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PARENTAL ALIENATION: NOT IN THE BEST INTEREST OF THE CHILDREN

DOUGLAS DARNALL

EDITOR'S NOTE: Dr. Douglas Darnall is a practicing licensed psychologist and the CEO of PsyCare, Inc., an outpatient psychiatric clinic in Youngstown, Ohio. He is the author of **DIVORCE CASUALTIES: PROTECTING YOUR CHILDREN FROM PARENTAL ALIENATION** (Taylor Publishing Company, 1998). In the following essay, Dr. Darnall, drawing largely from his book, discusses how attorneys and judges can serve clients by recognizing, dealing with, and seeking to stop and prevent parental alienation. Because the essay is based largely on Dr. Darnall's book and because he is not a legal or academic professional, a bibliography of sources employed in his book appears at the end of the essay instead of traditional footnotes.

I. INTRODUCTION

During the crisis of divorce, most parents fear whether their children will emerge unscathed. Any reasonable and empathetic parent sincerely believes in the value of his or her children having a healthy relationship with both parents. Ideally, parents deliberately work on comforting and reassuring the children that no harm will come to them. At the same time, both try to strengthen their parent-child relationships without degrading the other parent or causing the children to feel divided loyalty. They encourage visits, talk kindly of the other parent in the children's presence, and set aside their own negative feelings to avoid causing the children distress. They are sensitive to the children's needs and encourage positive feelings toward the other parent. This outcome is the goal of not only the parents and children, but also the attorneys and judge involved in the case.

However, any number of events can destroy the fragile balance of peace between parents. If this happens, an injured parent may seek comfort by aligning with the children, especially since he or she may feel threatened by the children's love for the other parent. A pattern of alienation usually begins without any malicious or conscious intent to harm or destroy the relationship between the other parent and the children. Though most parents mean well, they are often unaware of how subtle behaviors and comments can hurt the relationship between the children and the targeted parent. In effect, alienation can occur in even the friendliest of divorces.

In unfriendly divorces, the effects are predictable. Custody litigation or struggles for parenting time creates unavoidable competition between parents. Children feel pulled in many directions as long as both parents want custody or feel they must fight for their fair share of time. Afraid of losing custody, a parent may feel an urgency to align with the children to help ensure victory. The other parent may retaliate with an insurgence of passion for winning their cause. They may have difficulty accepting that they must compete against each other to prove to the court that making them the custodial parent is in the children's best interest. The struggle between two passionate parents is a byproduct of modern-day divorce, and it sets the stage for alienation.

Alienation will continue as long as divorces—and custody battles—continue to increase at alarming rates. More fathers are becoming more comfortable in a nurturing and caretaking role and no longer adhere to the belief that they are genetically predisposed to be the inferior parent, and as a result they are seeking and being granted custody. Therefore, courts no longer automatically assume children are better off living with their mother. Meanwhile, mothers are realizing that the all-American dream of marriage, a home, and children is not a guarantee of emotional fulfillment. Many women now want an identity in both the workplace and the home. The high costs of living and supporting a family force women to work outside the home even when their children are very young. Consequently, women can no longer argue for custody because of an inherent birthright or ability to care for the children at home.

After the attorneys are gone and the case is closed, the parents must somehow pick up the pieces and establish a working relationship for the children's best interest. The issue for attorneys and the court is what they see as their role and responsibility for setting the stage in helping families to repair damaged relationships. Attorneys who take an active role in educating clients about parental alienation, parental alienation syndrome and where to get help if needed can help families get on with their lives with some semblance of harmony. While attorneys and judges should not become therapists, they can help set the stage for parents to work together in harmony by educating divorcing parents during litigation about parental alienation and how such behavior impacts the children.

II. BACKGROUND

In 1994, approximately 2.4 million Americans obtained divorces, including the parents of more than one million children under the age of eighteen. Nearly as many unmarried couples with children will separate. Thanks to sky-high divorce rates and recent increases in the number and

viciousness of child custody battles, there has been a marked increase in parental alienation. Children suffer from a breakup because they are torn, trapped, precariously balanced, as if one wrong move could cost them all their parents' love and acceptance. This can easily lead to disastrous effects on children. Various studies show that youngsters exposed to even mildly alienating behaviors may have trouble learning, concentrating, relaxing, or getting along with their peers. They have been known to develop physical symptoms and/or serious behavior problems. Clearly then, parental alienation can be a major factor in the pain of divorce.

A. THE NATURE OF PARENTAL ALIENATION

There has been a lot of confusion about the definitions of *parental alienation* and *parental alienation syndrome*. For purposes of this essay, parental alienation is any constellation of behaviors, whether conscious or unconscious, that could evoke a disturbance in the relationship between a child and the targeted parent.

This definition is not the same as Dr. Richard Gardner's definition of parental alienation syndrome, which he coined in his 1987 work, "The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse." Gardner defined parental alienation syndrome as "a disturbance in which children are preoccupied with deprecation and criticism of a parent—denigration that is unjustified and/or exaggerated." Dr. Gardner explained the term is similar in meaning to brainwashing, except the motivation for the alienating parent has both conscious and "subconscious or unconscious" components. Dr. Gardner further explained, in "The Parental Alienation Syndrome: Second Addition," that parental alienation syndrome "arises primarily in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from a combination of a programming (brainwashing) parent's indoctrination and the child's own contribution to the vilification of the targeted parent."

Parental alienation and parental alienation syndrome differ in important respects. First, parental alienation syndrome focuses on the child's behavior. It is often visible when a child refuses visits, expresses unjustifiable hatred towards the targeted parent, displays no fear of the court, harbors irrational beliefs shared by the alienating parent, and cannot see any good in the targeted parent. Children may have motivations that make alienation worse. Their desires for immediate gratification or avoiding discomfort makes them vulnerable to siding with the alienating parent. Children, often unknowingly, become

advocates for alienating parents by serving as spokespeople for their parent's hatred. The only exception to keep in mind is if children displaying these symptoms have been truly sexually, physically or emotional abused, as the child's feelings could then be justified.

Parental alienation, on the other hand, focuses not on the child's behavior, but on the parent's behavior. Parents can and will alienate without necessarily leading to parental alienation syndrome. The risk is that once severe parental alienation syndrome takes hold of the child, the process is almost impossible to reverse. That is why preventing and understanding parental alienation is so important. Parental alienation is reversible, most often through education. This is where the role of the attorney and the court becomes so important. They are usually the first to see the parental alienation and are in the best position to thwart the potential damage to the children.

There is a second major difference between parental alienation and parental alienation syndrome. Dr. Gardner emphasized that parental alienation syndrome requires the child to be an active participant with the alienating parent in degrading the targeted parent. If a child were able to ignore a parent's persistent attempts to degrade the other parent, then, by definition, parental alienation syndrome could not occur. Parental alienation focuses more on the parent's behavior than on the child's role in degrading the victimized parent. Thus, parental alienation can occur well before the parent's hatred permeates the child's beliefs about the targeted parent.

It is important to keep in mind that understanding parental alienation is not an issue of who is the alienator, or "bad guy," versus the targeted parent, or "good guy." A common mistake made by attorneys and mental health professionals is trying to place blame. Assigning blame is understandable, because many states consider which parent is most willing to foster a healthy relationship between the children and the other parent as a factor in determining the child's best interests. However, finding the most cooperative parent doesn't always solve the problem of alienation, since alienators usually feel as victimized as the targeted parent. The roles of the alienator and the target alternate between parents. The same parent can be both the alienator and the target depending on how he or she is behaving. Generally, one parent triggers the other. The targeted parent then feels defensive and, in turn, retaliates with alienating behavior. The roles become blurred, because alienation is a process, not a person or outcome.

Parental alienation varies in severity, as seen in the behaviors and attitudes of both the parents and the children. The severity can be of such little consequence as a parent occasionally calling the other parent a

derogatory name or as overwhelming as a conscious campaign to destroy the children's relationship with the targeted parent. There are three main kinds of alienators, and preventing or stopping alienation begins with learning how to recognize the three types of alienators, because the symptoms and strategies for combating each are different.

First, naïve alienators are parents who are passive about the children's relationship with the other parent but who occasionally do or say something to alienate or reinforce alienation. Most well-meaning parents will occasionally be naïve alienators.

Second, active alienators also know better than to alienate. Their difficulty is that the hurt and anger they feel continues to fester. They are very vulnerable to triggers, usually pushed by the ex-spouse, causing the parent to lose control over his or her behavior or what he or she says to the children. After they have calmed down and see reason, they may feel very guilty about how they behaved.

Finally, obsessed alienators have a fervent cause to destroy the targeted parent and any vestige of a relationship the children have with the targeted parent. Rarely does the obsessed alienator have enough self-control or insight to recognize how his or her behavior is hurting the children. In fact, he or she feels justified: His or her crusade is to protect the child from the evil of the court and targeted parent. A qualified evaluator may observe that the obsessed alienator's beliefs are irrational and even delusional. The obsessed alienator is always looking for support and affirmation that his or her cause is justified from so-called experts. These are usually the parents who bring an entourage of supporters, including the child, to court without being asked to do so by the court or attorney.

