



**South Carolina Bar**

Continuing Legal Education Division

**2024 In the Best Interest of the  
Child: Guardian *ad Litem* Training  
and Update**

24-002

**Friday, January 26, 2024**

*presented by*  
**The South Carolina Bar  
Continuing Legal Education Division**

<http://www.scbar.org/CLE>

*SC Supreme Court Commission on CLE Course No. 242346*

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# **2024 In the Best Interests of the Child: Guardian ad Litem Training and Update January 26, 2024**

This program qualifies for 6.0 MCLE  
SC Supreme Commission on CLE Course code: **Live In- person #242346; Webinar  
#242345ADO**

- 8:50 a.m. Welcome and Opening Remarks**  
Jenny R. Stevens, Esq.  
*The Stevens Law Group, LLC*
- 9:00 a.m. GAL Kickstart: Setting the Stage for Handling Your First GAL Case**  
Jenny R. Stevens, Esq.  
*The Stevens Law Group, LLC*
- 9:30 a.m. Courtroom Crossroads: The Intersection of Criminal Law & Family Law for the Child's Advocate**  
David M. Collins, Jr., Esq.  
*The Stevens Law Group, LLC*
- 10:15 a.m. Morning Break**
- 10:30 a.m. Insight, Not Inference: The GAL's Role in Illuminating, Not Deciding, the Facts**  
Jennifer M. Creech, Esq.  
*Law Office of Jennifer M. Creech, LLC*
- 11:15 a.m. The Invisible Wedge: Tools to Uncover, Navigate, Heal, & Halt Alienation and Alienating Behaviors**  
Leslie Armstrong, Esq.  
*Armstrong Family Law, LLC*  
*Dr. Yvonne M. Parnell*
- 12:15 p.m. Lunch (on your own)**
- 1:30 p.m. Parenting in a Changing World: Crafting Parenting Plans for the 21st Century Family**  
Kristina Parise Noë, Esq.  
*Parise & Noë Law Firm, P.A.*
- 2:30 p.m. Silent Voices, Loud Changes: The GAL's Role in Proving Substantial Changes when the Parents Fail to Do So at Trial**  
Jenny R. Stevens, Esq.  
*The Stevens Law Group, LLC*
- 3:15 p.m. Afternoon Break**
- 3:30 p.m. Child Custody and Visitation Case Law Update (2022-2024)**  
Gregory S. Forman, Esq.  
*Gregory S. Forman, PC – Charleston, SC*
- 4:15 p.m. Advice from the Trenches – GALs & Trial Attorneys Top Tips for New GALs**  
*Panel of Various Speakers from Today's Program*
- 4:45 p.m. Adjourn**

# 2024 In the Best Interests of the Child: Guardian *ad Litem* Training and Update

## SPEAKER BIOGRAPHIES

(by order of presentation)

### **Jenny R. Stevens**

*The Stevens Law Group, LLC*  
(course planner)

Jenny is the owner of The Stevens Law Group, LLC in Spartanburg. She was born and raised in Charleston, South Carolina, and is a graduate of the College of Charleston and Charleston School of Law. Prior to moving to Spartanburg, she helped form the Charleston County Custody Fast-Track Committee, which she co-chaired. She was trained and certified as a Volunteer Guardian ad Litem during her first year of law school. Following her certification, she devoted her pro bono service work to representing many children involved in abuse and neglect cases in the Charleston County Family Court. These cases, along with her own personal experience with divorce inspired her to practice family law in a way that focuses not only on the legal aspect of domestic relations, but also on the impact these events have on the individuals involved.

Jenny is a member of the Spartanburg County Bar Association, the Greenville Bar Association, the South Carolina Bar, the Association of Family and Conciliation Courts, the American Bar Association, and the South Carolina Women Lawyer's Association. Jenny is a frequent speaker at local, state, regional, and national continuing legal education seminars, and thoroughly enjoys engaging with her peers to better the practice of family law in South Carolina. She has been a certified private Guardian ad Litem for over 15 years and finds her work representing children in private custody litigation to be some of her most rewarding work in the practice of law.

