

# Family Law Education Reform Project

## Hofstra FLS Wife's Confidential Facts (Divorce)

### OVERVIEW

This document contains the confidential pre-initial interview information and background for Lynne Allen (the wife) for use during the client interview and client counseling exercises

### EXPLANATION AND COMMENTS

This memorandum should be given to student in the role of the wife in this skills exercise. Professors should emphasize the need to keep this memorandum to one's self, as the divulgence of information could harm the ability of students to fully experience the exercise.

### ABOUT THE AUTHOR

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Professor Schepard is the Chair of the Family Law Education Reform Project co-sponsored by Hofstra Law School and the Association of Family and Conciliation Courts. He is an attorney member of the Judicial Conference of the State of New York. Professor Schepard is also Program Director for the National Institute of Trial Advocacy's course in Modern Divorce Advocacy and has served as Program Director for NITA's Child Advocacy, Deposition and Trial Advocacy courses.

Professor DiFonzo has had a wide-ranging two decades of law practice before becoming a full-time professor, including stints as a federal prosecutor and as a litigator in the areas of family law, criminal defense, negligence, and professional malpractice. In all, he conducted over 30 jury trials and several dozen appeals. He has taught at Hofstra since 1995. From 1995-2003, he served as Director of the Criminal Justice Clinic. From 2005-2008, he served as Director of the LL.M. Program in Family Law.

**DO NOT SHOW TO ATTORNEYS REPRESENTING DAVID ALLEN OR TO DAVID ALLEN**

## **Confidential Memorandum for Lynne Allen**

Family Law with Skills

Fall 2008

Several days ago, you called a good friend of yours, Dorothy Coleman, and asked her for a referral for a divorce consultation. Ms. Coleman referred you to a lawyer at a small law firm that she said specialized in family law and trusts and estates and represented her successfully on a very complicated matter. Ms. Coleman did not go into details, and gave you the lawyer's name and phone number.

You called the lawyer's office and made an appointment. You told the secretary that you were referred by Ms. Colman. You did not discuss fees or provide the secretary with any background information..

Attached are confidential facts that you should reveal to the lawyer during the interview if you feel that the lawyer has asked an appropriate question and developed an appropriate relationship of trust and confidence with you.

Note that you want a clear explanation of the lawyer's fees should divorce proceedings get started.

**Note: The interview with counsel takes place in Fall 2004.**

### **Your Relationship with James Porter**

You began a relationship with a successful radio executive shortly after he started working full-time. The executive, James Porter, is 41 years old, very attractive and has never been married. James showed an immediate interest in you and in your budding career just as David was growing increasingly resentful of your work. Between your anger with David, and a bottle of wine over a quiet dinner, the relationship with James quickly took a romantic turn.

In fact, James has a plan for syndication of "Baseball Widows" through his network which he believes will make you financially independent and make money for his company. James inherited three radio production companies from his father, who was a millionaire businessman. James seems to be following in his father's footsteps. He has told you the program could be in national syndication in six months to a year. You have not discussed financial terms.

James wants you to move in with him in his NITA City apartment as soon as you can. You have been seeing James regularly for dinner and drinks, sometimes in NITA City, and sometimes in Huntington or the nearby area. For several of these encounters, you called on David to watch the children while you and James met. You and James have an active sexual relationship, occasionally taking off in the middle of the afternoon in his limousine.

You do not think David knows anything about it. The children have no idea. You have not discussed James with friends, family or co-workers. You like James, but are unsure where it is going. It could be a "fling" while your relationship with David works itself through; on the other hand, James seems very interested in you and your career, and the relationship could become very serious. You think that James wants it to be that way.

### **Your View on Parenting and Residence of the Children**

If David is unwilling to give up Norma, you want him to move out of the house and into his own apartment. You want him to decide this quickly, so that the shouting and the arguments will stop. You are worried about the effects these scenes are having on the children and you. You are unwilling to move out yourself.

You want sole decision-making authority for the children and are adamantly opposed to joint decision-making. You recognize that David is a committed father and should play a major role in the children's lives. You are concerned that if David and Norma marry, Joey and Jane will be taken away from you. Norma will become their mother, and you will be shut out. You believe Norma will do anything she can to win Jane and Joey over. You speak of Norma in harsh and bitter terms. You feel that if David gets joint decision-making authority over the children, he will use his "power" to help Norma supplant you in the children's lives.

### **Your Concerns Regarding the Well-Being of the Children**

You are very concerned about Jane and Joey's reaction to the current marital difficulties. You are reluctant to have them in therapy with a psychiatrist or psychologist of David's choosing as he suggested to you. You are afraid David will use this as an opportunity to influence the children

to side with him. You are willing to send the children to a "neutral" therapist provided that David pays for the cost. You see Jane's anger at David as being a natural reaction to his unacceptable conduct and have said that if David wants to cure Jane's anger he should give up Norma.

You are unwilling to force the children to go to family therapy and refuse to consent to therapy with Norma. You feel that Jane does not want anything to do with David or Norma and cannot be coerced into a relationship with either. You say that David is too concerned about Jane's sudden weight loss. You feel that Jane looks much better now with her slimmer image and that is probably good for Jane's self-esteem, too.

You feel that David and David's father have undue influence over Joey. You are especially worried that Norma will try to replace her as Joey's "mother."

### **Your Feelings Toward David**

You speak ambivalently about a divorce. Sometimes, you say you still love David and feel that there is a possibility that the marriage could work. Other times, you talk like the marriage is over and you do not want to stay married to David. You say you are trying hard to resolve your conflicting feelings in therapy but are having great difficulty in doing so.

Periodically, you articulate feelings of anger and resentment toward David. You express a sense of outrage about David's adultery, and you become upset whenever the subject of David's affair with Norma comes up.

You feel that David is too selfish about having things go his way. Your career is very important to you and that you don't want to stay in a marriage with a man who doesn't respect your desire to be a success. You have been in therapy since David moved back into the house. Therapy, however, hasn't fully resolved your ambivalence about continuing the marriage or your anger at David and Norma.

You feel that David's infidelity coupled with his unreasonable rigidity about your need for a real career is responsible for your marital difficulties. You feel that he has forfeited any "rights" he might have by his behavior.

### **Your Position on the NITA Radiological Association Job Offer**

You very concerned about financial security, especially about the children's security. Since you blame her husband for the demise of the marriage, you want him "to pay for it". You fervently believe that David forfeited any right to entertain the NRA offer because he caused your marital problems. You know the post means an income drop for David, and you refuse to "let him do that to Janey and Joey." You want to keep the house and want to be sure that the children's standard of living is not diminished by their father's departure, his accepting the NRA post, or his possible remarriage.

You also feel that David should supplement your income for a few years so that you can get established in your career (including paying for childcare and housekeeping help) and feel you are entitled to "at least half" of the savings, investment and pension funds. You also want to be sure

that you and the children continue to be covered under David's group medical and life insurance. Finally, you feel that David is not entitled to a share of your future income at the radio station, as he has been entirely negative about your return to work.