Obsessed alienators pose the most severe problems for attorneys and judges. Attorneys for obsessed alienators can inadvertently cause alienation by giving their client the message his or her behavior and cause are justified. It is very common for obsessed alienators to shop for an attorney or evaluator that will support their cause. Once the attorney starts to question the alienator's behavior and motives or raises questions about the child's best interest contrary to the alienator's goals, the attorney is usually fired and the alienator begins shopping again. These clients also usually want to manage the case and have attorneys do their bidding. They can be difficult for judges, because they want the court to punish and humiliate the targeted parent by denying visits and affirming the alienator's allegations.

Attorneys with an obsessed alienator as a client are in a difficult situation. They are ethically bound to represent the client's interest, and yet they are conscious that children's lives are involved. Once the attorney

starts to lean away from the obsessed alienator's cause, the attorney will begin to see his or her client's rage and manipulation. The client's obsession may intensify, sometimes to the point that he or she appears delusional, perhaps making accusations that the court is fixed or the attorney or judge is being paid off. In these circumstances, when the attorney believes that the children's interest are being threatened and not represented, the attorney should consider asking the court to assign the child a guardian ad litem. This helps the attorney out of an ethical dilemma and offers the child some protection.

B. SIGNS OF ALIENATION:

1. *In Parents*

Below are the more common symptoms of parental alienation. Many of these behaviors will look familiar, because some alienation occurs in all divorces. Some symptoms may come as a surprise, because many don't think of the behavior as something that can hurt children. Common symptoms include:

- Supporting the child's refusal to visit the other parent without reason;
- Allowing children to choose whether or not to visit a parent, even though the court has not empowered the parent or children to make that choice;
- Telling the children about why the marriage failed and giving them the details about the divorce settlement;
- Refusing the other parent access to medical and school records or schedules of extracurricular activities;
- Blaming an ex-spouse for not having enough money, changes in lifestyle, or other problems in the children's presence;
- Refusing to acknowledge that the child has personal property and denying the child control over taking personal possessions to the other parent's home;
- Rigid enforcement of the visitation schedule for no good reason other than getting back at the ex-spouse;
- Assuming the ex-spouse is dangerous because he or she had made threats in the past during an argument;
- False allegations of sexual abuse, drug and alcohol use or other illegal activities by the other parent;
- Asks the children to choose one parent over the other;
- Reminding the children that the children have good reason to feel angry toward their other parent;
- Suggesting adoption or changes in name should a parent remarry;

- Giving children reasons for feeling angry toward the other parent, even when they have no memory of the incident that would provoke the feeling, and especially when they cannot personally remember the incident or reasons for being angry
- Special signals, secrets, words with unique meanings, or a private rendezvous arranged between the child and one parent;
- An intention to use children as witnesses against their other parent;
- Asking the children to spy or covertly gather information to be used later against the other parent;
- Setting up temptations that interfere with visitation;
- Giving the children the impression that having a good time on a visit will hurt the parent;
- Asking the children about the ex-spouse's personal life;
- Rescuing the children from the other parent when there is no danger.

This list is not meant to be conclusive of all possible symptoms. As one learns more about parental alienation, one can add to it.

2. In Children

The symptoms of parental alienation describe a parent's behavior towards the child. It says nothing about how the parent's behavior impacts the child's behavior or attitudes towards the targeted parent. If parental alienation is successful and influences the child against the targeted parent, then the observer will see symptoms of parental alienation syndrome. For example, if a child doesn't appear to have a problem with visits, one can safely conclude that parental alienation syndrome is not severe or present. That is not to say that parental alienation is not occurring, and in time the child may display severe symptoms of parental alienation syndrome. Often, children appear healthy until asked about the targeted parent. Some of the behaviors an observer can expect to see in the parental alienation syndrome child include:

- A relentless hatred for the targeted parent;
- Parroting the alienating parent;
- Refusing to visit or spend any time with the targeted parent;
- Having many beliefs enmeshed with those of the alienating parent;
- Holding delusional or irrational beliefs;
- Not being intimidated by the court's authority;
- Reasons for not wanting to have a relationship with the targeted parent based only on what the alienating parent tells the child;
- Difficulty distinguishing between personal memories and what he or she is told;

- No ambivalence in a child's feelings; feeling only hatred without the ability to see any good in the targeted parent;
- No capacity to feel guilty about behavior towards the targeted parent or to forgive any past indiscretions;
- Sharing the alienating parent's cause to destroy the relationship;
- Hatred extending to the targeted parent's extended family without any guilt or remorse.

Children displaying these tendencies may well be the subjects of parental alienation by one parent. If this is the case, attorneys and judges need to know how to help stop it, as well as deter and prevent further alienation.

C. IDENTIFYING ALIENATION

Attorneys may be the first to see symptoms of alienation, and they can therefore help dilute the severe effects, as well as prevent more severe problems in the future, by recognizing an obsessed alienator. Attorneys need to know strategies for dealing with each kind of alienator. Typically, naive and active alienators can learn to curb their behavior with education. The obsessed alienator will, at some point, require professional intervention, though that is the last thing the obsessed alienator wants to hear.

It is helpful to recognize the more common symptoms of parental alienation that occur during litigation and understand how attorneys may unwittingly contribute to the problem. Learning to recognize alienating behavior will help attorneys better serve clients as they transition from a dysfunctional and hurting family into, hopefully, two healthy and loving families. What attorneys do and how attorneys work with these families can have a lasting influence for many years to come. Set forth below are some of the common situations in which an attorney may see alienating behavior by a client or a client's former spouse. Strategies for combatting alienation are discussed in Part V, *infra*.

1. *Expecting the Children to Keep Quiet*

It is natural for a parent to ask their children upon their return home, "How was your visit?" or "Did you have a good time?" Such questions are usually harmless. Parents should not become paranoid about asking children innocent questions about visits. However, there is a difference between these casual questions and asking for specific information that serves their personal interests.

One of the less malicious forms of alienation is expecting children to keep secrets. It can be very harmful to a child to be told by a parent to say nothing about what is happening with the divorce to the other parent. The child is not only placed in the uncomfortable position of lying to protect the alienating parent, but he or she is getting the subtle message that something is wrong with the targeted parent. The parent's rationale is that some things are none of an ex-spouse's business.

Asking children to keep secrets puts them in a difficult situation because it forces them to divide their loyalties between parents. Therefore, parents should not blame the children when they learn of secrets with the ex-spouse. Without being punitive, parents may ask the children about the secrets. If the child does not want to talk about the secrets, the parent should not push the issue. When the parent is alone with the ex-spouse, the parent can tell him or her that he or she has learned about the secrets. Without attacking or degrading the ex-spouse, the parent can explain his or her concern about how the secrets place the children in the uncomfortable position of having to lie and deceive. Usually, parents ask the children to keep secrets when they expect that the other parent will get angry about something or try to restrict the ex-spouse's activities with the children. Rather than asking the children to keep secrets, parents need to see if they can come to some agreement about the issue. If parents cannot get satisfaction, they should consider discussing the issue with a counselor, or have their attorney discuss the issue with the ex-spouse's attorney. Someone has to tell the offending parent to stop having secrets.

2. *Having Secrets and Codes with the Children*

When children and one parent have secrets, special signals, a private rendezvous, or words with special meaning, there is potential for damage to the children's relationship with their other parent. It is one of the most blatant forms of alienation. Telling the children, "Don't tell your mother," "This will be our little secret," or "When I say 'whimsy,' call me tomorrow," creates an exclusive relationship that psychologically excludes the other parent. The secrecy implies there is something wrong with the other parent that justifies such behavior. The victimized parent is portrayed as not understanding or as someone who "doesn't want us to have fun." Regardless of the excuses, the results are the same. The children are alienated from the victimized parent while the other parent is characterized as a special person who understands.

There are many reasons a parent would have secrets or private rendezvous with their children. The most frequent excuse is that the ex-spouse "will not allow me more time with my children." Thus,

parents say the ex-spouse "would have a fit if she knew the truth about the times I see my children." Sometimes, having a special relationship with the children makes the alienating parent feel powerful. It is almost like getting one over on the former spouse. The child becomes an unwitting vehicle for the parent's hostility.

However, having secrets, private codes, or rendezvous are damaging to children because they learn to deceive and lie. They become very confused from not knowing what is morally correct. If a parent has secrets with his or her children, he or she needs to stop the practice immediately.

3. *Using the Children as Spies Against the Other Parent*

Children get a very damaging message that demeans the targeted parent when they are asked to spy or gather information covertly about the other parent. The subtle message is, "Mom is bad" or "Dad is doing something wrong." These messages will cause the children to become suspicious of the targeted parent and to pull away emotionally. If the alienating parent is clever, he or she may lead the children to believe they are playing a game while gathering the information.

There are many reasons why a parent would use the children to gather information covertly about the other parent. The parent may be sincerely concerned for their children's safety and welfare. On the other hand, he or she may want to gather information that they can use later against the other parent. Whatever the reasons for spying, it is wrong. It teaches children to lie and sneak, and most important, to betray someone they love.

Of course, a parent's motivations for having children gather information may be even more clearly selfish. A noncustodial parent struggling with paying bills may want to know how his ex-spouse is spending "his" money. The custodial parent may have reason to believe that the ex-spouse is hoarding money rather than paying a fair share of child support. Knowing local courts often echo very traditional values, a mother may want to know if the children's father is having his girlfriend spend the night. Drinking and driving, punishing the children excessively, allowing their children to engage in reckless or dangerous activities, or failing to supervise are all reasons courts may restrict or ban visits.

