

Flying Free Podcast with Natalie Hoffman, Episode 329 - Winning Child Custody & Divorce Battles: Pro Strategies from a Top Attorney

Natalie: So you are in the middle of a high conflict divorce with a toxic ex who thinks following the law is just a suggestion. Well, today we've got Arizona attorney Wendy Hernandez in the house, and she's spilling all the tea on surviving the legal battlefield. We're talking custody battles, financial games, and the sneaky legal tricks.

Abusers love to play. Now here's the inside scoop. This recording is actually from a private workshop inside the Flying Free Kaleidoscope, which is my exclusive community for Christian women dealing with and healing from emotionally and spiritually abusive relationships. If you want expert guidance, practical support, and a sisterhood that actually gets it, come join us at [Flying Free dot com](http://FlyingFree.com).

Alright, grab your coffee. Or chocolate. Take some notes and let's dive in. It's about to get real.

Hi, Wendy. Hi. Great to see you. Well, first of all, thank you so much for being with us today. For those of you who don't know, Wendy Hernandez is a divorce attorney in Arizona and she has also been on the Flying Free Podcast twice. She was on episode 84, which is called How to Prepare Your Custody Case, and then also episode two 20, which is dealing with fear during divorce.

So if you want more, you can listen to those, but also add I linked to her in the div preparation for divorce course on the membership site. I linked to her YouTube channel, which is command the Courtroom and that is an excellent resource. There's so much information there that you guys would be interested in.

Um, but today she has offered to answer your specific questions. Now she obviously will probably not get to everything that people asked, but she has selected questions out of the list that I gave her that you guys offered. And I'm actually just gonna turn it over to you and let you just answer the ones, 'cause I don't know which ones you picked.

Well that's great. Well,

Wendy: Natalie, thank you for having me again. I'm happy to be here in front of your community, so thanks for having me. Yeah. And um, I did get a chance to review all the questions and um, I categorize them and I have a little outline that I'm gonna go over and I'm gonna try to be as conversation as conversational as possible.

Feel free to jump in and ask questions if you want. Um, I also made a little summary of what I hope to cover today, and I'll share the links with you so you can share them with everybody afterwards.

Natalie: Oh, fabulous. That sounds great.

Wendy: Okay, so thanks for your questions. Uh, you know, there, there's a lot of great questions in what you submitted.

A lot of them I've seen before, a lot of them were new. So thank you for that because it got me to think about things I hadn't thought about before. But I really wanna start at the beginning and talk about timing and financial independence. So I know, um, a lot of people are stuck in unhealthy, toxic, abusive marriages and relationships and maybe that they have been, um, trapped financially, emotionally, and they just don't know when or how to get out.

Um, they may be afraid to get out, of course, they're afraid to get out. But one of the biggest issues that I see is people who just don't have the resources, the financial resources to get out and they wonder when. The right timing is to get out and pursue a separation or divorce. Um, and number one is if you are in an unsafe relationship or environment, you need to do what you can to get out immediately because you have to protect your safety above all.

And especially if you have children, you have to protect their safety. And it's easier said than done. I know some people are stranded and they have no community support. Um, but there are resources in the world. Natalie's one of the great resources that you have. But there are, you know, churches, there are shelters, um, there are places that will help you get out and you have to get out before you get hurt or before one of your children gets hurt.

So if you feel like you need time before you can get out, then you need to start coming up with a plan. You need to have an exit plan. Um. I was just talking to a client yesterday and we're preparing for a, a trial on the 24th. Um, and she was in a 10 plus year marriage slash relationship. They were dating before married

and things got to the point where she was, I mean, she really thought something bad was gonna happen.

Police had been called to their home and the police officer said, get out now. Do whatever you can get out. And she had \$400 to her name, two children, and she reached out to a shelter. It's rare that the shelter had, um, rooms available, but by the grace of God, it had a room and she got out and she lived with her children in a shelter for a year.

I talked to her about what the shelter was like, and actually the shelter was an entire home. Like it was incredible. So she and her children were able to live in the shelter for a year, and she learned about achieving financial independence, budgeting, um, not, uh, she learned about, um, not, uh, establishing boundaries with her soon to be ex.

Now, uh, there's a lot of classes she was required to take, but she's a much different person now than she was when she left. And, and, you know, regardless of where you are in this journey, you're gonna evolve into an amazing, powerful force of nature. You have to believe that about yourself. 'cause I've seen it so many times.

But if you're in that relationship and you're wondering, should I get out? You need to start making the plan to get out. Um, now don't wait. Uh, you can't time something like this. I mean, there's never gonna be a good time. You have to go before you're ready because you're never gonna feel like you're ready.

And just reach out, gather those resources, gather those key people in your circle, in your community, and make the plan and get out. Because above all, you have to protect your safety to make sure that you're around for your family and for your kids. So if you decide to get out and file for either divorce or separation immediately, there are ways you can force your soon to be ex, to give you, excuse me, give you financial support.

I. Even if the divorce or separation isn't final. So one of the ways that you can do this is by pursuing what are called temporary orders. So temporary orders are orders that are in effect while your underlying case is pending. So, um, you can ask the judge on a temporary basis to give you spousal maintenance.

You can ask the judge on a temporary basis to help to get you, uh, to give you child support. Now, you know, there are several steps that go into asking the judge for these things, but you need to know that these things are available to

you. Um, and you also need to know that in most places if you do file for temporary orders, I.

Those, the, the hearing is not probably gonna be held the next week unless there's an extreme emergency. It's probably gonna take a matter of weeks, a month, six weeks before your hearing is held. So if you don't have a lot of resources, you know, you have to plan in your head, how am I gonna survive? How am I gonna live?