When she isn't working, Jenny enjoys spending time at home with her husband, Ben (also a family law attorney, her law partner, and the current national President of the American Academy of Matrimonial Lawyers), and their six children, who range in age from 14 to 26, and her granddaughter, Nylah, who turned 8 this month. She and Ben enjoy traveling to attend and/or present at various family law and legal conferences, and occasionally sneak in some vacation travel, too. Mostly they spend their time learning to enjoy the growing quiet of their almost-empty-nest and trying to convince their four cats to use the new litter robot that their 14-year-old has nicknamed "the Ro-Butt."



**David M. Collins, Jr.**  
*The Stevens Law Group, LLC*

No Bio Provided

**Jennifer Creech**  
*Law Office of Jennifer M. Creech, LLC*

Ms. Creech is a graduate of Davidson College, and the University of South Carolina School of Law. Prior to law school, she worked as a Child Support Specialist with the South Carolina Department of Social Services and blames that experience for her decision to pursue her Juris Doctorate.

Ms. Creech was admitted to the South Carolina Bar in December 1998 while on active duty in the United States Marine Corps. During her time on active duty, she served as Environmental Counsel for MCB Camp Pendleton, Water Counsel with the Western Area Counsel Office of the Office of General Counsel for the United States Navy, Trial Counsel for MCAS Cherry Point, and Senior Defense Counsel for MCAS Cherry Point. Ms. Creech resigned her commission as a Captain in September 2006 and returned to her home of Rock Hill, South Carolina where she entered private practice as the Law Office of Jennifer M. Ash, LLC (now the Law Office of Jennifer M. Creech, LLC). Since September 2006, her practice is almost exclusively in the area of family law.

While in private practice, Ms. Creech worked as counsel for the York County Department of Social Services and counsel for the York County Volunteer Guardian ad Litem Program. She currently serves as Assigned Member to investigate as directed by the Chairman of the Resolution of Fee Disputes Board for the Sixteenth Judicial Circuit.

Ms. Creech is a member of the York County Bar, the South Carolina Bar Family Law division, the ABA Family Law and Solo, Small Firm and General Practice divisions, and the South Carolina Women Lawyers Association Old English and Military Law divisions. She is a certified Family Court mediator since 2011, and mediations are the highlight of her days.

Ms. Creech was formerly known as Ms. Ash. She is a distracted wife, exhausted mother of two teens, and obnoxiously dedicated to inclusive co-parenting with her former spouse. Somehow, it all works.

**Leslie Armstrong**  
*Armstrong Family Law, LLC*

Leslie Armstrong holds a Bachelor of Arts in psychology from Furman University (2007), a Juris Doctor from the University of South Carolina School of Law (2011), and a Master of Arts in clinical mental health counseling from Wake Forest University (2016). Based in Charleston, South Carolina, Ms. Armstrong is a licensed attorney in South Carolina and North Carolina, practicing almost exclusively in the South Carolina Family Court, and is also a South Carolina licensed mental health counselor and National Certified Counselor, having served as a coparenting counselor and as a Court appointed counselor for children and families involved in the Family Court system since 2017. She is also a Certified Family Court Mediator. In connection with her mental health practice,

Ms. Armstrong has served as a qualified expert witness in the Ninth Judicial Circuit, and today, Ms. Armstrong dedicates a large portion of her legal practice to serving as a Family Court Guardian ad Litem. She is a member of multiple interdisciplinary professional organizations from which she has received training in the area of parental alienation, including the Association of Family and Conciliation Courts and the Parental Alienation Study Group, and is trained in the Family Bridges protocol for the treatment of severely alienated children and their parents. Ms. Armstrong is grateful for the opportunity to present today, and strives to facilitate continued cooperation and collaboration between the legal and mental health fields on behalf of the children and families they serve.