Parents seeking to prove allegations often need the children's cooperation to gather information about when and where these questionable activities occur. A parent may think that if he or she can prove to the court that the other parent is mistreating or neglecting the children during a visit, the court will issue an order restricting visits to daytime hours or eliminate them altogether. Such parents may believe the end justifies the means because they are so intent on restricting or

eliminating visitation. Attorneys should be cautioned not to participate in such deceit.

Attorneys, however, are in a difficult position, because they may need information from the children that will help their case. Getting this information without hurting the children and without hurting the children's relationship with the other parent can be very difficult. This is part of the balancing act attorneys must perform. Before deciding the extent of involving the children in a case, it may be helpful to keep in mind the possible pitfalls: becoming a major contributor to alienation or, worse yet, inadvertently hurting the children.

Before deciding to gather information, the parent and attorney should ask themselves why they need this information. Is it pertinent for the litigation? If so, can the information be gathered by other means rather than asking the children? If the decision is made to ask the children, the inquisitive parent should be reminded about the risk to the children.

4. Using the Children as Witnesses in Court

A variation of gathering damaging information is using the children as witnesses against the other parent. When a parent decides to seek custody, he or she realizes the need to build a case against the ex-spouse to impugn their competency to parent. The parent, along with the attorney, knows this requires information. Boyfriends spending the night, drinking, smoking in the presence of an allergic child, or using drugs are all arguments that have been used to settle a custody dispute. As discussed earlier, the parent may draft the children into service to gather information covertly against the other parent. While the process is occurring, alienation evolves between the children and the targeted parent.

Attorneys must be careful about the possible consequences of using the children in court. Though the information they can provide is important, the attorney and parent must realize how the child will feel after the testimony. Often they feel guilty, fearful that the targeted parent will be angry, or depressed because of the betrayal. Children who are actually enthusiastic about testifying against a targeted parent are frequently severely alienated and thus will usually have very biased testimony. These children cannot be trusted to be truthful or objective. The only exception is when it is known the targeted parent has abused the child, and even then the court must be cautious. Children victimized by abuse are usually embarrassed and withdrawn, and thus they are not enthusiastic about telling their story before the court and their parents.

While children don't belong in court, sometimes it can't be helped. Hopefully, their appearance comes after a lot of reflection about how the

disclosure of the information serves the best interest of the children and weight against the harm it can cause the relationship with the targeted parent. On the other hand, if the information only serves the parent's interest in winning the case, the children should not testify.

5. *Dealing with Children Who Volunteer Information*

If the children volunteer information about what occurs in the ex-spouse's home, parents should casually listen to what they say. They should not interrogate the children by asking numerous questions. Instead, the children should be trusted to disclose any significant information. When they are ready, they will usually tell a parent if there is something wrong. Parents should listen to what their children say without getting upset, making judgments or accusations. Otherwise, the children will become upset, causing them to temper their story.

A parent who doesn't know how to ask his or her children questions can give them the wrong impression of what actually occurred. This can be dangerous and can lead to false allegations. Parents, and usually attorneys, are not properly trained to interview children. This is why a trained professional is needed to ask children questions about sexual abuse or some other serious offenses. Parents should not ask their children questions about the ex-spouse's behavior that may impugn their character unless the parent has a good reason to believe the child's safety is at risk. Satisfying one's curiosity is not sufficient reason for risking harm to a child's relationship with the other parent. Asking the children a provocative question will serve no purpose other than to cause great discomfort.

If a parent has more questions, he or she should direct them to the ex-spouse. It is important to remember that children are capable of lying, and their recall of past events is very susceptible to distortion, especially if an unqualified evaluator interviews the child. Further, parents can prevent problems by not asking their children or ex-spouse about an alleged incident unless they have good reason to believe something actually happened. One parent asking children questions without a basis to do so will raise doubts in the children's minds about the other parent's integrity. Though the questioning parent believes the reason for asking was innocent, he or she may precipitate alienation between their children and the other parent.

Finally, remember that children's accounts about what happened will not always be accurate. This is because of their young age, biased perception, and limited vocabulary. Younger children will take shortcuts explaining themselves because it is easier. Children may agree with a parent before they really understanding what the parent is trying to say.

This happens frequently with younger children because they are usually more concerned about pleasing a parent than being accurate in what they tell them. Asking child, "Are you telling me the truth?" is meaningless, because children always say, "Yes."

III. EFFECTS OF ALIENATION ON VISITATION AND PARENTING TIME

These common situations, as well as others, manifest themselves in specific situations. One of the major effects of alienation is confusion and problems relating to visitation and parenting. Visitation or parenting time is important. The amount of time children spend with noncustodial parents is often a barometer of alienation. Those who have regular contact and meaningful relationships with both parents benefit in many ways. This is why courts encourage frequent visits, assuming the tensions between parents don't harm the children.

A. BACKGROUND

Parenting time can be messy. The transfer of children from one parent to another and phone calls to make or change visiting arrangements provide the perfect breeding ground for conflicts and power struggles. Parents need to learn about the different ways parenting time is used to cause or reinforce alienation and what tactics can be used to prevent or resolve these problems before they become insurmountable. Unfortunately, there are many ways for one or both parents to use parenting time as a weapon against the other parent. Even the children can get into the act and cause problems.

This has implications for both custodial and noncustodial parents. Custodial parents often say, "He doesn't pay his support on time, so why should I worry about his visits?" This allows them to justify their refusal to allow the ex-spouse parenting time. Courts, on the other hand, do not accept this argument. In most jurisdictions, a parent cannot withhold parenting time because his or her ex-spouse is behind in child support. Parents may not like what they hear, but they need to be told by their attorney that paying support has nothing to do with parenting time. If the court order entitles the other parent to parenting time, the offended parent cannot take it on his or her own to withhold that time. As these issues are separate, parents must continue to allow parenting time and discuss what to do about the child support with their attorneys. It is surprising how frequently an offended parent's attorney has not told the parent that parenting time cannot be used as leverage to get support or to punish a former spouse.

Noncustodial parents, on the other hand, often ask, "Why should I continue to pay child support if I can't see my kids?" The answer is that the money is for the children's care, which continues regardless of whether or not the parent is getting a fair share of parenting time. Like the custodial parent, these parents need to be told by their attorneys that they cannot stop paying child support to retaliate for not getting parenting time. The children still need to be fed and clothed. The court views withholding child support under these circumstances as punishing the children, not the uncooperative parent. Unfortunately, the court does not have very effective sanctions when a parent refuses to cooperate with visits. Ideally, sanctions should not harm the children or the children's relationship with either parent.

Many problems with parenting time would be eliminated if parents followed the court order. However, parents who rigidly follow the court-ordered schedules often do so to satisfy their own needs rather than those of their children or ex-spouse. A request for a change in the schedule may be met with an angry rebuttal: "Why should I let you bring Tracy home late? You wouldn't give me the same courtesy." The rejecting parent may feel a sense of power from denying the other parent's request.

Conversely, excessive requests to change scheduled visitations are often disruptive and should be discouraged. Watching parents argue about changes in parenting time can remind their children of past fights. To keep peace, the children learn to keep quiet and not ask for any changes in visits. They learn to keep their desires to themselves. Former spouses need to learn how to work together on the issue of parenting time. Often, their attorneys can help educate them on these issues, which can do a lot to prevent future problems and helps the children. Following are several tips to keep in mind when educating clients on these issues.

First, if a parent wants to reschedule parenting time or bring the children home late, it should be cleared with the other parent before asking the children. Parents should not get the children excited over a special event that could be vetoed if the other parent doesn't agree to change the schedule.

Second, after getting approval from the other parent, ask the child how they feel. It is acceptable for a parent to ask for their children's input, but not in a way that makes children feel they must choose one parent over the other. One must be careful not to make the children feel caught in the middle. Parents can communicate their feelings about this by choice of words, tone of voice, and so on.

Finally, as mentioned earlier, parents must not set up temptations that interfere with the other parent's parenting time. This is unfair to everyone and will surely cause problems. These general tips will help solve some of the more common and simple parenting time problems. Following is a discussion of more specific situations and how one can deal with them.

B. COMMON ALIENATION-RELATED VISITATION PROBLEMS

The issues discussed above manifest themselves in specific situations. Below are some of the common situations attorneys are likely to see when practicing in this area. The examples include tips on dealing with the problems.

1. *"I Don't Want to Visit, and You Can't Make Me!"*

The most common symptom of alienation is the child's unwavering insistence on not wanting to visit the targeted parent. Some of their reasons may sound reasonable, while others are ridiculous. A teen in love would rather be with the boyfriend than seeing dad; sometimes an important ball game conflicts with mom's weekend. Even with good reasons, however, changing visits should only be an occasional interruption to a consistent pattern of visits. When the excuses become a pattern, one can reasonably expect that a parent is trying to alienate the other parent from his or her children. In such a case, an obsessed alienator is often behind the excuses.

