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Trauma-informed litigation

PROTECTING SURVIVORS IN SEXUAL HARASSMENT AND ABUSE CASES

Survivors of sexual abuse, harassment, and assault are among the most vulnerable clients an attorney will represent. They come to you not just with a legal problem, but with a nervous system shaped by trauma. The gap between what litigation demands and what traumatized clients can readily provide can be enormous.

As attorneys, we are trained to focus on gathering the information and documents necessary to prove our clients' claims. In the press of juggling our caseload and personal lives, it is easy to become so engrossed in leaving no stone unturned that we forget to slow down, communicate regularly with our clients, and keep them informed about their cases. When you represent traumatized clients, that approach is not an option.

This article offers a practical framework for incorporating trauma-informed lawyering across every phase of litigation – in ways that serve both your clients' well-being and their claims.

Why should you engage in trauma-informed lawyering?

Understanding how trauma affects your clients is not simply a matter of empathy – it is a question of competence. Rule 1.1 of the California Rules of Professional Conduct requires lawyers to maintain “learning and skill” adequate to the representation. Competently representing survivors of sexual abuse requires that you understand how trauma manifests.

Research consistently shows that trauma affects how people perceive the world, form memories, and communicate. In practice, this means that every stage of litigation – depositions, document collection, and written discovery – can function as a trauma trigger, destabilizing clients at precisely the moments you need them most.

Avoidance symptoms may present as missed appointments or delayed responses, behaviors easily misread as indifference. Hypervigilance can cause clients to perceive neutral attorney behavior as

threatening, straining your relationship with them. And dissociation can add another layer of complexity: Clients who partially disconnect during a high-stress proceeding may give vague or inconsistent answers that opposing counsel will exploit.

The legal process, by design, does not accommodate trauma well. It demands precise recollection on demand, linear storytelling, and confidence under pressure – exactly what trauma disrupts. These demands can be profoundly re-traumatizing for clients whose memories are fragmented, non-linear, or shadowed by shame. If you do not understand this dynamic, you risk misreading your own clients – or worse – presenting them in a way that invites attack.

Adopting a trauma-informed mindset

Understanding why trauma-informed lawyering matters is the first step; building the mindset to practice it daily is the next.

Yoga philosophy offers a useful framework. It asks practitioners to turn inward – to observe their own reactions, assumptions, and judgments before acting on them. This posture of nonjudgmental self-awareness is precisely what working with trauma survivors requires. Before representing a traumatized survivor, it is worth understanding how your own nervous system responds to difficult client interactions. You are not immune to frustration when a client is inconsistent, avoidant, or emotionally dysregulated. That inward awareness allows you to stay regulated, avoid inadvertent harm, and apply the following principles of trauma-informed representation.

First, trust is earned, not assumed. Do not expect a survivor of sexual abuse to confide in you simply because you ask them to tell you “everything” the first time. Trust develops over time through demonstrated patience, validation, and nonjudgment.

Second, understand how trauma affects perception, memory, and com-

munication. Trauma memories are often encoded during states of extreme distress and retrieved in non-linear, fragmented ways. This is why a client may be unable to recall exact dates, quantify how many times something has occurred, or provide other precise details. A client whose emotional affect seems incongruent with what they are describing is not necessarily lying. These are textbook trauma symptoms, not signs of deception.

Third, interpret client behavior through a nervous system lens rather than a judgment lens. A client who misses appointments may be overwhelmed or temporarily unable to engage with the trauma – not flaky. A client who seems angry and defensive may be in a hypervigilant state triggered by perceived loss of control – not difficult. A client who appears emotionally flat may be dissociating – not indifferent. This reframe is not merely empathetic; it is essential to understanding what the client needs in order to move forward.

These principles are not exhaustive, but they share a common aim: helping your client feel empowered, informed, and confident you will not judge or shame them.

Gathering information while mitigating retraumatization from the outset

One of the most consequential opportunities to build – or lose – a client's trust is during the intake and initial information-gathering. Your instinct is to obtain complete, accurate details as early as possible so you can evaluate the case and assess credibility. But that efficiency can collide directly with the reality of obtaining information from someone carrying trauma. The act of telling their trauma story to a stranger for the first time can be deeply destabilizing, and the intake itself can become the first moment the legal process feels unsafe.