How am I gonna feed myself and my children for this period of time? Between the time that I ask for temporary orders and the time that the judge actually has the hearing? You also have to mentally prepare yourself for gathering documents. So that's one thing I will say before you leave. As much as you can gather your important financial papers, gather all important papers, um, make sure that you can secure your com, uh, computer, your phone.

Um, one of the mistakes that I see people often make is that they have these Apple computers, right, with shared accounts. So even after they leave and they think they've established new addresses, somehow the X is still getting messages popping up on their end and that compromises the case. So do whatever you can to set something up that ensures your X does not have access to your stuff and get everything that you can in terms of finances, papers, statements, bank statements, credit card statements, um, loan applications.

If you've ever applied for, you know, an apartment lease or a car or a home, you know, that's good for establishing income in the future, especially when your access, I don't make as much as she thinks I do. Thinks I do. 'cause they always do. But if you have a loan application that says your ex represented they were making X amount when you were trying to buy a house, that is very helpful.

Also, bankruptcy paperwork is helpful. Get everything you can before you, you leave because you're gonna need it when you pursue temporary orders. And as part of the underlying case, whenever there are children involved, uh, or when you're asking for spousal maintenance, part of the formula is income. How much do you make?

How much does he make? How much is, are each of you capable of making? Um, so these documents will help you in pursuing temporary orders when you're pursuing. And I, I feel like it is, I'm like a fire hose of information. I could go on forever. But I will tell you also when it comes to temporary orders, you're gonna have to fill out this affidavit of financial information.

It's probably called something different. In every state, but you're gonna have to show the court why you need spousal maintenance and why most people need spousal maintenance. One of the reasons is because they can't be self-sufficient. What that means is you cannot support your needs based on your income.

So you'll have to estimate after you leave what your expenses are gonna be, what your needs are gonna be, what daycare costs are gonna be, especially AF if you have to go out into the world and work full-time. So when you're preparing to leave, you know, gather those bills, you know, come up with some averages and figure out what you think you might need.

Don't overinflate things, be reasonable and be, uh, but also be fair to yourself. Don't underestimate what you're gonna need. So, am I making sense so far, Natalie? Or am I kind of too all over the place? Yeah. Yes.

Natalie: No, this is making a lot of sense. Okay, thank you. All

Wendy: right, perfect. So one of the questions referenced, um, a spouse or soon to be ex spouse who is not working, who's refusing to work, who is pressuring, um, the wife to work and get a job and support the family, and especially when there are kids involved, I don't know that a judge can force somebody to work, but a judge can impute income.

To both parties. And what that means is if is if one party or the other isn't working, the judge is gonna look at, well, what kind of jobs have they had in the past? Or what do they have a degree in? Or what are their skills that they have and what kind of job could they get? And based on this, the judge could assign an income that's really not based on actual income, but based on potential.

This is called imputing income. So if you have a spouse who's refusing to work, take a look at these things. Where have they worked in the past? What if they capable of doing? And then, you know, go searching on job boards. Look at Indeed or Monster, some of those places and see what is up on the job boards, what kind of ads are up or postings for jobs.

See what those salaries are, print those out and use those as evidence of what your ex could potentially make. You have to know if you do this. That they're probably gonna do it for you too. Okay? So be real with yourself and you may have no experience. And in that case, what the judge will do is impute you minimum wage wherever you are.

And similarly, if your ex doesn't have experience in anything, the judge may just impute them minimum wage, which is not great, but that's what will happen. But if you can gather the evidence also of of past jobs that have been held, you know, past W twos, past 10 90 nines, past tax returns, that is gonna help you establish income moving forward.

So yes, your ex may be trying to force you to work, but your ex has a responsibility. To support the children and possibly you, depending on the circumstances of your case, so work to get this information about their job history and their job potential and their degree, and what types of jobs are being offered for somebody that has a degree like they might have.

Um, so, you know, and, and related to a spouse who's saying that they can't get a job there, a lot of times spouses, um, underestimate their income or they understate their income. They say, oh, well I'm only capable of making this much. They may or may not be, but if they're understating, I bet you can find jobs that are offering more than their stating that they can make.

And again, going back to um, you know, lease applications or car loan applications or, um, how home applications, look at what they stated for their income. That could help you too, especially when they're trying to understate. So, um, on the worksheet that I'm gonna share with Natalie, that she'll share with you, you know, there's some questions for self-reflection.

Ask yourself, what can I do to gain more financial independence right now? And what records do I need to be gathering before I file for separation or divorce? Um, you know, and, and the client I was talking to yesterday had been a stay at home mom, but she left and she knew she had to do something and she loved to sing.

She was really good at singing and so she put herself out there into the world and now she sings at upscale restaurants, um, and hotels. And she's emerging as a, a, a performing artist here in Phoenix. So she created that opportunity for herself out of this devastating experience. So I'm super proud of her for that.

Okay, so let's talk about a few of the questions related to decision making or child custody and parenting time. And I had a couple of questions that asked about, well, what if the other parent isn't following medical advice or directives? What do I do then? Like, how do I remedy this? Um, and. It depends, you know, it really depends.

Like one of the questions asked about supplements, so to me, like I'm a little fuzzy on whether a, a supplement is medically necessary. I take a lot of supplements as a menopausal woman, but are they medically necessary? Probably not. So are the supplements that your child is taking, are they medically necessary?

And will a doctor or medical professional say that? If you can get a professional to say these things are necessary and these are the consequences of the child or children not, um, following these treatment protocols, then that could be helpful in your custody dispute. But if they are things that are more kind of optional or that a judge might not think are medically necessary, I don't know how much luck you're gonna have enforcing, you know, what you think might be necessary.