The noncustodial parent has good reason for being suspicious when the other parent frequently cancels visits. The cancellations are a reminder of the custodial parent's power over the time the noncustodial parent spends together with the children. Noncustodial parents fear an abuse of power because there is little they can do about it other than file an expensive contempt charge against the custodial parent for failure to cooperate with visitation. The noncustodial parent must trust the custodial parent's motives and judgment for canceling a visit. For example, he or she must believe that a child's illness is serious enough to justify canceling a visit. If ex-spouses distrust each other, reasons for withholding visits may be seem like excuses.

2. *"Sweetheart, Do You Really Want to Visit Daddy This Weekend?"*

Courts differ on the matter of how much control a child has on deciding whether or not to visit a parent. Some courts insist that the

noncustodial parent's right to have a visit has priority over the wishes of the child. Other courts argue that children of a certain age, say sixteen, know what they want and should exercise greater control over visitation. Still other courts are vague about the child's power to decide. The important point is that the children's right to decide should be part of the court order and not up to the discretion of the custodial parent. If the court order is vague, mediation can help resolve the dispute and is less expensive than going back to court.

Courts must maintain the position that a parent should not offer his or her children choices that are contrary to court orders. Doing so sabotages the court's authority. Judges faced with such a parent can remind the parent that children have no choice about other matters, such as attending school, and visitation is similar.

However, it is difficult for a parent to know what to do when children complain about visits at the same time the court insists on compliance with the visitation order. The parent may want to support the children's wishes while knowing he or she could be held in contempt by the court. The parent's desire to please the children and frustration for having to enforce the visitation order will incite anger. The parent's anger may be inappropriately directed toward the ex-spouse for insisting upon seeing the children. However, to avoid the possibility of alienation, a parent should not give the children a false impression that they have a choice about visitation when, in fact, there is no choice. The custodial parent has a responsibility to ensure that this does not happen. The message is worth repeating: Children who are actively involved with both parents are more likely to be better adjusted than children alienated from one of their parents.

3. *"If the Kids Don't Want to See You, What Can I Do?"*

Rather than taking responsibility for interfering with visits, many alienating parents place the blame on the children. This can take many forms. First, the alienating parent can pretend to be a sympathetic harbinger of bad news: "Isn't it a shame that the children don't want to visit you?" Alternately, a parent may make a passive attempt to alienate by appearing neutral and uninvolved while denying any responsibility for the child's behavior. Such a parent may say, "My son knows what he wants. I'm not getting involved." Other alienating parents may profess a lack of control over the children's wishes: "I can't force them to visit! If they don't want to go, that's their choice."

Finally, the alienating parent may not believe a court order is necessary to do what he or she wants. In fact, the alienating parent is

often self-righteous in the belief that he or she is defending the children's rights, thus providing a justification for defying the court: "Nobody, not even the court, is going to tell my children they have to visit you. They have rights too." This final standoff between parents usually occurs with obsessed alienators, because nothing anyone does or says will change their position. They get very angry when anyone, including the court, challenges their authority to make this decision. How the targeted parent feels is completely unimportant to them. The targeted parent is now helpless because he usually can't get his point across to the alienated child, and the alienating parent has made her position clear that she is not going to do anything to help. Often the only choice the targeted parent has in this situation is to return to court.

4. *"Dad, I Can't Go to Disneyland. It's Mom's Weekend."*

Both parents should know the children's visitation schedule. The schedule outlined by the court will allow parents an opportunity to plan vacations and spend recreational time with their children. There should be no confusion regarding where the children are going on any particular week or weekend.

Parents know how easy it is to entice children to spend time with them. They know their children will want to go anywhere they think will be the most fun. Dangling a temptation like a trip to the amusement park or the beach will cause the children to feel torn between wanting to go and wanting to spend time with their other parent. This is a common alienating tactic. Children will typically not empathize with their targeted parents' dilemma. Instead, they are driven by their immediate desire to have fun. The children are frustrated and angry when a parent insists on the visit that interferes with something they would rather do. The children will vilify the parent who tells them they cannot go, while they will adore the other parent.

Parents should not invite children on a special activity when they know it interferes with the other parent's time with the children. They should ask the other parent about it first. They shouldn't even say anything about the activity to the child until they talk to their ex-spouse. If a parent says something to the child first and the other parent says, "No," the asking parent sets up the other parent for their child's wrath and hurt. Parents may justify the invitation by saying they are just thinking of the children. This puts the targeted parent in a no-win situation: If the non-offending parent insists on having the entitled visit, the children may feel resentful, but if that parent allows the children to go for the weekend, he or she will miss the time spent with the children.

This situation leads inevitably to alienation, and so parents must strive to avoid it.

Further, parents must keep each other informed of matters which affect parenting time. For example, whether the children are home or on a visit, both parents should know if their children are leaving town for an extended time. Such special occasions require parents to work together by negotiating changes with visits. The children should be given an opportunity to express their feelings about attending the function without interference or coaxing from either parent. For the children to feel comfortable about their choice, parents must set aside their feelings and consider their children. Otherwise, the children are again victimized.

5. *"I Have a Date. Why Do I Have to Visit Dad This Weekend?"*

When children become teenagers, their social life becomes more independent. Visits which interfere with their social life can become an annoyance, especially when they fall in love. Almost any teen would rather be with a boyfriend or girlfriend than with a parent, particularly when visits prevent access to their friend. Parents need to empathize with their children's desires and not take what seems like rejection personally. Instead, the noncustodial parent needs to be flexible and willing to negotiate. If a parent fights, he or she may get the visit, but this is scant comfort if a teen's attitude makes the visit miserable. Parents need to be told by the court to negotiate with teenagers.

6. *"Mom, Will You Come Get Me? I'm Bored."*

Rescuing is a subtle alienating tactic, because it allows the rescuing parent to appear as a concerned and caring parent trying to do what's best for the children. Any responsible parent seeks to protect children from any potential harm or threat to their safety, even if the threat is from the ex-spouse. When parents believe they have reason to be concerned, they will be vigilant and listen closely for anything that seems a potential threat or sounds out of the ordinary. At the same time, wise parents realize their children's account of what happens on a visit may be misunderstood or distorted. A wise parent will be cautious before reacting to what children say.

A parent going through a bitter divorce has a lot of hurt and bitterness that will influence his or her perceptions about the children's safety, the other parent's competencies, or the child's sense of responsibility. Sometimes an unbiased friend, or an attorney, has to help the parent put

risk in realistic perspective. This is particularly true when the parent has been abused and questions whether or not the children are safe and properly supervised by the other parent.

Sensing the parent's apprehension, the children may also start to fear being with the other parent. They approach the visit with a critical eye, looking for any fault in the visiting parent. Their demeanor is reserved. They may be looking for a blunder: drinking a beer, having a girlfriend or boyfriend over, getting angry. In the most nightmarish cases, kids panic at the thought of visiting, shriek and cry, run away, or call home begging to be rescued. Most often, however, the only fault children find with the visit is boredom. As soon as they feel uncomfortable, for whatever reason, they call home asking for the other parent to pick them up. The parent, sitting home worrying, is quick to jump in the car and come to the children's rescue.

When a child is rescued, he or she calms down and feels relieved. The immediate relief from leaving the visit reinforces the desire to be rescued. The next time the child is with the other parent, the problem gets worse: The child expects to get rescued, even though there is no threat to his or her safety. Therefore, parents should not rescue their children from the other parent unless there is a very real threat. Taking such a drastic action can cause alienation. Wanting to come home because of boredom is not a sufficient reason for rescuing.

7. *"One of These Days, I Know He's Going to Hit Me Again."*

Sometimes there is so much bitterness between the spouses that the mere sight of the other's face triggers intense rage. Whether the rage is justified is not the issue; parents always have a way to rationalize their anger. When parents cannot control their anger and be civil with each other, contact between them may need to be limited to a public or a supervised setting.

Many parents don't understand the limits of a restraining or protection order. Some question the value of a restraining order, but it can be effective with parents who respect the law. A restraining order is no guarantee that a parent's safety is protected, although it is more helpful than harmful. Some parents not intimidated by the legal system may ignore a restraining order, perhaps because they do not believe their ex will call the police or sign the complaint. They may also simply not care. Unfortunately, this happens too often with high-conflict divorces. Police and counselors at battered person's shelters will attest to their frustration when a spouse makes a complaint but won't follow through

with prosecution. An alternative to a restraining order that offers a helpful alternative in controlling the threat of violence is visitation centers.

Recently, visitation centers have emerged as effective methods for providing a safe and supervised setting for picking up and dropping off children after parenting time. Counties and courts without such centers may want to consider starting one. They are also very helpful in providing parent mediation and possible counseling for high-conflict parents. Domestic violence is a difficult issue, and unfortunately it is beyond the scope of this essay. However, it is crucial for attorneys to be aware of the role of domestic abuse in cases of divorce and parental alienation.

8. *"Sorry, Sweetheart, I Can't Come to Your Recital. It's Not My Time to Visit You."*

Courts can prevent much misunderstanding by being specific in outlining the parent's rights to attend the children's activities. Often, the noncustodial parent believes that he or she must have the custodial parent's permission to attend the children's activities. This sets up a potential power struggle between parents. Many parents, usually fathers, feel very humiliated by asking for permission. To avoid a possible fight and the humiliation from losing the argument, noncustodial parents refuse to ask permission. They just don't show up. Unfortunately, the children do not understand this. The children often interpret a parent's absence as rejection, not understanding the hurt the parent may feel not attending the activity. The child may assume the noncustodial parent does not want to attend, even if the rejection is caused by the custodial parent's lack of cooperation. The noncustodial parent misses the opportunity to see their children perform. The children are hurt. Everyone loses, except the alienating parent.