### **Dr. Yvonne M. Parnell**

Dr. Parnell's education and training is extensive. She is a clinical neuropsychologist, clinical psychologist, and adult psychoanalyst in private practice. She trained with Bruce Perry and completed The Neurosequential Model of Therapeutics Training Certification through Phase 1 level. She is a trained Family Bridges workshop leader.

She transitioned to Acting Head of Building Family Bridges in January 2023 when Dr. Rand went on sabbatical. She is currently CEO of the entity, now called Family Bridges Institute, based out of Toronto, Canada. Dr. Parnell has been involved in 29 Family Bridges workshops. She developed the FB Aftercare Protocol for alienating parents, now the standardized protocol used in all Family Bridges cases.

She also trains professionals from around the world wishing to learn the Family Bridges methodology and presents at conferences on severe alienation and Family Bridges. She conducts outcome research on her work with Family Bridges cases.

Dr. Parnell has published in the fields of neuropsychology and psychoanalysis. She is currently working on two manuscripts related to her work in the parental alienation world; one, an autoethnographic analysis of a recovered abducted and severely alienated 11-year-old girl; and the second, on the outcome of her FB research which she presents today with Leslie Armstrong, LPCA

### **Kristina Parise Noë**

*Parise & Noë Law Firm, P.A.*

Kristina "Kristy" Noë is an attorney in Columbia, South Carolina with Parise & Noë Law Firm, P.A., and was admitted to the South Carolina Bar in 2013 after graduating Cum Laude from Wofford College in 2008, and the University of South Carolina School of Law in 2012. She is law partners with her mother, Sandra R. Parise, Esq., with the firm's focus exclusively on matters of family law, including both simple and complex litigation cases in the areas of divorce, custody, support, equitable division of property and related matters. Kristy also regularly serves as a Guardian ad Litem in contested custody and adoptions cases. She has spoken at other Family Law seminars, including at Hot Tips with the South Carolina Bar, and on numerous occasions to pre-law classes at the University of South Carolina Honors College. The mother/daughter practice was highlighted in Columbia Metropolitan Magazine in 2016 for their work together and Kristy was honored by her peers as a Rising Star by Super Lawyers magazine for 2022 and 2023. She has also been a co-editor of the 2016 and 2022 editions of the South Carolina Family Law Handbook and was a

contributing editor to prior editions.

Kristy and her husband, Zachary Noë, reside in Columbia with their two boys.

### **Gregory S. Forman**

*Gregory S. Forman, PC*

Gregory S. Forman is a sole practitioner in Charleston, South Carolina. A 1984 graduate of Haverford College and a 1991 Cum Laude graduate of Temple Law School, Mr. Forman has been a member of the South Carolina Bar since 1992 and practicing family law since 1993. His practice's emphasis is on family law at both the trial court and the appellate level. He has handled over 40 family court appeals, resulting in nine published victories (and a few published losses). He is a past president of the South Carolina Bar's Trial & Appellate Advocacy Committee and has been a mentor to numerous family law attorneys. He has an AV rating from Martindale-Hubbell and is a "Super Lawyer" according to SuperLawyers.com. He was on the Board of Editors for the 4th and 5th Editions of Marital Litigation in South Carolina.

Mr. Forman lectures frequently on Family Law to judges, lawyers, law students, and the general public. He has had 40 articles published on family law in publications including South Carolina Lawyer, the South Carolina Trial Lawyers' Magazine, The Bulletin, the American Bar Association's Family Advocate, and the American Journal of Family Law. His first published legal work, "Privacy Rights In South Carolina After Singleton v. State," in the March/April, 1994 Volume of South Carolina Lawyer, successfully predicted that Article, I, Section 10 of the South Carolina Constitution might protect the right to abortion—until it didn't.