Especially if the doctor's saying. It's not medically necessary. Um, so what I would do and what I've done in other cases where one of the, where the spouse is not following protocols, medical protocols is I just have my client document what happens to the child. You know, if these things aren't followed, you know, how's their attention, how are they performing in school?

Can they sleep? Are they acting out? You know, if there are ne negative repercussions from the failure to follow medical directives, that's good evidence because it's not in the best interest of the child for their lives to be up in upheaval when it, it's preventable. Um, you know, and this always depends, it's always subject to your judge too.

I mean, we all know that judges are different. They have different belief systems. Um, they have different biases. Um, they like certain types of people and they don't like others. I. Types of people. So I may think like we have a really great strong case for forcing the acts to follow these protocols, but the judge may not agree, and unfortunately the judge is the one that gets to make the decision.

But all you can do is gather the best evidence possible. And that ev evidence is medical evidence statements by the doctor, uh, you know, the records, um, you know, records of school performance, things like that. So that's what I would do if a party was not complying with the doctor's recommendations.

Natalie: Um, can I just jump in and um, and just say, like, reinforce something?

Yes. I think there's, there's a, I get a lot of questions about this that, where people don't understand what the, what they're looking for in court is. Is actual

like paper evidence. They're not looking for opinions. Like, I mean, they'll, they'll listen to opinions, but that's not what's gonna necessarily gonna weigh on their decision.

And I feel like that's always a surprise for people when they hear, oh, I guess I have to have, like, a doctor has to say that and put it in writing, and I have to present that. That's like proof of, or evidence that I have to present to the judge. And that's what the judge is looking for.

Wendy: Thank you, Natalie.

That is a really great point. Um, you know, and especially when it comes to something like medical opinions, that's not like in the realm of most people's expertise. Like, you can, you know, offer opinions on Yeah, my, you know, my son's not sleeping at night and I feel like it corresponds when he is eating gluten, right?

Yeah. But it carries, it only carries weight If you can get that from a doctor, and you're right, the documentation is everything.

Natalie: Yes. Um,

Wendy: right. And depending on where you are. Just the documentation may be enough, or the judge may wanna hear from the doctor. It really, it just depends. But yes, in general, if you have documentation of everything, it's preferable, not just related to the medical evidence, but um, you know, the things like, you know, the domestic violence, but it's not always necessary when it comes to domestic violence.

And I, I will talk about that in a minute, but, okay. Thank you for that. That's a great point. And, and just kind of a footnote on that, if you have an attorney, or if you don't, you, you need to disclose this documentation early and often in your case. Like it can't just show up for the trial and say. Here it is for the first time.

'cause it's not gonna fly. You may not be able to use it.

Natalie: Hmm.

Wendy: Um, and also, you know, I've had people on the other side of me who weren't represented. They show up for trial and they say, well, I have the

evidence. And I say, well, where is the evidence? And they tell me it's at home. Oh my gosh. Yes. Like, like trial is happening and you need the evidence.

So don't hide it, don't sandbag it. Like just get it out there. And that's leverage for you and your case. Yeah. Thank you. Uh, you're welcome. Thank you. So, okay. There was a couple questions too about, um, material changes or substantial changes in circumstances as a basis for modifying parenting plans. And this applies in most cases also to custody or decision making.

When I say custody, I mean legal custody. Um, legal custody, not physical custody. So legal custody is the ability to make major decisions about your children, right? Parenting time or physical custody relates to how much time your children have. With each of you. So you have to show, um, to modify usually a substantial and continuing change in circumstances.

My experience in Arizona, which is the only state in which I'm licensed, is that, um, it has to be pretty significant. And these, these changes have to be things that you didn't bring up during the last court proceeding. Um, examples of material changes could be the addition of a new child or children to the family, you know, to one of the families.

If there's a new family unit, one parent has remarried and is having children, I feel like just having, you know, more kids with a different partner is alone, is, it's huge, but it's not enough. Um, and. What I think about custody cases in general, not just, you know, when you're changing circumstances, is a judge is making decision based on the totality of, of the circumstances.

Not just one factor is gonna save the day for you or one thing. Like the more factors you can point to or the more circumstances that have changed, the better for you. So, you know, if somebody came to me and said, well, you know, I've remarried and I just had another child, I have another one on the way and I wanna modify, I would start exploring what else has changed.

Like, have you moved to a different residence? You know, is a child gonna be going to a different school next year? Um. Is your ex getting the, the child to school on time, or is the child late a lot? Is the child doing homework when they're with your ex? Is the child failing classes when they're with your ex?

I mean, those medical circumstances, if there's something that's changed, that could add to a change in circumstances. So when I go in to modify, I like to have more than just one thing that's changed. Um, a lot of times here in Arizona,

if there's just one thing that has changed, the judge will just kick it out with, without even having a hearing.

A judge will say that's not a material change in circumstances. So I just throw everything in the kitchen sink in there. So if you're preparing to go in for a modification, really like, you know, think about it and think, um, what are the, you know, what are more changes of circumstances that have occurred?

Um, relocation. This is another big one that comes up and. Um, so with relocation, usually in most jurisdictions, on top of those best interest factors, there's another set of factors that applies to relocation. So I'll just say this, Natalie, like one of my favorite things to talk about is the best interest factors, and those are the factors that judge looks at in making decisions about custody and parenting time.

So for anybody who doesn't know me or hasn't already checked out, command the courtroom, I would say a good starting point is to download that best interest c check checklist, which is @commandthecourtroom.com, or you can find it on the YouTube channel. Um, but for relocation. A judge is gonna look at those relocation factors, you know, and a couple of the factors in Arizona are, um, is the quality of life gonna improve for the child in the new place?

