

Vocational Forensics in Family Law Cases

By Julie Sawyer-Little

When Sharon and Frank Smith got married, they agreed she would keep her well-compensated, highly skilled job to pay for Frank to go to medical school. Then she would become a stay-at-home mom when they started a family.

Sharon and Frank are now getting a divorce. Their attorneys need to come up with a plan for her to return to the workforce and a child care plan for their young children.

In some situations, like this one, a forensic vocational expert may be retained by the attorneys to help create vocational and child care plans that may stand on their own or may be combined in an outcome that includes alimony, property settlement and child support for the spouse who is returning to the workforce.

FORENSIC ANALYSIS

A forensic vocational expert may be retained by a family attorney to provide an opinion on the employability options of a spouse in a marital dissolution case.

Julie Sawyer-Little, owner of Sawyer Consulting LLC has provided life-care planning and vocational forensic consulting since 1998. She received her Master of Science in rehabilitation counseling and vocational evaluation from East Carolina University. She is also a licensed occupational therapist. She has provided vocational forensic consultation, long-term disability evaluation and life-care planning services in the area of personal injury, workers' compensation, medical malpractice and family law. Sawyer-Little is a fellow of the American Board of Vocational Experts and experienced in evaluating level of work capacity, lost wages, benefit of training, and labor market analysis. For more information call (919) 772-1486 or visit www.jsawyerconsulting.com.



The vocational expert identifies the earning capacity (hourly and/or annual salary) based on the area (city or region) in which the spouse resides. This important component serves as a guideline to assist both parties and their attorneys, as well as the judge in deciding on the amount of spousal support to be granted. There are circumstances in which the forensic vocational expert is initially retained in a consulting role and later designated as a testifying witness. In this role, they would offer professional opinions in depositions and trials regarding all the previous areas mentioned.

The attorneys may retain the forensic vocational expert to serve in a consulting role as opposed to serving as an expert witness. A vocational expert, in a consulting role, would provide file review and assist the attorney in reviewing any vocationally relevant documents in the case. This expert is qualified to analyze pertinent research and data regarding market trends, availability of jobs, etc.

To be a credible consultant or expert witness, a forensic vocational expert should have a minimum of a master's degree in rehabilitation counseling or related fields. They typically hold a certification as a rehabilitation counselor.

These individuals have received training and have experience in vocational assess-

ment/testing, job task analysis, transferable skills analysis, labor market surveys, career development, knowledge of the availability of jobs, and an understanding of the emerging and phasing out of different occupations.

DISPLACED HOMEMAKER

Traditionally, the vocational expert is requested to evaluate the spouse (displaced homemaker) who has not worked outside of the home for a variety of reasons.

To revisit the case of Sharon and Frank Smith, Sharon needs an evaluation and plan for returning to the workforce. The vocational expert would provide a comprehensive assessment of her education, past work, and transferable skills and establish the steps needed to return to work. Sharon will likely need to update her skills prior to initiating her job search.

Another component which would need to be considered in the plan would be regarding the children. The vocational expert may provide guidelines or suggestions in regards to day care cost, after school care, transportation, etc. as these were services previously provided by Sharon.

EMPLOYMENT ASSESSMENT

A forensic vocational expert would request a consultation session with the spouse and complete an intake interview.

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The vocational expert may be required to administer vocational tests to evaluate the individual's aptitudes, achievement level and interests.

The vocational expert would provide a report outlining a reha-
information, and availability of jobs in the area in which the indi-
vidual resides.

In some instances, the spouse may be a displaced homemaker needing to participate in further education or training to update their skills and/or obtain an additional degree.

The vocational expert would provide a timeline and cost projection associated with retraining, as well as the expected salary outcome once training is completed.

RE-ENTERING THE WORK FORCE

Ms. Jones, 42, obtained her RN degree, and worked in the nursing field for 10 years. She has a child with cerebral palsy who requires 24-hour care. Ms. Jones resigned from her employment and began providing care to their child with a disability.

vocational plan to return to the nursing field. The following questions would need to be addressed:

- Is the nursing license current?
- What is the requirement for updating her skills to return to work?
- How much time will be required for her to return to gainful employment?
- Who will provide care to the disabled child, if/when she does return to competitive employment?
- What would be the anticipated annual earning potential as a nurse in her area after retraining?

Some of the recommendations could include child care coverage while the spouse is working, training cost to re-enter the nursing field, and cost of child care while she is training.

RETRAINING

become a stay-at-home mom. Now getting a divorce, she desires to return to her chosen occupation.

The requirements of the job have changed in the last 14 years so the vocational expert is suggesting Ms. Young participate in a

starting the job search process.

EARNING CAPACITY DIFFERENCES

A husband owned a large car dealership and his wife was employed part time with the company as a secretary so, there was a significant difference in their income. The vocational expert evaluated the present earning potential for both spouses.

The wife completed a basic nine-month business training program at a community college. She described her duties to include basic filing, managing incoming mail, answering the phone, taking minutes at staff meetings, and basic data entry.

An evaluation of the earning potential of both spouses would
wife would be entering the labor market, her anticipated earning potential would be established for a full-time position in the area in which she resides.

PAYING IT FORWARD

While clients and attorneys are sometimes reluctant to retain a vocational expert to help develop these plans, the expense should be viewed as a chance to pay it forward as one of the steps toward bringing about a fair and equitable post-divorce road map for the entire family.