# **South Carolina Bar**

Continuing Legal Education Division

## **GAL Kickstart: Setting the Stage for Handling Your First GAL Case**

*Jenny R. Stevens*

# **GAL KICKSTART: SETTING THE STAGE FOR HANDLING YOUR FIRST GAL CASE**

**by: Jenny R. Stevens, Esq.**

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## **INTRODUCTION**

Imagine you're stepping into a role where you have the power to bring positive change in a child's life amidst family turmoil. That's the essence of being a Guardian *ad Litem* (GAL) in South Carolina's family court. When embarking on such a journey it's vital to understand this critical role, especially in private custody and visitation cases.

You're here because you've chosen to be more than just a bystander in the complex world of family disputes. As new or aspiring GALs, you stand at the threshold of making significant differences in children's lives. This course will be your roadmap of sorts – one of many that you'll hopefully reference through the years of your career. We'll delve into the nuts and bolts of what it means to be a GAL in South Carolina, equipping you with the knowledge and skills to navigate your first case, and all the ones that follow, with confidence, skill, and compassion.

## **BEING THE CHILD'S VOICE IN THE COURTROOM**

Let's start by painting a picture of what a GAL does. Picture yourself as a detective, a voice, and a compass, all rolled into one. Your mission? To unearth the truth, advocate for a child's best interests, and guide the court towards decisions that serve those interests.

The legal backdrop for your role is set by South Carolina law. It outlines when and why you're called to action and the boundaries within which you operate. But remember, your role is distinct from that of a child's attorney. You're there to focus on the child's best interests, not just their expressed wishes or, even, their legal rights, since you are their Guardian *ad Litem*, not their attorney. Your reports and any conclusions you reveal and recommendations you offer can sway court decisions on where a child lives or who they spend their time with as well as how that time

might be spent potentially for the remainder of their childhood. It's a role filled with responsibility, requiring a blend of empathy, impartiality, and a thorough knowledge of many areas of law that affect families, as well as an in-depth investigation that is articulately presented to both the litigators representing the parties and, ultimately, the court. You'll find yourself navigating through the maze of family dynamics, where every step you take can, and will at some level, leave a lasting imprint on a child's life.

### **IT ALL STARTS WITH THE SOUTH CAROLINA GUARDIAN *AD LITEM* STATUTE**

Let's now delve into what could be considered the backbone of our work as Guardians *ad Litem* – the South Carolina GAL Statute. Think of this statute as your trusty guidebook, one that you'll turn to time and again as you navigate the waters of family court.

South Carolina, like most states, has its unique set of rules governing the appointment and duties of GALs in both private and institutional family court cases. These aren't just guidelines or suggestions for the most part; they are the rules of the game, defining how we play our part in the judicial system, and when we don't adhere to them, we risk damaging the credibility of the results of our investigation which could negatively affect the children we seek to protect. Let's look a little closer at what all is included in the statute:

### **GETTING 'CERTIFIED' AS A GUARDIAN *AD LITEM***

The family court requires private guardians *ad litem* to be “certified” in order to accept appointments from the Court as a child's GAL in a contested child custody case. However, despite this annual training and the prevalence of materials online that go into great detail about what qualifications and training guardians must have, there is often a misconception about what's really necessary. It's not enough to simply have a license to do another child-related or law-related job, such as a law license or a social worker license, etc. One must have very specific educational training completed before accepting the first GAL Appointment Order from a family court. And there is a specific number of hours of continuing education that must also be maintained every year to continue accepting those appointments.

Anyone wishes to be a certified GAL, who is not already a lawyer with an active law license, must also, as part of their initial education, observe three contested family court trials and

document their attendance using a form approved by Court Administration before serving as a GAL in any other case.