And, you know, another factor is, is there, um, an opportunity for realistic parenting time with both parents if this relocation happens? So, um, when I'm looking at pursuing a relocation case, I have my clients start gathering all kinds of information about the proposed new location, you know, what school is the child gonna go to?

What is the rating of the school like, what, uh, where are they gonna live, potentially, what subdivision, what type of house, what's the community support gonna look, look like? What medical support? Oh, thanks Natalie. What medical support is available, especially for kids who have special medical needs or special needs?

Are they gonna be able to have access to the same types of professionals and therapies, et cetera. So you have to gather all of that information. You cannot pursue a relocation case without it. If you do, you will lose relocation. Cases are difficult. They're really difficult to win. I've won several and I've probably lost about the same amount as I won.

Um, they're easier to win if you have a, a spouse or an ex who is not involved, who's not reliable, who's not paying child support, who's maybe moving all over the place, him or herself, um, and I'm not trying to discourage you from pursuing it because it is possible to win, but you just have to know like.

In most situations, you're in for an uphill battle. So get all your ducks in a row, Google relocation factors in whatever state you're living in, and hit those hard along with the best interest factors. Okay, so, um, self-reflection questions that will be in the worksheet. What concerns do I have about custody or decision making in my situation and how can I document patterns of behavior that impact custody?

Okay. High conflict co-parenting and protecting children. So, um, it doesn't matter what you say to a high conflict X, if you say the sky's blue, they're gonna say it's purple. They will never agree to anything. You and I know that. So what's really important here is that you draft a parenting plan that I.

Covers as many potential areas of conflict as you can, you know, and with the, with the parenting plan, like you can agree to anything outside of that parenting plan if you agree. But what you do need is to have a fallback option. If you do not agree that way, you're covered, right? So if you have a holiday plan but you decide to deviate, it's fine until it's not.

And when it's not, you need to be guaranteed that you're gonna have time over the holiday break. So, have specific provisions and you know, you have to pick your battles here. Um, your ex is, is gonna fight you having specific provisions in a lot of areas. So, you know, you may start with including provisions on everything, on your wishlist.

Be willing to scale it back 'cause they need to know, or they need to feel like they won something. We know that. But the more specific you can have it, the better. It's also a good idea with holidays and breaks and the normal parenting time schedule to kind of map things out in the future. I've had situations where, you know, it's hard to think five, five years ahead in the future that the calendar's gonna fall this way.

And because it falls this way, that means you're gonna have 21 days away from your child over the summer. And I've had it happen with clients who come to me and we're trying to fix it and summer's upon us. So, you know, try to map it out, look forward. There's an app, there's a lot of good apps out there as you know.

One of 'em I like is our day's calendar. Um, Dr. Sammy, he's been on my show at, you know, and, and he's an engineer and he's done a great job of. Developing a tool where you can look ahead. It's our days calendar.com, and I think it, it used to be free. I don't know if it still is. Um, and look at what that parenting plan might look like years down the road, but be as specific as you can.

Okay? So protecting your kids, you know, this is a hard reality to face and, you know, and you're not gonna be able to protect them from everything. So what you should try to protect them from is the biggest dangers, the biggest exposures. Um, and I mean, you can try to protect them as much as possible, but you know, a judge is not going to put in an order that, you know, a child can't eat out at McDonald's three times a week.

You know, a judge won't do that unless, you know, there's some doctor saying for some reason McDonald's affects your child in a certain way. You know, a judge is not gonna micromanage the other side. What a judge is gonna say is, this boils down to a parenting style difference. And I'm not saying this is right or wrong, but this is what I find to be true.

The judge is just not gonna micromanage your ex. So there's some things, well, not ideal, you know, you just may have to learn to live with and so will your child. Um, the bigger things like grooming children, you know, bathing naked with children, those are huge things. Those are big things, and they need to be documented, you know, not only writing them down, but you know, if you're not, you know, I, I, I would talk to somebody about them, um, law enforcement, some sort of child help, and just, I.

Make, make sure this stuff is down in writing. Uh, you know, and it, it's complicated if you're still living with your ex, um, and you're not ready to get out because obviously if you call the police and they come and get arrested and nothing comes of it, which often happens, or, or the child protective services and nothing comes of it, then you're in the situation when you're still living with them.

But, you know, that might be the thing that moves you to get out because you know, it's really affecting and traumatizing to the children if this is happening. Um, and potentially you could be on the hook for failure to protect. So you're subjecting yourself to criminal liability if you know this behavior's happening and you're doing nothing.

So definitely in a circumstance like this, I would talk to an attorney in your jurisdiction, and just because you talk to an attorney doesn't mean you have to

hire that attorney like a lot. I know it's expensive, I know to hire attorneys, but whenever I talk to somebody, like I just, I wanna help them and.

Even if they don't represent me, I want people to get headed off in the right direction to get a lot of value. So you will get some peace of mind if you talk to a good attorney. And that's another thing. Not all attorneys are good attorneys, not all attorneys give good advice. Seek referrals from your friends, family.

Trusted advisors for an attorney who gives good advice is honest, has integrity. 'cause not all of them are. And I, I know that and I experienced that, but you have to document and you have to take action one way or another. Okay, so kids' wishes. Another one of my favorite topics. Um, so like I was talking earlier about the best interest factors and a judge is just not gonna say, okay, this 14-year-old wants to live with mom, so he gets to live with mom.

I. Um, a judge is gonna look at all of the factors, the total, the, to totality of those best interest factors and determine what's best. In my experience, a kid, even an older kid saying, I don't wanna be with mom or dad, is not enough. It's one factor. Um, and it's an important factor the older the kids get.

So there's different, A judge is never gonna require a child to testify on the stand and be confronted by both parents. That causes trauma to the children. A judge is never gonna want a child to choose in front of the parents. So there's different ways, um, to get your kids' wishes out there. And sometimes kids do write letters, you know, or you have letters from the kids or emails or something like that.

