce suit family counseling that this study indicates is needed can be filled in other ways than by family courts. These courts may possibly be the best way to take care of the problem, but much can be accomplished without them.

Today, in all areas of the United States, skilled marriage and family counselors are available.¹⁰ Some of them are in private practice, some are affiliated with public and private community service agencies. They include marriage counselors, psychiatrists, psychologists, and psychiatric social workers. There are also an increasing number of ministers and priests receiving special preparation to do family counseling. In addition, certain family problems are related to bodily conditions that need the attention of physicians. The agencies that provide counseling services include family service agencies, child guidance clinics, mental health clinics, and state and local public welfare agencies. Many of them receive community chest support.

Skilled family counselors, specially trained to do this work, ordinarily are more successful at family counseling than are lawyers and other intelligent laymen. They are also much less likely to make damaging mistakes than are laymen. Because of this, they should be used more by lawyers, and lawyers should be extremely cautious about doing non-legal counseling in their family law cases.

Many lawyers feel a moral obligation to do non-legal counseling on such matters as reconciliations in divorce cases. The profession as a whole seems to have an upset conscience over the matter. Admitting

⁹ Johnstone, *Divorce: The Place of the Legal System in Dealing with Marital-Discord Cases*, 31 ORE. L. REV. 297 (1952).

¹⁰ In Kansas the major centers for marriage counseling are Topeka and Wichita, although some counseling services are available in other Kansas cities.

that an obligation exists, it is submitted that the most intelligent way of performing this obligation is by closer working relations with the counseling group best qualified to handle personality adjustment problems. Law offices should be important focal points for the referral of non-legal family problems to those who can do the best job with them. For many lawyers this will require a change of attitude toward a group about whom they know little and about whom they have been suspicious and prejudiced. To the extent that these suspicions and prejudices are justified, changes in the counseling professions are called for.

But lawyers cannot refer all family law cases that come to them. Many cases do not need counseling except on problems of law. In others counseling would not work no matter how much the parties might need it. A major problem to which more thought and research should be devoted is the standards which lawyers should use in screening cases for referral to experts on non-legal family counseling.

It is suggested that lawyers should consider referring the following clients:

- (1) Those who want to be reconciled or who are married to spouses who want to be reconciled.
- (2) Parties to a marriage in which a substantial degree of affection seems to exist between the spouses.
- (3) Spouses who have minor children.
- (4) Those who are actually alcoholics or married to alcoholics.
- (5) Those who show excessive, abnormal hostility to family members and others.
- (6) Those who are sexually promiscuous, frigid, or impotent.
- (7) Those who seem unable to adjust to impending divorce; and serious consequences, such as a nervous breakdown, suicide, or physical injury to the other spouse, threaten from such failure.

When a lawyer confers at length with a client in an effort to determine if there should be a referral, the lawyer should be paid for his time. Similarly, if there is a referral, and the lawyer and counselor subsequently work together on the case, the lawyer should be paid for his efforts. Lawyers are far too often unpaid in divorce cases, especially in cases that end in reconciliations. If lawyers assume their obligation to assist in the non-legal problems involved in family discord cases, they are entitled to adequate compensation for both the legal and non-legal work that they do.