An important tool you have is offering choices. One of the defining features of trauma is feeling a loss of control, and

retraumatization often occurs when that feeling is repeated. By offering choices about communication methods, meeting locations, and the pace at which information is shared, you restore some measure of autonomy to the client.

When your client first tells you what happened, your job is to listen. Let the client speak without interruption. Resist the instinct to clarify or impose chronological structure on a narrative that may not emerge chronologically. Save your questions for after the initial account. This approach often yields more useful information: Clients who feel heard tend to share more fully than those who feel interrogated.

Reduce the number of times a client must repeat their story; every retelling carries a toll. Coordinate with co-counsel, paralegals, and support staff to avoid redundant questioning.

The language you use matters enormously – not just for the client's well-being, but also to improve the quality of the information you receive. Avoid questions that, however reasonable they sound to an attorney, register as accusatory to a survivor: "Why didn't you come forward sooner?" is one of the most common examples. To a trauma survivor, that question echoes blame. In my experience, it may also be a threshold question for clients evaluating whether to trust you: I once had a client tell me she chose me over every other firm she had interviewed because I never asked it during the intake process.

When probing whether corroborating evidence exists, frame your questions carefully. Reassure the client that their account is sufficient for you to believe them – that you are asking about police reports, text messages, therapy records, or other documentation because the legal process requires you to do so, not because you doubt them. This distinction is critical, as it will help mitigate possible feelings of shame or self-blame if they do not have such documents.

Use validating language throughout the intake. Simple phrases like, "I believe you" or "I'm so sorry this happened," have a significant effect on a client's ability to open up to you. They signal safety and reduce the emotional resources a client must spend on self-protection.

Similarly, adapt how you communicate: Slow down, follow up in writing, schedule multiple shorter sessions, and be attentive to when a client is fatigued or overwhelmed.

Finally, from the outset, explain in detail what litigation entails. Being candid about the difficulty of the process is not discouraging – it is part of obtaining informed consent. Clients who understand what to expect are far better prepared to endure it, and for a nervous system primed for threat, replacing an unknown with concrete information is itself a form of reassurance.

Working with your client to obtain information during discovery

Interrogatories, requests for production, and demands for information about your client's experiences and mental state can be profoundly triggering for trauma survivors. Unexpected documents containing probing questions about the worst experiences of their lives can cause them to shut down entirely if they arrive without context or preparation.

Before sending any discovery requests to a client, call first. Explain what they will receive, what it means, and why it matters. Offer choices in how they respond. Some clients prefer to tackle discovery all at once; others prefer to work in smaller sections. Some will want you or a support person present when reviewing distressing material; others prefer privacy. Set deadlines that include weekends so clients who work full time have adequate time to respond. These accommodations are simple, but they go far in protecting your client and ensuring you obtain the information you need.

Prepare your client for the possibility that reading about their own experiences in formal legal language or encountering the defense's version of events for the first time may be upsetting. Encourage them to plan recovery time around key litigation events.

Finally, give your client adequate time to review draft discovery responses with you before they are finalized. Do not treat this as a formality. For a trauma survivor, reviewing the words used to describe what happened and confirming that they are accurate is an emotionally significant process. If handled with care,

it can itself be empowering.

Preparing your client for their deposition

Deposition preparation for trauma survivors should begin months, not days, before the scheduled date. Your goal is to ensure that your client understands the process, trusts you to be their advocate, has realistic expectations about what will happen, and has the tools to regulate their emotional responses under pressure.

Setting expectations early

Begin by demystifying the deposition process. Explain what a deposition is, who will be present, how the room will be configured, and how the transcript will be used. Normalize trauma memory explicitly by telling your client that it is entirely acceptable – and entirely truthful – to say, "I don't remember" or "I'm not sure." Many trauma survivors believe they must have perfect recall to be credible, and this belief causes enormous anxiety. Correcting it early reduces the pressure clients place on themselves.