The GAL Statute lays this out very clearly in Section 63-3-820(A)(1-6) (*below*):

**SECTION 63-3-820. Qualifications.**

(A) A guardian ad litem may be either an attorney or a layperson. A person must not be appointed as a guardian ad litem pursuant to Section 63-3-810 unless he possesses the following qualifications:

- (1) a guardian ad litem must be twenty-five years of age or older;
- (2) a guardian ad litem must possess a high school diploma or its equivalent;
- (3) an attorney guardian ad litem must annually complete a minimum of six hours of family law continuing legal education credit in the areas of custody and visitation; however, this requirement may be waived by the court;
- (4) for initial qualification, a lay guardian ad litem must have completed a minimum of nine hours of continuing education in the areas of custody and visitation and three hours of continuing education related to substantive law and procedure in family court. The courses must be approved by the Supreme Court Commission on Continuing Legal Education and Specialization;
- (5) a lay guardian ad litem must observe three contested custody merits hearings prior to serving as a guardian ad litem. The lay guardian must maintain a certificate showing that observation of these hearings has been completed. This certificate, which shall be on a form approved by Court Administration, shall state the names of the cases, the dates and the judges involved and shall be attested to by the respective judge; and
- (6) lay guardians ad litem must complete annually six hours of continuing education courses in the areas of custody and visitation.

The statute also lays out very clearly who **cannot** be certified or appointed as a Guardian *ad Litem* in family court cases. See 63-3-820(B-E)(*below*):

(B) A person shall not be appointed as a guardian ad litem pursuant to Section 63-3-810 who has been convicted of any crime listed in Chapter 3 of Title

16, Offenses Against the Person; in Chapter 15 of Title 16, Offenses Against Morality and Decency; in Chapter 25 of Title 16, Criminal Domestic Violence; in Article 3 of Chapter 53 of Title 44, Narcotics and Controlled Substances; or convicted of the crime of contributing to the delinquency of a minor, provided for in Section 16-17-490.

(C) No person may be appointed as a guardian ad litem pursuant to Section 63-3-810 if he is or has ever been on the Department of Social Services Central Registry of Abuse and Neglect.

Lastly, the statute lays out for you how to provide proof to the Court in every case you're appointed that you have met and continue to comply with the above requirements (See 63-3-820(D-E)(*below*)). It also has a provision for how the Court may appoint a lawyer to represent you (assuming you are not a lawyer) should the need arise. There are situations where even a lawyer GAL might require independent counsel, and it is possible for the family court to appoint one for them under this same provision:

(D) Upon appointment to a case, a guardian ad litem must provide an affidavit to the court and to the parties attesting to compliance with the statutory qualifications. The affidavit must include, but is not limited to, the following:

(1) a statement affirming that the guardian ad litem has completed the training requirements provided for in subsection (A);

(2) a statement affirming that the guardian ad litem has complied with the requirements of this section, including a statement that the person has not been convicted of a crime enumerated in subsection (B); and

(3) a statement affirming that the guardian ad litem is not nor has ever been on the Department of Social Services Central Registry of Child Abuse and Neglect pursuant to Subarticle 13, Article 3, Chapter 7.

(E) The court may appoint an attorney for a lay guardian ad litem. A party or the guardian ad litem may petition the court by motion for the appointment of an attorney for the guardian ad litem. This appointment may be by consent order. The order appointing the attorney must set forth the reasons for the appointment and must establish a method for compensating the attorney.



While many will argue that the next section of the statute is the absolute most important (“the responsibilities” section), I always emphasize the Qualifications section. The fact that our legislature and courts lay them out in such detail means that South Carolina takes them very seriously, and therefore so should you. If you truly intend to have an active GAL practice, you need to print these qualifications and check over them every year to ensure you meet all the necessary criteria year after year.

The training you’re required to maintain isn’t just about learning the ropes; it’s about preparing yourself for the unique challenges you’ll face in some of the most difficult cases a family court considers each year. And once you’re trained, the yearly certification should be your badge of honor, a testament to your readiness to take on this role for the children who need you the most.