You could use that as evidence. Never ever ask your kid to write a letter, you know, while you're in, in the middle of a lawsuit. Asking the judge to do something, don't ask them to do that. Um, I had a client do it once and it was against my advice and the judge punished her by giving the other side primary physical custody of the child.

Um, and the judge was very angry. But you can get, um, professionals to interview your child and hopefully they do it in a way in which they establish a rapport with the child and the child doesn't feel put in the middle and the child can express, this is what happens at mom's house. This is what happens at dad's house and this is what I would like.

Um, you know, it can be done in the context of a custody evaluation, this interview with the child. That's, custody evaluations are pretty expensive. Um, some of you, some of you have probably already experienced those, but that is

another way. But kids' wishes are important. They're not gonna be the end all be all.

Um, and for teenagers. I've had judges say, you know, this teenager has to see the parent that he doesn't wanna see. Um, and in one circumstance, the judge finds one of the parties if the teenager didn't go and see the father. And, and so what ended up happening was the teacher, uh, the teenagers started seeing the father in another situation.

The teenager absolutely refused. There were no penalties for the ch uh, teenager's refusal. Um, and the teenager just didn't go, wouldn't go. So it depends on the judge. The judge that imposed penalties was a pretty strict hard judge. Um, and his penalty on the mother ensured that the teenager was seeing the father.

So. Um, this is a hard situation as the kid gets older and as kids get older too, we all know, like they get involved in their sports and activities and boyfriends and girlfriends and they wanna spend time with less time with both parents because they're becoming independence and they have their own lives that they wanna live.

So that adds to the complication. Okay, so, um, food for thought, self-reflection questions. What boundaries do I need to set to protect my child? I'm sure you and Natalie have explored boundaries. Very good topic that all of us struggle with, no matter who we are or where we are on our journey. It's hard to set boundaries, but you can do it.

And with practice, it gets easier. And also another question for you to think about when it comes to these issues is, what evidence do I have or do I need to support my concerns? Okay, so let's talk about strategies for abusive exes who use the court system. Excuse me. So yes, there's people out there who file a motion every week.

I know because I have some of them on the other side of my cases. And, um, the biggest thing that I do when somebody does this is, and because I'm representing the party who's having to respond to all these motions, I ask the court to impose sanctions. I ask the court to impose attorney's fees and costs.

And in cases where those motions are bad faith or just become harassing and abusive, I've had judges order that and that usually puts a stop to it. Um, you know, looking ahead to when your case is gonna be resolved at trial, you can

use those motions. I'm guessing if so many motions are being filed, a lot of them are not being filed in good faith.

They are just to harass. You can use that to paint the picture, those motions. That is part of your story. That is part of your theme. That is part of your evidence of coercive control is the multiple motions. That's legal abuse. So even if you can't do anything about it, like right this second down the road, when you end up at a hearing or a trial, you can use that evidence.

Um, and so you know, that's particularly helpful for somebody who doesn't have an attorney. So you can't fall back on, well, judge, I want you to make the, the x pay my attorney's fees and costs for this abuse. That's a, that's a huge deterrent, but if you don't have that, it's part of your overall strategy.

And you're not gonna get like immediate relief, but you have it in your back pocket. Again, that's leverage. And you have to think about all the things that you could use in your case that could paint this picture of abuse, of your toxic x of the, the control of the power struggle. All of this plays a part of it, you know, uh, everything that's happened before the divorce and up to the divorce and during the divorce, including the legal documents that are filed during the divorce or separation.

So hopefully that's an angle that's sort of helpful. Mediation so many times. Um, I've had clients, you know, so there's a couple different types of mediation where I am. Sometimes I'm involved as an attorney, other times it just involves the parties. And before my client goes in, I always tell them, you don't have to agree to anything.

Mediation is voluntary. Nobody should be twisting your arm. And if you feel coerced in any way, then you can't arrive at a voluntary agreement. And, you know, if you feel uncomfortable, then don't do it. So many times I've had clients come back to me after we've been fighting, for example, for sole decisionmaking, and they come back from mediation on their own and they tell me, I, I agreed to join.

And I'm like, what? And they did it because they felt pressured by either their ex or by the mediator. And so I will just reiterate again, like, don't feel pressured. Um, if you truly think that a result is especially not in the best interest of your children. Like if you really truly feel that, then don't agree at mediation.

Um, and you have to really kind of do some self-reflection and some self-examination because, you know. Feeling pressured is different than feeling afraid. And when you're going through this, like you're gonna feel afraid because you're experiencing new circumstances, you're creating a new life. You know your future is unknown, and that is, that creates fear.

Um, but you have to distinguish, is that fear? Are you mixing it up with something that may or may not be in the best interest of your children? You really have to think about that, but I will say, if you're being browbeat in the middle of mediation, just say No. Don't do it, because it's hard to get out of a mediated agreement.

Binding extremely hard. If you agree to something that you feel pressured into agreeing to, especially if there was a third party media mediator there, you're gonna regret it for years to come. Um, you know, all the mediations that I go through here in Arizona are, when I'm involved as an attorney, uh, they do it caucus style.

It's CAU, uh, I think CUS caucus. So what that means is I'm in a room with my client and the other party is in a room by themselves or with their attorney. And the mediator kind of shuffles back and forth, you know, trying to help us resolve things. So in cases like this, especially when there's been domestic violence.

I'm usually okay with attending mediation. Um, 'cause we're not gonna see the, the other party and I tried my best to either get there super early so we can be put in a room and not have to see the other party. And then we leave first, and then ask the mediator to release them like 10, 15 minutes later. So caucus works well.