To avoid misunderstanding, court orders outlining parental rights should include a specific statement encouraging both parent's participation in the children's activities. If possible, a parent should not have to ask the other parent's permission to attend the children's activities. Both parents need equal access to such events as athletics, school parties, teacher conferences, graduations, or recitals. Attorneys should remember the following tips when confronting these issues:

- Courts need to encourage both parents to attend the children's activities;
- Parents should be encouraged to plan the children's social activities together if the activities are expensive or may potentially interfere with parenting time;

- Parents should be warned not to schedule the children in too many activities, since numerous activities interfere with parenting time;
- Custodial parents have more power than noncustodial parents do because they have physical possession of the children, and courts that sanction this power run the risk of enhancing the conflicts and hostilities between parents;
- Children's activities are for everyone to enjoy, so parents sometimes must be reminded to put their feelings aside and support the other parent's desire to attend school activities, games, or recitals;
- A subtle form of alienation occurs when the custodial parent, knowing the other parent made a promise to do something during their time, refuses the visit, since the child may blame the innocent parent;
- Children should not completely dictate who attends their activities; if having both parents present causes them tension, parents can help by being polite and focusing their attention on what their child is doing rather than on each other;
- Parents should make a conscious effort to give children permission to greet the other parent when both attend the same activity.

9. *"She's Got Gymnastics or Swimming Every Weekend. You Can't Expect Her to Visit."*

In recent years parents seem to be enrolling children in every outside school activity possible. There seems to be a belief that healthy, well-rounded children must be very busy or their peers will reject them. Very young children may start in dance, gymnastics, or karate. Older children are busy with music lessons, soccer or scouts. Parents frequently complain about the time spent chauffeuring children from one activity to another. Running around is exhausting.

Children should not be scheduled in so many activities that parenting time becomes impossible or restricted. Overscheduling is an act of alienation that causes stress to the children and inflicts damage to their relationship with their other parent. "If your father really cared about you, he wouldn't expect you to choose between scouts and visits. He should understand there are times when you are too busy to visit," is a statement that rationalizes a parent's attempt to alienate. In essence, the parent is saying that the children's activities are more important than any relationship the child could have with the other parent.

Attorneys need to be alert when a parent schedules children in too many activities. This practice is usually motivated by a parent's desire to live vicariously through the children's successes. Parents may have an unconscious need to enhance their own self-esteem through their chil-

dren's successes. They hope for bragging rights to embellish their own sense of self-importance. They appear driven in the quest for their children to succeed. They are usually the parents who yell the loudest at ball games, get visibly angry when a referee makes a bad call, or are quick to publicly criticize their children for a less than perfect performance.

There is no reason why one parent cannot be as actively involved as the other. If parents cannot solve their differences about children's schedules, mediation or a court order to change the children's social activities may be required. However, returning to court is an expensive and usually not very effective way to resolve problems between parents. The parents will continue to feel bitter after the hearing. What is best for the children is not always best for the parent. When it comes to visits, the children's interest should come before the parent's.

IV. CONFIRMING SUSPECTED ALIENATION

At this point, it should be relatively easy for an attorney to detect signs of parental alienation syndrome. Before one can act, however, it may be necessary to confirm one's observations by obtaining more definite information. This section focuses on various methods of obtaining more definite information about alienation.

It is important to remember, however, that allegations of abuse complicate the matter. When there are allegations of abuse, finding the truth becomes more difficult and usually requires an expert investigation. Most investigations are conducted by the state's children's service agency. This is fine if the investigator is adequately trained and qualified to conduct the investigation. If not, this poses a problem. The likelihood the child will distort his story or get confused increases as more people interview him. For this reason, it is best for the attorney to try to get the most qualified person to conduct the investigation as quickly as possible.

A. DEPOSITIONS

It may eventually become necessary to build a case for alienation, perhaps as part of a change of custody or other such proceeding. This can be difficult because of the problem of getting sufficient evidence to prove the other parent is trying to alienate the children. An attorney is often dependent on the client's account of the other parent's actions, and this is often not much help. One useful way of getting admissible evidence is asking the alienating parent questions in a deposition that will

elicit responses demonstrating alienation. After the deposition, the attorney will usually require an expert witness, such as a qualified therapist or psychologist, to review the deposition and testify in court to the evidence supporting parental alienation.

Sometimes the deposed parent will see through some of the questions and give the attorney appropriate answers. This itself represents important information, because such a parent is likely to be either a naive or active alienator. It is not likely that the actions of either a naive or active alienator will give sufficient justification for an involuntary change of custody. In such a case, gaining or changing custody will require a different approach.

Deposing obsessed alienators is easier, because they vehemently believe what they do and say. They are more open, because the intensity of their anger doesn't allow them to maintain sufficient self-control and think about the questions. The angrier they get during the deposition, the more useful information they offer. Their weakness is that they believe so strongly in what they are doing. They cannot see the possibility that what they are doing is wrong or hurts their children. To them, the other parent's attorney is the enemy and deserves contempt.

The questions below are designed to elicit alienating responses during a deposition. It will be necessary to rewrite many of the questions to make them more relevant to a particular case.

1. How would you describe your children's relationship with Parent prior to the divorce?
2. Have you had occasions since the divorce when you felt angry towards Parent?
3. Could you explain to the court the various reasons for your anger? (This line of questioning helps assess the Parent's possible motivations for parental alienation).
4. Since the date of the divorce have you ever made negative comments to your kids about Parent?
5. What type of comments have you made about Parent to your kids?
6. Since the date of the divorce, have you ever argued with Parent about visitation?
7. (If yes) Could you explain your reasons for arguing or why the arguments about visitation occurred? What were the issues?
8. What have you been doing to help encourage the relationship between Parent and Child?
9. Have you ever talked with your children or asked your children about Parent's personal life?
10. Have you failed to return the children from a visit? Why?

11. Have you ever commented to your children since the date of the divorce concerning any lack of money that was a result of the divorce?
12. Have you ever asked your children since the date of the divorce any questions regarding with which parent they want to live?
13. Since Child has been living with you, has Child ever talked to you on the telephone complaining about their time with Parent?
14. (If yes) After hearing Child's complaints, have you felt a need to pick him up from their Parent's home without Parent's consent?
15. Have you shown either of your children any of the legal documents associated with this case? What documents have you shown? Why did you show them?
16. Do you believe that Parent exaggerates Child's medical, psychological or health problems?
17. (If yes) Could you explain these exaggerations to the court?
18. Do you perceive yourself as having a very different parenting style than Parent?
19. Do you believe that Parent should follow your recommendations or beliefs about rules and discipline?
20. (If yes) Have you tried to communicate to Parent your beliefs about rules and discipline?
21. Do you believe that you have good reason for being critical of Parent's parenting skills? Why?
22. Has Child ever suggested to you that he had a good time with Parent?
23. Have you ever heard any complaints from the children about their safety?
24. (If yes) When you heard the children complain, what did you do to communicate with Parent the complaints?
25. Have you ever expressed your anger toward Parent in the presence of your children?
26. What do you think Parent's role as a divorced parent should be with the children?
27. What do you think the relationship should be with their stepparent?
28. Have you heard Child make allegations of abuse by Parent?
29. Have you ever known Child to exaggerate or lie to get what he or she wants?
30. What do you believe should be the Child's relationship with Parent's family?
31. (If negative) Would you explain your reasons why your Child's should not have a relationship with Parent's extended family?

32. Do you believe that Child has good reasons for not wanting to live with Parent? Why?
33. Do you believe that Child is old enough or is sufficiently maturity to decide for himself whether or not he should visit Parent?
34. Have you suggested to Child since the date of the divorce that he has the right to choose for himself whether or not to visit his Parent?
35. Since the date of the divorce would you say that there are occasions when Child is too busy to visit his Parent?
36. What have you done to help strengthen the relationship between Child and Parent?
37. Do you believe you have any responsibility to help strengthen the relationship?
38. (If no) Why not?
39. (If yes) Would you explain the steps you have taken to help strengthen the relationship between Child and Parent?
40. Do you believe that you know better than Parent as to what is best for Child?
41. (If yes) Could you explain the reasons for your belief?
42. Do you believe that Parent does not discipline Child?
43. Are you ever concerned that Parent is excessively punitive with Child? Why?
44. Since the date of the divorce, have you personally witnessed Parent being excessive with discipline?
45. Have you ever filed a complaint with the local Children's Service Board (your jurisdiction may have a different name for the investigative agency)?
46. Could you explain the reasons for your report? (This line of questioning may offer some insight into a parent's motivations for alienation, but at the same time it could open up a can of worms that will require a lot more testimony.)
47. Do you believe that Parent should follow your rules when it comes to how visitation is to be accomplished?
48. Do you believe that Parent should follow your rules or suggestions about how Child should be raised?
49. Do you believe that there are aspects of your private life that Parent has no business knowing?
50. Have you conveyed to your Child that he should not share any information or activities to Parent about your private life?
51. (If yes) Could you explain how you have communicated to Child that he should not share certain information with Parent?
52. What information about your life did you not want Parent to know?

