

EMERGING FRONTS IN SEX TRAFFICKING LITIGATION CONFERENCE

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TRAUMA INFORMED LAWYERING



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Trauma Informed vs. Trauma Aware

- Trauma aware recognizes that trauma may affect memory, communication and decision-making.
- Trauma informed changes interview/deposition/cross examination structure, preparation and strategy.
- Plaintiffs' counsel perspective
 - Trust-building, pacing disclosure, preparing clients for the stress of litigation process.
- Defense counsel perspective
 - Information gathering. Testing information without needlessly provocative questioning. A trauma-informed process does not eliminate credibility analysis or rigorous fact development; it improves the overall litigation assessment and evaluation of cases.

Trauma Profiles: Intake Processing

- Training / Protocols
- Meeting the plaintiff where they are
- Single-victim vs. multi-victim cases
- High profile cases

Trauma and Credibility

- Credibility should be assessed through consistency over time, corroboration, ability to explain gaps and responsiveness to difficult facts, not demeanor alone.
- What does credibility look like from the plaintiffs' perspective
 - Preparing the client for credibility issues
- What does credibility look like from the defense perspective
 - Impeachment that clarifies record/assists with credibility evaluation from perspective of juror as opposed to attacks to credibility that may alienate the jury.

Depositions / Discovery Strategy

- Preparing for the deposition
- Strategy
- Focus and goals
- Themes
- Credibility at the deposition stage
- Other unique discovery concerns
 - Use trauma-sensitive strategy such as clear question structure, breaks, avoiding repetitive or argumentative questions and those that create confusion rather than useful testimony in transcript.

Case Valuation / Optics

- Key evidentiary factors for valuation
 - Corroborating witnesses; contemporaneous reports; institutional records; prior complaints.
- Key intangibles for valuation
 - Jury receptiveness; venue; public profile of defendant.