Um, and now I do a lot of mediations online, so that's good. Um, we don't have to face the abuser, um, which it can, can be very, you know, trauma triggering. In situations when you have been a victim of abuse and, and you think that you're gonna have to be in the same room with an abuser, like you really have to evaluate whether you're gonna be safe or not.

And I don't think a judge can force you to, to go to mediation, especially when you're being, you know, you're gonna have to be in a room with somebody who's hurt you. By definition, I mean, I think that that's just not voluntary mediation. You're being forced. But the most important thing is, is just don't agree to anything that's not in your children's best interests or in your best interest.

If you have any doubt, then take a pause. You, you can even say like, can we reconvene the session in like two weeks? I wanna consult with an attorney, or I wanna think about it. You have to voluntarily agree during mediation. Okay, so yes, Xs. Another question was about AEs, who were hiding financial information, not responding to discovery requests, not providing what you need and what they're required to give.

This happens a lot. Um, and you know, I always start with discovery tools. The tools of discovery are tools that permit you to request certain information from the x and under the rules in your jurisdiction. They're required to provide this information. Oftentimes they don't. So then you have to file what's called a motion to compel.

This information, and a lot of times they will give the information. Most of the time they'll give some of the information, and then you have to ask the court for more sanctions. So wherever you're located or if you have an attorney, I would explore motions to compel because if somebody's required to give information and they don't, then they could be required to pay attorney's fees and costs.

One of the favorite sanctions that I have. That judge is imposed when somebody doesn't disclose is the court can take certain facts as established, as established as true, or a judge can say, well then I'm gonna assume that this information that the other, the, the party didn't disclose would be detrimental to their position.

Um, so the fact that somebody doesn't disclose really could help your case. I also like to ask when somebody doesn't provide information that they not be allowed to present a defense or to be heard on those issues. That's something else that a judge can do as a sanction for failing to give information according to a motion to compel.

Um, you can always subpoena information that gets expensive, and also if you subpoena outside of the state, it gets complicated. I can't even imagine having to subpoena out of the country. I think one of the questions, um, related to information outside the country, but start with discovery tools. Motion to, uh, so discovery tools, just to glaze over it real quick, the tools are interrogatories, which are written questions.

You can proponent interrogatories on your X and there's two types of interrogatories. There's uniform interrogatories, which are the same set of questions in every case. And there's standard in your jurisdiction. Just Google uniform interrogatories and maybe it'll pull it up. And then there's non-uniform

interrogatories, for example, like in a case where, um, you know, there's been, um, child Protective Services involved.

I may do non-uniform interrogatories, which are questions that I just come up with that I think are related to this case. So you can propound standard uniform interrogatories, non-uniform interrogatories, and also requests for production of information. I. And you can just request that they produce, it could be bank statements, credit card statements, credit reports, um, operating agreements for businesses, like you can request almost any type of information.

Those are permitted by the rules in your jurisdiction if you're in the United States. And if there's consequences, if the other side doesn't comply, those consequences can only be imposed after you do a motion to compel.

Natalie: Can I just jump in here really quick and say something? Yeah, sure. Um, first of all, I remember hearing such big words, like legal words that were so confusing to me.

So I just wanna give a couple of tips. Sometimes you can figure out a word, like into, in atory. Wait, say that word again? Interrogatories. Yeah. Interrogatories. Interrogatories, yes. And you can figure out what it is from, from the root word, like interrogate, so that you know that that's about questions. Um, I used to take whenever I, and I do this with my medical health too, you know, I'll get a.

Diagnosis, and I have no idea what the words mean. So I actually Google each word and find out what everything means. But like, um, I noticed that, uh, like Wendy is saying the word sanctions a lot, and I remember not knowing what that meant, but now that I know, it makes total sense. Sanctions are basically like a penalty or a punishment on the other person.

But it's like the legal word for, you know what a judge, when a, when a judge puts sanctions on someone, he's penalizing them for some reason. So if you go back and listen to this again and hear what, when Wendy's using that word, especially in this last little section, that's what it is, it's a punishment, um, or a, not a punishment, but more of a penalty, would you say?

Absolutely, Natalie, and thank you for that. You know, and

Wendy: it's. Uh, I appreciate, like I try my best to, um, explain things and not so much legalese and I still have work to do. I can see that. Like it's the curse of knowledge. Right. And I Yeah, totally.

Natalie: I, I, I get it. And you've a, you actually do an amazing job.

I just, because those words were like, I remember because I have my own personal memories of things like that. I thought, you know, I'm just gonna jump in here and offer that for people who are like, you know, oh my gosh, some people I remember just wanting to melt down and not, and like shut down. 'cause it just felt like I'm not smart enough to do, I'm not smart enough to do this.

I can't figure this out, so I'm just gonna like, freeze myself out. And I just wanted to offer that for anyone who's might, who might be feeling that way.

Wendy: Thank you for that, that, you know, that's a great reminder. And I, and I just, you know, I, I, whoever watches this or is watching right now, I, I just wanna say that you are smart enough to do this.

Yes. Whether you feel like, whether you feel like it or not, you are. Um, and more and more people, I mean, there's always been people not represented by attorneys, but more, more people are getting informed. Um, and I have, you know, in the last couple years, had some cases with unrepresented people who did a phenomenal job.

In one case, a father one, one, and the facts were, I guess, more on his side. But he did a great job. So, you know, I just, it's a matter of just taking, taking it a little step at a time. And it's easier to get overwhelmed. But if you take it just a little piece at a time, you'll get there. Yeah. And hopefully you're starting early enough to prepare that you have the time.

Like where it gets stressful is yes, you have a week till trial and you don't know any of this stuff and you're representing yourself. Um, but you know, I tell people, especially as they're starting the journey, like you don't have to know it all at once. Like it took me, um, three years of law school and 25 years of experience to get where I am.