53. Have you had any discussions with Child about your plans to gain his custody?
54. (If no) You mean to tell me that Child doesn't even know you are going to court to seek his custody?
55. (If yes) Then please explain what you and Child have discussed about how you are going to get custody?
56. Would you explain what those plans are?
57. Have you ever listened in on phone calls between Child and Parent?
58. Have you ever asked Child to get information for you or report for you on any of Parent's behavior since the date of the divorce?
59. Do you believe that the court has any right to tell you what to do with respect to your children and their relationship with Parent?
60. Would you describe Parent as a good parent or a poor parent?
61. Could you explain your reasons for your opinion?
62. Who initiated the divorce between you and Parent?
63. Could you explain the reasons for the divorce? (This line of questioning again is to assess possible motivation for parental alienation. The question is looking for continued bitterness, a sense of betrayal or anger.)
64. Do you blame Parent for the divorce?
65. Are you and Parent able to talk with each other without arguing?
66. (If no) Could you explain why you are not able to communicate?
67. Is Child presently having visits with Parent?
68. (If no) Could you explain to the court the reasons?
69. What is Child's attitude about seeing his Parent?
70. (If the child has resisted visitation) How long have you observed these behaviors?
71. What have you done personally to help Child overcome these feelings and encourage visitation with his Parent?
72. Do you believe that whatever problems have occurred between yourself, Child and Parent that these problems should be worked out?
73. Do you believe that working out these problems is in Child's best interest? Why or why not?
74. What do you see as your role in helping work out any problems that exist between Child and Parent?

There are many more questions that will bring out a parent's attitude about the child's relationship with the other parent. As one becomes more familiar with parental alienation, more questions will come to mind.

B. COURT-ORDERED PSYCHOLOGICAL EVALUATIONS

Another method of obtaining information is a court-ordered psychological evaluation. Such an evaluation can be very stressful because of the time involved, the cost and uncertainty about the results. In a climate of mistrust and hostilities, parents and attorneys are often suspicious about the fairness and ethics of the evaluator. The American Psychological Association has published recommended standards for conducting custody evaluations, but they are not ethical standards, per se. Some states have adopted specific standards, while other states rely on the APA guidelines, which may not be enforceable if there is a question about an ethics violation.

Before selecting an evaluator, it may be helpful to consider the following guidelines to avoid possible ethical violations and other complications. Many of the guidelines are taken from my experience working with the courts and the "Guidelines for Custody/Parenting Evaluation and Reports" adopted by the Ohio State Board of Psychology.

The most important issue is that the evaluator should be familiar with professional standards and guidelines for conducting custody evaluations. Therefore, he or she should be familiar with state laws about the allocation of parental rights and responsibilities. Further, if state law defines "best interest of the child," the evaluator must understand the definition and how it applies to the evaluation.

As a practical matter, the request for an evaluation should be accompanied with a court order signed by the judge or magistrate. The court order should outline the names of the parties to be evaluated, the name of the evaluator, person or persons responsible for payment, and a statement describing the purpose of the evaluation. Another practical concern is that fees for the evaluation, and who will pay them, should be established before beginning the evaluation. Don't expect or assume an insurance or managed care company will pay for the evaluation, as most don't. Remember also that if the evaluator bills the insurance company, the billing will have to include a diagnosis, which could be brought up in court. Most evaluators will expect payment in full before the report is dictated, since a dictated report can usually be subpoenaed. An experienced evaluator will not dictate until the evaluation is paid in full.

During the evaluation, the evaluator must remain impartial and objective. He or she is a gatherer and reporter of information. Therefore, he or she should keep clear and concise records and should not make any recommendations or psychological descriptions of individuals that were not part of the evaluation.

It is also important that the children and all significant parties should be part of the evaluation, although the evaluator may decide to limit the evaluation of younger children to observing their interaction with each parent. The participants should be told the purpose and scope of the evaluation before they proceed. Before the evaluation begins, I usually say, "The purpose of the evaluation is to give the court additional information that will help in making a decision. When I complete the evaluation, I will write a report for the court. It is important that you understand that there is no confidentiality. The judge or magistrate, attorneys and maybe you and your spouse will read the report. There is no privacy. If I make a recommendation to the court, the court is not bound by my recommendation because both sides can introduce additional testimony to which I may not be privy. The judge will see the entire picture, while the evaluator sees part of the picture."

Everyone included in the evaluation must be told, before the evaluation begins, the limits of confidentiality. They should know that much or all of the information gathered could be part of the report. This should also be told to the children in a way they can understand. Of course, they have the right not to participate in the evaluation or disclose information. This is especially important for children, in that they should not be forced or threatened into saying something that they will later regret when the information becomes public. The participants must sign a written release of information during the initial interview.

Evaluators must also guard against any ethical violations. One of the most questionable ethical violations occurs when the evaluator has a dual relationship with a parent or child, often because the parent or child is a former client of the evaluator. Other examples of a dual relationship are when the evaluator has had a previous business or social relationship with a party to the action. This can be a problem in a rural setting where there are few evaluators and everyone knows everyone else. In this situation, the parties may have to hire an evaluator from another county.

Finally, remember that psychologists frequently use tests to supplement the evaluation. The test results should not be used alone for making conclusions about custody. Instead, the conclusions and recommendations about what is in the children's best interest should be drawn from the interviews, observations, social history, test results, and information gathered from the interviews. Ideally, the information comes together into a cohesive picture.

C. THE COURT

Alienating and targeted parents often return to court. They are frustrated and angry because they feel helpless, and now they are looking to the court for help. At this point, the parents usually can no longer speak with each other without shouts of bitterness, accusations, or silence. Judges realize it does no good to order parents to cooperate with each other, because the orders usually fall on deaf ears. Therefore, the court may have to take a different approach.

Courts that understand alienation will recognize the importance of identifying and hearing high-risk cases quickly. The longer the court takes, the more damage will occur to these families and children. Signals of high-risk cases likely to reappear in court and require quick intervention often involve: complaints about visits being withheld; children frequently not returned on time (later than a half-hour); threats to abduct the children; allegations of sexual, physical, and/or mental abuse; alcohol or drug abuse; a severe mental disorder interfering with visits or the children's adjustment; and children refusing to visit. Judges need a mechanism to identify these cases and schedule a hearing as soon as possible. The court should not allow any unfounded delay tactics or continuances to prevent the case from proceeding as scheduled.

In my years of experience with the court, I am frequently surprised at how often cases get resolved after I have given parents the opportunity to vent their frustrations and feelings. Many times, parents just want to feel like they are respected and heard. They are often very receptive to a little education about parenting and the issues I have described in my book. About a quarter of the cases that I see no longer contest the custody recommendations because they understand the reasons for the recommendations and have had an opportunity to ask questions to someone they perceived as impartial.

Courts may be wise to find a mechanism by which parents can be heard, ask questions and receive helpful education. This mechanism must be fair and monitored by the court for compliance. Some courts use a guardian ad litem or an employee of the court to offer parental education. Parents involved with mild cases of alienation can benefit from education and improved awareness about what they are doing and how it affects the children. Sometimes having the parents complete a psychological evaluation helps the court gain better insight into the dynamics of the case.

In cases of more severe alienation, both parents should be ordered to a therapist. The court should compile a list of qualified therapists willing to work with these families and the court, including qualifications

for working with high-conflict parents and an understanding of parental alienation. Whether the children need to participate in the therapy should be left up to the therapist. The therapist needs to send monthly compliance reports to the court while maintaining the parent's confidentiality. This process can be very helpful for high-conflict parents before they introduce a shared parenting plan to the court. While this process is going on, it is important that the court not withhold visits unless there is a question about the children's safety. Withholding visits adds to the risk of reinforcing alienation because the children could believe there is really something wrong with the targeted parent.

In cases of severe alienation involving an obsessed alienator, the court must act quickly. Both parents need an immediate psychological evaluation, and the child or children need therapy because they will be very confused and may be expressing hatred towards the targeted parent. While the children are in therapy, they may be better off staying with a relative while having visits with both parents. Admittedly, there is no research supporting the recommendation that the children should be separated from the obsessed alienator while the parents are being evaluated and counseled. Logically, however, if the child stays with the obsessed alienator, he or she can sabotage the counseling and efforts of the court to resolve these issues. However, if the child is placed against his wishes with the targeted parent, the child could be frightened and rebellious. Thus, neither option is perfect. Nevertheless, it is imperative that the children continue to visit with both parents unless there is a concern about the children's safety, in which case, supervised visits may be necessary. Finally, any investigations of allegations of abuse or neglect should be conducted while the therapy is occurring.

V. COMBATING ALIENATION

Attorneys need to recognize the symptoms of alienation and how to respond to the three different types of alienators. What is not clear is how to rehabilitate the severely alienated child or the obsessed alienator. The reason is simple: There are presently no tested protocols for rehabilitating the severely alienated child or the obsessed alienator. A clearer picture is starting to emerge from the hazy fog of uncertainty, but there are still many unanswered questions to be researched. Deciding which strategies are best for dealing with alienation will depend on whether a parent is targeted by a naive, active, or obsessed alienator. Attorneys, mental health professionals, and judges will have different perspectives about what to do with alienation. Naive alienators should rarely appear in court because of alienating behavior. Active alienators, unable to

control their feelings and outbursts to the detriment of all, and obsessed alienators, hoping to cut off all contact between the children and the other parent, are the alienators most often seen in court. When a parent is the target of any kind of alienator, there are some things he or she needs to keep in mind to lessen the damage and hurt to the children.