Explain your role in protecting your client during the deposition. Describe what objections are and when you will make them. If the perpetrator will be present in person, prepare your client for that reality well in advance, as seeing the perpetrator across a conference room table can be deeply triggering. Discuss strategies for managing that moment with your client.

Reinforce your client's sense of agency. While they cannot control the questions opposing counsel will ask, they can control their answers, the pacing of the deposition, and when to request a break.

Explaining defense tactics

Prepare your client for what you anticipate defense counsel's tactics to be. Most fall into two categories. The first is attacking your client's credibility – often by deliberately exploiting trauma responses with aggressive or repetitive questioning designed to overwhelm, demands for perfect chronological recall, or requests for minutiae that most trauma survivors struggle to provide. The second is shame-based questioning that subtly or overtly places responsibility on the plaintiff, such as blaming them for not reporting sooner or arguing consent. Pre-

pare your client to recognize these tactics for what they are: litigation strategy, not truth-seeking.

Practice sessions and emotional preparation

Schedule multiple substantive practice sessions well in advance of the deposition. Use the actual deposition setting or a close approximation to reduce the novelty of the environment on the day itself. Practice the mechanics using neutral, non-triggering topics. Help your client develop coping strategies for moments of overwhelm: a grounding technique, a breathing exercise, or a mantra they can return to internally.

Avoid asking your client to repeatedly recount traumatic details, and avoid marathon sessions or overcorrection during practice. The goal is to build confidence, not compound anxiety. They already fear they will not be believed and are often their own harshest critic.

Normalize the physical and emotional reactions your client may experience during testimony. These responses do not undermine credibility if they are properly contextualized.

After the deposition ends, do not simply send your client home. Post-deposition support is essential. Discuss what support system they have in place and what their plan is for the rest of the day. Arrange for a support person – a therapist, partner, or close friend – to be available afterward. Depositions are among the most stressful events in a client's entire litigation experience, and acknowledging that communicates that you see your client as a person, not just another case.

How to protect your client during litigation

As plaintiff's counsel, you must invoke the statutory tools early and aggressively to shield survivors from unnecessary fishing expeditions into their sexual history. Rule 412 of the Federal Rules of Evidence shifts the burden to the proponent of sexual-conduct evidence to demonstrate its admissibility under a heightened standard. California's counterpart, Evidence Code section 1106, goes further – barring opinion evidence, reputation evidence, and evidence of specific instances of a plaintiff's sexual conduct to prove consent, absence of injury, or to attack the credibility of the plaintiff's testimony on those issues.

From the outset, resist any discovery into your client's sexual history, and direct defense counsel to the threshold requirement in Code of Civil Procedure section 2017.220, which bars such discovery unless the requesting party first obtains a court order by establishing specific facts showing good cause and that the information sought is relevant to the subject matter of the action. Together, these provisions allow you to foreclose one of the most retraumatizing lines of inquiry before they begin.

Additional protective tools are available and should be used proactively. Filing under a pseudonym limits public exposure and can reduce the harassment and secondary harm that often accompany identification. Seeking sealing orders, protective orders, or requesting in-camera review can protect sensitive materials from unnecessary disclosure. Pursue motions in limine on issues that, if

resolved in your client's favor, narrow the scope of testimony at trial. Each of these tools serves a dual purpose: advancing your litigation position while reducing the burden the process places on your client.

Conclusion

Trauma-informed advocacy is not a departure from zealous advocacy; it is an expression of it. The clients who walk through your door and carry the weight of abuse, harassment, and assault deserve counsel who is not only well-versed in the law, but also attuned to the person behind the case. Being trauma-informed benefits the attorney-client relationship in concrete ways: When clients feel understood, it enables them to open up more fully, provide more useful information, follow through on tasks, and ultimately present more credibly in legal proceedings. It also benefits you. When you understand why difficult client interactions happen, you are better equipped to respond with patience rather than frustration – and better protected against the burnout that so often accompanies this work.



Christina Cheung is a partner at Allred, Maroko & Goldberg, where she represents survivors of childhood sexual abuse and workplace sexual harassment. She presented on this topic at the National Plaintiffs' Summit in February 2026 and thanks her co-panelists, Abreen Haeggquist and Kelly O'Connell, for their contributions.