25 plus years, you're not gonna get there overnight. But in your case, if you know certain key things and you do just a little bit every day, it doesn't have to be a lot. That knowledge like starts to add up, it accumulates, and then like one day you're like, oh my gosh, like I'm feeling good. Like I'm feeling confident.

But you have to do a little bit of work. It's just like, you know, working out, um, or learning any type of other skill or learning a sport. You know, the more if you go out and, you know, like I just started learning how to play golf, um, within the last year and a half, and it was horrible in the beginning, but if I just went in

my backyard and hit tees for like 10 minutes a day at some point, like I realized like I could hit the golf, golf ball more and it just kind of happened.

But from day to day you don't see it. But if you do a little bit every day, then at some point you're gonna start to feel really good about things. So don't be too intimidated. You're not alone, but you can do this. I've seen people do it. Yeah. Yeah.

Natalie: And I just want, I'll just say one more thing too tho You guys all know that I recommend Amy says.com.

A-I-M-E-E-S-A-Y s.com. It's an AI specifically for abuse victims. Mm-hmm. And you can also run, like when your attorney comes back and says, if she writes you a letter and, and you don't understand what she wrote to you can actually copy and paste that into, Amy says, and Amy says, will actually interpret it for you.

And that will also help you to learn the terms and learn what things mean and what your, you know, what your attorney is looking for from you. Oh, that's good.

Wendy: I'd

Natalie: never

Wendy: heard of that,

Natalie: Natalie. That's, yeah. You, oh, you should go check it out. It is. It's really

Wendy: cool. Yeah. That's a good resource. And like, you know, on that note, you probably already told people to do this.

This is just kind of on the AI thing. Like I'm telling my clients when they get these really activating emails from their exes. Yes. Put them in AI and say, help me generate a non-emotional response that says this. And it's like, magic. You. Yes,

Natalie: yes. I, I, I will, you know that I'm going through a divorce, another divorce, and I've been actually doing that when I get, when I get emails from my soon to be ex.

And I'm just amazed at the way that AI can actually pinpoint everything that they're doing. It's helped me so much. 'cause we get really brainwashed, I think, by the person. And we don't see their tactics until someone tells us. And then it's like, whoa. Yeah,

Wendy: a hundred percent. You know? And even I get activated when I get like, you know, it's funny, like with the, you know, narcissistic parties usually choose the narcissistic lawyers and they Yes.

Right. And sometimes I get really triggered too, and I'm like, oh my God. Like I wanna kill this person. So, yeah. Yeah. Oh, I can't

Natalie: imagine.

Wendy: I always wait. I always wait at least a day. I never respond the same day. But I, I've started putting, you know, my res, you know, I put a query into AI and it just kind of just sucks the emotion and just energy out of it.

So, yes. Yeah. So

Natalie: beautiful.

Wendy: Thank you. So, okay, so we're coming down to the end and I think I have one more topic, broad topic. Do we have time still, Natalie?

Natalie: Yeah, let's do this last one and that'd be great. Okay. Thank you so much.

Wendy: Okay. So, um, legal, safety and protection. So, you know, and this relates to custody decision making and parenting time.

You know, we already kind of touched on this actually, but you know, documentation is huge and there's so many different unique types of documentation and evidence that you can use. I mean, like, there's no end. Um, and again, this is something you could type into ai. Like these are the issues in my case, like what kind of documentation would help me?

And AI will spit something out for you that's helpful. But the more documentation, the better. Now, just because my client gives me, you know, and I sometimes get thousands of emails and text messages. There's just no way that we can cover that in a trial. I always disclose all of it, but then for trial, I pick.

The strongest evidence that is most representative of whatever the point is that I'm trying to make, you know, if the X is just, you know, just, uh, verbally abusive, and that's one aspect, like I will pick the worst, the best, worst text messages in each emails that demonstrate that. Probably like 10 to 15 depending on the length of the trial.

And I show those to the judge. But a judge, you know, judges get cranky when you tell them, well, you read these 400 pages of text messages and emails don't do that. Um, also it's helpful for me and it's also helpful for the court if you can create what are called, I call them like summary exhibits. You know, and some of my clients are super organized with their documentation, but you know, I ask them, you know, can you organize these emails by the best interest factors?

And then how do I explain this? So for example, um, if we're talking about a spouse or a parent who is not. Allowing contact or interfering with contact. What I ask my client to do is to index the text messages or the emails that relate to that and create a chart and cross reference. So there's a certain numbering system that we use in the lot's called Bates number, and I think they also use it in medicine too for doctor's reports, B-A-T-E-S.

So you, you number each of the documents that you're disclosing. That way you can easily turn to them in trial. So we Bates number all of the emails or text messages and then my clients' cross reference those in like a summary chart so I can quickly go to those. When we're in trial. I, does that make sense?

Natalie: Yeah,

Wendy: it

Natalie: totally makes sense. Yeah. We kind of, we talk about this a little bit in one of the lessons in the prep for divorce course, you guys, so definitely go through that course. If you're here, it's probably 'cause you're going through a divorce, but, um, we talk about how you can organize your, your evidence.

Um, but yeah, this is, I like I'd never heard the terms Bates, so that's like, that's new to me. But yeah, that's a great idea to a number things. And then, um, and then you, you're pulling, when I, what I hear you saying is you're pulling out for a specific thing that you wanna make a point about. You're pulling out the specific emails that relate to proving that point so that no judge has to go, I, I have to pull this out myself.