A. STRATEGIES FOR SELF-HELP

The first option is to combat alienation by working to help oneself. This response must be tailored to the kind of alienation at issue.

1. *The Naive Alienator*

Remember that naive alienators are usually ignorant about what they are doing and have no malicious intent. A parent dealing with a naive alienator should not panic and should instead trust his or her relationship with their children. Children learn early that their parents will say things they don't mean. They are very adept at letting things go in one ear and out the other. If parents believe there is a problem trusting children's reaction to alienation, they need to focus on strengthening the relationship rather than retaliating against the other parent. They should monitor their own reactions and behaviors so they don't start their own alienating campaign. They should try talking to the other parent without making accusations or attacking. The other parent may appreciate their comments if the targeted parent says them with some sensitivity. Attorneys may suggest the following practices to clients in this situation:

- Be sure that the majority of time with children is positive, and avoid yelling and screaming which will drive children away;
- Praise children for what they do well; if all they hear is criticism, they will learn to avoid the source of the criticism;
- Play with them at their developmental level and do what they, rather than what parents, want to do;
- After discipline or punishment, make a point to make up;
- Listen to what the child has to say;
- Give hugs and kisses if they are receptive;
- Brag about the children to others;
- Attend school sport and social functions;
- Have their pictures around the house.

Strengthening the relationship with children takes time. Parents need to be reminded by their attorney to be patient and resist any desire to retaliate. Retaliation only makes matters worse and hurts the children.

2. *The Active Alienator*

How a parent deals with the active alienator is similar to the naive alienator. Parents must stay calm, trust their relationship with their children, and resist retaliating. The difficulty a parent has with the active alienator is the parent's inability to control the rage and hurt built up inside. The feelings can interfere with the targeted parent's relationship and time spent with the children. Together, both parents need education and counseling to focus on the issues causing the problems. Sometimes, the active alienator requires individual therapy to help with their loss and grief. A parent should support these efforts without being punitive. Taking this tactic, the children will be better off in the long run. Attorneys can be very helpful to their client if they are targeted for alienation by suggesting that they:

- Don't panic;
- Become a supportive listener;
- Guard against becoming an alienator, beginning by knowing the symptoms;
- Resist the temptation to argue or get defensive if the problem continues, and try to talk openly about what one is seeing and feeling.
- Work on keeping the relationship with the child strong;
- Don't violate court orders;
- Begin a log of activities if problems with parenting time develop;
- Don't be intimidated into stopping parenting time, and remember that attorneys can be crucial in advising parents of their rights.

3. *The Obsessed Alienator*

Dealing with an obsessed alienator is more complex and difficult than dealing with the other two types of alienators, because the alienating parent has already had considerable success in alienating the children from the targeted parent. The children may refuse to have anything to do with the targeted parent, making it next to impossible for the parent to talk with them and try to repair the damage. No matter how frustrated and angry a targeted parent feels, however, he or she should not give up on the children. The targeted parent should find some support, either from family, his or her attorney, a counselor, or other parents. Parents need to be sure to do whatever they and their attorney believe is necessary to keep visits going. Even if the other parent refuses visits, the targeted parent should keep trying and should maintain a log of his or her activities. Also, it is very important that the parent does not violate any court orders or do anything that forces his or her attorney to defend

the parent's behavior. A common tactic used by some attorneys is to deflect the issues by attacking the targeted parent and forcing his or her attorney to defend the parent's behavior. Parents should behave themselves so this does not happen.

The most difficult part of dealing with the obsessed alienator is keeping one's anger in control and not retaliating. Though it is understandable, retaliation usually does nothing more than cause the targeted parent more problems. In fact, the obsessed alienator will frequently use the targeted parent's retaliation, pointing out to the children how the parent behaved and reinforcing the argument that the parent isn't worthy to see the children. Again, the targeted parent is put on the defensive without having any access to the children to blunt the other parent's blows. Whatever the parent does, he or she must stay focused on keeping the relationship with the children strong and not entangle them in the fight with the alienating parent.

When a targeted parent begins to sense that the children are becoming alienated, he or she should immediately tell an attorney or mediator about what is happening. Parents should then look into getting a court order to get the children in therapy as soon as possible, with the understanding that the therapist will be reporting to the court. The therapist should monitor and report to the court the compliance to the court order. The therapist should also understand parental alienation syndrome. The following suggestions are other methods of attacking the problem of obsessed alienators. Attorneys can advise their clients of these suggestions:

- Don't give up on the children;
- Keep anger and hurt under control;
- Don't retaliate;
- Be sure the court supports continued visits;
- Don't stop going to visits; if the other parent refuses, keep showing up unless the court order says otherwise;
- Keep a log of activities, especially relating to visitation;
- Focus on keeping the relationship with the children positive, and don't pump them for information or begin counter alienation;
- Don't wait to intervene; if there is a problem, contact an attorney or get back into mediation;
- Seek a court order requiring both parents to get into family therapy;
- Monitor one's own behavior to prevent counter-alienation;
- If the problem continues, try to understand to what the other parent is reacting; if necessary, try to talk openly about what is occurring;
- Don't violate court orders;

- Use legal mechanisms like a guardian ad litem to monitor the parent's compliance to the court order.

These suggestions should help, but they do not guarantee that the problems will be solved to everyone's satisfaction. There is no magic bullet. That is why early detection and prevention before the alienation gets out of hand is imperative. Courts, mental health professionals, and legislators continue to look for effective treatment protocols for parental alienation and parental alienation syndrome.

B. PURSUING A CHANGE IN CUSTODY

Parents thinking about returning to court to seek change of custody need guidance from their attorney. Many times they have very unrealistic expectations about their chances of winning the case and haven't thought about the possible consequences of pursuing this course. Parents may feel mixed emotion when children say, "I want to live with you." They may be excited by the compliment and yet overwhelmed by the thought of the responsibility and lifestyle changes. Logistically, they may foresee many problems. They may not have a babysitter or adequate space. Living in an undesirable neighborhood for raising children could cause them concerns. While a parent gingerly inquires about their children's reasons, the parent can imagine how their ex-spouse will feel when he or she hears the news.

I do not recommend a parent seek a change of custody unless the child initiates the request or unless the parent has very good reason to believe the change would be better for the children. The attorney must tell the parent about the risks in seeking custody. If he or she loses, the relationship with the other parent can be seriously jeopardized, and alienation will intensify. The other parent may no longer be flexible and cooperate with changes in parenting time. Plus, this could be an expensive price to pay for a long shot.

Below are several specific points attorneys should discuss with their clients before deciding to seek custody. After considering these points and getting some education from the attorney, the parent should be able to make a more informed decision about whether or not to proceed.

First, when children are asked where they what to live, they may lie and say what they think a parent wants to hear. They do not mean to be malicious. Instead, they want to avoid hurting anyone's feelings. Often their stated desire to live with a parent is their way of saying, "I want mommy and daddy back together." This is particularly true with young children. The children's fantasy that somehow their parents will reconcile is very persistent, even with teenagers. Even when one parent has

already remarried, the children often express the hope that their parents will get back together again.

Second, when thinking about a contested change of custody, parents should be told that the process could move very slowly. This may cause reconsideration of a decision made quickly or in anger.

Third, parents need to learn about the laws for changing custody and the workings of their local court. Remind parents that it is the court, not their children, that decides custody. Parents should try to learn from their attorney the likelihood of success in getting custody. In many jurisdictions, getting an involuntary change of custody is nearly impossible unless there is a legal provision for the children to choose where they want to live. Otherwise, the parent must prove to the court that their children's best interest is served by their living with them. This often involves one parent publicly degrading or attacking the ex-spouse to support the argument that a change is necessary. Successfully attacking the ex-spouse's capacity to parent adequately is very difficult. Typically, courts are justifiably biased in the belief that the children are better off remaining with the custodial parent to preserve stability.

Fourth, parents need to be reminded not to make promises to the children about the outcome of the court proceedings. If an ex-spouse fights the other parent's attempt to gain custody, the time it takes in some jurisdictions to change custody can exceed a year. The attorney can give parents a better idea as to how long the process may take if the change of custody is contested or argued. Even if a parent feels confident telling their children, "After today's hearing you will come to live with me," they should not make promises they cannot keep. This can be very unsettling to the children. Often cases are continued when the court realizes that a full hearing is needed to settle the case. Even after the judge hears the testimony, it may take days or weeks for a decision.

Fifth, if possible, the parent should raise the question about seeking a change of custody to the other parent. The ex-spouse may feel hurt and angry, but it is better for the parent to raise the issue rather than having children do the dirty work. The issue is between the ex-spouses, not between the children and their other parent. Parents should not have their children be the harbinger of bad news. If a parent is afraid to talk to their ex-spouse about a change of custody, they should think about how their children will feel.

Finally, when a parent hears for the first time that their ex-spouse is seeking custody, they should not drill their children for answers about where they want to live and why. Parents need to keep their composure. They should reassure their children of their love while making no harsh declarations about what they are planning to do. Parents need to take

time to calm down and consult with their attorney to learn the best course of action. The attorney will advise parents what to do next.

C. COUNSELING OR MEDIATION

There is a difference between counseling and mediation. Counseling helps individuals or families alleviate emotional pain or change maladaptive behavior. Counselors usually have a minimum of a master's degree in counseling, social work, or psychology. In most states, they are licensed. A mediator is trained to work with couples teaching problem solving skills and resolving conflicts. Many mediators are not trained mental health professionals and have no training in family therapy or systems theory. Though their function is both helpful and beneficial, they are not equipped to work with high-conflict parents struggling with parental alienation or parental alienation syndrome.

1. *Mediation*

Mediation is a cooperative effort between divided parents and a neutral third person to develop healthy ways of settling differences about the care of their children. After a history of fighting and failing to solve differences, mediation may initially sound like a fantasy. In fact, however, mediation works. I think there will be a time in the future when all parents going through a divorce will be expected to have a family mediator to help resolve conflicts. The process makes sense, because going to court is too expensive, attorneys are biased for their client, and parents usually do not have the skills to resolve serious conflicts without some help. This is usually why most parents got a divorce in the first place. Unfortunately, having a neutral professional is expensive, time-consuming, and unavailable within a reasonable physical proximity to many families. When it is available, however, mediation can accomplish a great deal in less time than family psychotherapy and more cheaply than going to court.

The neutral third party may be a counselor, attorney, or a psychologist who has received specialized training in mediation. When looking for a qualified mediator, parents need to ask the individual whether he or she is a member of either the Academy of Family Mediators or their state association. Parents should be leery of someone who puts out a shingle and calls him or herself a mediator without documented qualifications and references. Requirements for becoming a mediator vary from state to state. To play it safe, parents may want to rely on a mediator recommended by their local domestic court or attorney, and they should obtain a court order mandating mediation. The details of the order are

important; attorneys would avoid a lot of confusion if the court order contained the following information and was signed by the judge.

The order should contain the name and address of the mediator as well as the names of all the family members ordered to mediation. This list could include the names of the stepparents, grandparents or anyone that is actively involved with the children. Though a family member's name may be listed in the motion, the mediator or counselor will have the choice to decide who needs to attend the sessions. If a family member is not on the list, the mediator will have no authority to require the member's participation. This can cause a delay while the attorneys seek to modify the original order.

The order should also state how the services are to be financed and who is responsible for payment. A court order cannot mandate an insurance company to pay for services not part of the insurance benefit package. Rarely will an insurance company pay for mediation even if the service is properly billed. Thus, the responsibility for payment should be assigned to a parent or parents and not an insurance company.

Finally, the order needs a description of the services to be provided and of the mechanism for reporting back to the court. This may include a letter by the mediator describing the services provided, naming the participants, and outlining recommendations. The mediator or counselor will be careful to respect the participant's confidentiality.

When a complete order gets the parties into mediation, the parents and the mediator seek agreements on how they can best take care of the children. The initial session generally begins with a discussion of the mediation process and an explanation by the parents of their concerns for the children's schooling, social activities, health care, safety, visitation, and rules. The emphasis is on having the parents make decisions together that will benefit the children. The mediator will discourage the parents from making accusations or laying blame. Little emphasis is made on looking at past mistakes. This is because parents usually do not agree on what happened in the past anyway. At the completion of the first session, the parents and the mediator decide whether to continue the mediation process. If they agree to continue, another session is scheduled.

In the following sessions, usually five or six, the parents share in a cooperative process of learning and making decisions. Together, they outline their points of agreement and then begin learning ways to work together to settle their differences. This is a give-and-take process in which the mediator may have to remind the parents about what is best for the children. The mediation usually concludes with a written agree-

ment between the parents. The plan, which may be submitted to the court, includes only those points of agreement.

Mediators are bound by an ethical code assuring the parents confidentiality. What they report to the court is limited to the signed agreement between the parents. The mediator may ask the parents to agree not to repeat what is said in mediation to anyone else. However, confidentiality could be forfeited if the mediator has reason to believe that one parent may physically harm someone.

Using a mediator to help parents from divided homes to resolve differences is becoming increasingly popular. The reason for the popularity is that it works. Parents who participate in making decisions and feel their concerns are heard are more likely to comply with a mediated agreement than a court order. This encourages parents to work together, and this is good for the children. Research has proven repeatedly that children make a better adjustment to divorce when they know their parents communicate and work together for their best interests. However, some continue to think of mediation as a fad. For others, mediation is a viable alternative to returning to court every year or two to settle disputes. While the process is clearly not a panacea for all the ills that trouble divorced families and their children, for many it is an effective method of resolving disputes.

2. *Counseling*

There are some family or personal problems that mediation is not intended to solve. Someone who has a mental disorder, abuses drugs or is abusive to people will require a more intense therapeutic intervention with a counselor, social worker, psychologists or psychiatrist. Most mediators are not qualified to work with those who need help specifically with parental alienation and parental alienation syndrome. From my experience, the counselors most effective at working with high conflict issues have been trained in family systems therapy, have knowledge of the laws and court, and understand the workings of alienation. Our court in Trumbull County, Ohio has put together a pool of counselors to work with these families. To participate in the pool, counselors had to go through our training and agree to report compliance back to the court. This has been working very well.

Some attorneys suspect that clients may need counseling but are not sure when a referral is appropriate. Most people start counseling to get relief from psychological or emotional pain. While everyone has days when one feels depressed, on edge, or anxious, having these feelings does not mean a person needs therapy. Rather, therapy is helpful when a person does not bounce back or recover from psychological pain or

persistent pain, and when poor coping skills interfere with daily functioning. A person has good reason for getting professional help when he or she is missing work, no longer enjoying pleasurable activities, drinking more, having trouble controlling anger, or withdrawing from friends and family.

Specifically, active alienators who are frequently triggered and expose the children to their anger may need therapy, since they usually have trouble separating ex-spousal issues from parental responsibilities. Obsessed alienators always need therapy, but they will often refuse to go and may be offended by a suggestion that help is necessary. Others who commonly need therapy are parents who spend too much time thinking about their divorce and having been betrayed by the system; parents who can't help driving by the marital home hoping for a glimpse of the ex-spouse or children; and parents who often think about their next phone call to the ex-spouse or the children and cannot seem to stop him or herself from making the calls. Other warning signs include an increase in the use of alcohol and drugs or an increase in high-risk behavior such as drinking and driving, unprotected sex, stalking, and harassing phone calls.

Sometimes parents have the idea, often reinforced by mental health professionals, that people should seek professional help whenever they suffer a trauma or a major loss, because they can't help but become emotionally scarred if the crisis isn't somehow dealt with professionally. This thinking is not always true. For thousands of years, people have suffered crises without getting therapy. Most seemed to get along fine, stumbling along for a while but often becoming stronger for their experience. They continue to function quite well and make tremendous contributions. I sometimes think many mental health professionals are arrogant to think they are the only ones qualified to help someone through a crisis. This is not always true. When parents do need help, however, they may need to be remind by their attorney that there is no shame in doing so. What is shameful is recognizing there is a problem and doing nothing about it. Some parents also need the reassurance that counseling will not hurt their case.

If a parent decides help is necessary, he or she should schedule an appointment with a local psychologist, clinical social worker or family therapist. There are local organizations that sponsor workshops or groups for people adjusting to their divorce. Other good sources are the family court, friends who have had an experience similar to the parent's, or local support or advocacy groups like Parents Without Partners, ACES or Fathers for Equal Rights.

When considering a therapist, a parent should not hesitate to interview the person to see if he or she is qualified. One should ask for therapists' qualifications and fees even if some therapists may be put off. Many parents have asked for mine. Remember that a parent trusts the therapists with their own or their child's well being, and their services are also expensive. A parent should ask them for other qualifications: How many times have they testified in domestic court? How many years of experiences do they have working with families? Who is the psychiatrist with whom they are working in the event medication or a psychiatric evaluation may be needed? What are the fees? There are no rules or specific qualifications that will assure a parent of the clinicians' qualifications. One must use one's best judgment.

There should be chemistry between the parent seeking therapy and the therapist. Sometimes this takes a while to establish, as with any other close relationship, so parents should not give up too easily. To do a good job, the counselor may have to tell the parent some things they won't want to hear at first. This is particularly true if the parent has been alienating their children. On the other hand, if the parent's gut instinct is that the counselor is off target and consistently puts them down or makes them feel more depressed, the parent should trust his or her instincts and look for another therapist.

VI. CONCLUSION

Many parents hope for a magic potion to solve the problems of alienation. Sadly, no such potion exists. For the time being, education, early recognition, prevention, expedient litigation, visitations centers, and qualified high conflict family therapists are our best hope for helping children and their parents. To reduce the number of casualties, there will need to be legislative reform founded on good research, validated intervention protocols for alienated children and parents, changes in social or sexist attitudes, and qualified interventionists. Though change is slow, legislators across the country are taking another look at what is happening in the courts. There continues to be an uneasy feeling that something is wrong and the system could better serve families. Informed attorneys and judges, however, can help improve the system.

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