No judge is gonna do that. You did it for them. You did it in a concise way, summarized it, and there's the evidence. And now that, that just makes this so much faster and easier. And the judge happier. I, I imagine

Wendy: that's what you want. You know, and, and this works well too with like financial documents. So say you have, I, like, a few years ago I had a spouse, an act, or another party who was saying, oh, I'm a car salesman and I only make, you know, \$40,000 a year yet, you know, we subpoenaed all his credit card statements and he was spending like, I mean, tens and tens of thousands of dollars on hotels and golf and dating sites, and he was paying his credit card bills.

So we were able to kind of construct what we thought he was earning based on those credit card statements. But a judge doesn't wanna look at five years of 12 months of credit card statements per year. So we created summary charts showing for each month and each year how much was being spent. And by, you know, according to what category, so

Natalie: beautiful.

Wendy: Um, that organization really helped us in that case and act. We used it to twist his arm and get what we wanted. So, um, okay.

Natalie: Oh, you just went, you just muted yourself by accident, I think.

Wendy: Yeah. It's like something, sorry. So, um, all right. If your ex is, um, displaying any of the unsafe behavior that we were talking about earlier, not only do you need to take some sort of action, but if you're already involved in the legal system, it may be time to ask for supervised parenting time.

And, um, you know, I think it's always good when you're asking for supervised time to have a plan. Like, this is the type of super supervision that I want. This is the parenting schedule that I want, and this is the type of supervision that I want. I either want a professional, super, super, uh, supervision agency or a professional supervisor, or I want this.

Third party that we both trust to supervise. The other thing you have to be mindful of if you're asking for supervised parenting time is, um, if you're asking for a professional to do it, who's gonna pay? You know, and if your ex has resources, then of course ask that. They pay every time. They're gonna say they don't have the resources, but you have to have a plan for who's gonna pay.

And you have to know that if you're asking your ex to pay and you're saying that they get eight hours, that's gonna get expensive. So one of the questions you just have to be prepared to answer is, well, who's gonna pay? And is it realistic? And research how much it costs for that supervision to happen.

Um, you know, so many times I ask for supervision and neither party can pay. So then it boils down to who can you agree to? Is there a third party? Is there a clergy member? Is there. Somebody who will agree that you trust is actually gonna supervise. Um, if you need to leave, then if you're in the middle of a lawsuit, follow, you know, follow the rules.

If you need to leave and remove the children to protect their safety, I would follow that up with an immediate emergency motion. An emergency motion for temporary orders. If you have to leave the state, um, then, you know, I would ask for an emergency motion, you know, and you have to outline why you need to leave the state.

Um, but I wouldn't ever do anything, um, that contradicts the orders. Like in Arizona, if there's a lawsuit going on, you can't remove the kids from the state. So if you have like a similar prelim, uh, similar order that's in effect, never go against the court order, right or wrong, don't go against the court order.

Um, and I'm talking about leaving the state. There was a question about. You know, um, moving, like just across the state border, like, you know, the person, there was somewhere that they could go, but it was in a different state, but it wasn't far away, but it was in a different state. So this is an area where I would ask for clarification, like airs.

Uh, Phoenix is huge. Like, you know, it, it could take an hour and a half to get from one end of the valley to the other. And the impression I got was this person's situation was that it was like a super quick trip from one state to the other. And that certainly seems reasonable, even if it is in another state.

Like if you can get to the other person's house in like half an hour or less, I don't see it being a big problem, but just ask for a clarification from your court or get an agreement if you can from the other side. Um, so self-reflection questions. What legal actions may help me protect myself and my children, and what steps should I take to document my concerns?

So always if you can consult with an attorney for guidance, one that you trust, always document everything. In a safe place, not on a shared computer or email address. Always stay informed and advocate for yourself and just know that you

can do this. Like you feel like you can't at times, but you can. I mean, trust me, you can.

I believe it for you. I've seen many people do it. And, um, Natalie, like I said, I have, um, a link I'm gonna share, you know, and I also actually created this little worksheet just for your community. And, you know, I was talking to my client yesterday, the one that we're preparing for trial, and she reminded me of a handful of other clients that I've had that are abuse survivors.

And I think that they all demonstrate certain qualities. And I just wanted to share the qualities that I think survivors embrace and share that help them thrive just as information for your community.

Natalie: That sounds. Very encouraging. I think that would, that would be really, that would very be very life-giving and uplifting for them.

Okay. Thank you so much.

Wendy: You're welcome.

Natalie: Do you wanna close by just reminding everyone again of where they can find you in your work? And I did put links in the chat, but I will also make sure I put these links in all of the places where we're gonna post this video, you guys.

Wendy: Yeah. So, and is it okay if I just share the links in the chat?

Yeah. That I was refer. Okay. Let me see if I can find the chat before I go. Um, okay. So, well thank you first of all for having me, um, and for your attention and for our, you know, friendship and our partnership and, you know, and I hope the information was helpful. Everybody, you can find me at command the courtroom, either command the courtroom.com, that's the command, the courtroom website.

Um, the platform that I'm on is YouTube. So if you just Google command the courtroom on YouTube, like there's 300 videos

Natalie: Yeah. On there

Wendy: that help you navigate your. Your case. Um, and I know that there's gonna be something for everybody in there. And the more you can get informed,

the more peace you're gonna find in your heart, which means the more power you're gonna have over your future.

Natalie: Yes. Yes. And I think you, I think YouTube has a search, you know, you can do a search for specific topics inside of someone's YouTube channel as well. So yeah, this is a channel that you're gonna wanna binge, especially if you're dealing with a, a crazy custody case. For sure. All right. Thank you so much, Wendy, for your time.

So appreciative of you and your work.

Wendy: Welcome. It was great to see you. And yeah, lemme know if you need anything.

Natalie: Alright, sounds good. Okay, thanks you guys. See you later. Bye. Bye.