While not specifically addressed within the statute, another critical part of your qualifications to take on specific cases is whether or not you’ve disclosed potential conflicts related to the specific case for which you’ve been asked to accept an appointment. Potential conflicts are like hidden rocks in your path, which you need to have a clear and consistent in-office process to identify and therefore avoid.

Whether it’s a personal connection to someone involved in the case or a professional overlap, being aware of and transparent about potential conflicts is key. It’s about maintaining the integrity of your role and ensuring that your focus remains unclouded by personal biases, but it also avoids the uncomfortable and costly consequences of starting an investigation only to find out month into the case that you have a conflict that cannot or should not be waived, causing the parties (and the court) to start over in many aspects. This means lost money – for you, and the parties – but more importantly, it’s lost time for the children you were appointed to help.

### **WHY ALL THIS MATTERS**

Why do we focus so much on these pre-appointment considerations? Because being a GAL is more than just a title; it’s a commitment. A commitment to impartiality, professionalism, and, above all, the wellbeing of children. These steps ensure that you’re not just willing but also thoroughly prepared and qualified to take on this significant responsibility. They offer the judge who may be approving your appointment after consultation with the parties’ attorneys or appointing you based on their own knowledge of you and your work product a level of comfort that

they are making a good decision for the family who has asked the Court for assistance in resolving their child custody or other child-related differences of opinion.

### **EMBRACING LIFELONG LEARNING & MENTORSHIP**

Picture yourself embarking on an enriching journey as a Guardian *ad Litem* – a path where every step is an opportunity for growth and every challenge is a chance to learn. On this journey, two invaluable companions will be your guides: Continuing Education and Mentorship.

Let's talk about continuing education first. Imagine it as your ever-updating map in the dynamic landscape of family law and child advocacy. The laws evolve, new research emerges, and best practices in child advocacy are continually refined. By engaging in ongoing education, you ensure that your knowledge and skills remain sharp, relevant, and effective. Think of each seminar, workshop, or training session as a chance to add new tools to your GAL toolkit, tools that will help you navigate the complexities of each unique case with greater expertise.

I've had an active Guardian *ad Litem* practice for over 15 years now, and I still enroll in courses and CLEs almost every month of the year to keep myself aware of and educated on all aspects of the law and societal changes that may affect the children I represent in Family Court. I take courses even when I won't be awarded any CLE credit to meet our annual attorney license minimums and I take courses that have nothing to do with the law at all.

I keep my firm library stocked with resources from every discipline from law to psychology to sociology to child development, and I refer to them often when offering advice or guidance to attorneys representing parents, judges who are trying to decide how to craft an order, families seeking advice on how to make the best parenting plan for their children, and even to the children I meet in my cases, on how to handle what they're facing in these cases. These are all "best practices" that my own mentors handed down to me to navigate the cases I'm appointed to in the best ways possible. And the advice has proven to be true year after year.

Now, onto mentorship. Remember, no journey is meant to be walked alone. Having a mentor is like having a seasoned traveler by your side. These are individuals who've been where you are now, navigated the challenges you face, and learned valuable lessons along the way. In your first few cases especially, a mentor can be your sounding board, your advisor, and sometimes, your

beacon of hope. They can provide practical advice, share insights from their experiences, and offer the kind of support that only someone who truly understands the role can.

This seminar is a perfect opportunity to reach out to the other attendees and find new mentors from around the state. I have mentors who practice in almost every county in the state and will always continue to build my network of GAL mentors. The times those connections have been able to walk me through things in cases that their resident judges are looking for when a GAL presents a report cannot be quantified at this point in my career, but they have been invaluable to me as a professional, but also to my ability to properly advocate for the best interests of the children I represent.

Why emphasize these resources, especially in your early cases? Because the world of a GAL is both challenging - both emotionally and professionally - and it's ever-changing. Each case you take on is a new story, with its unique family and their unique nuances and complexities. That's before you take into consideration the nuances of each county you may be appearing in while doing this work. By leaning on the wisdom of mentors and staying abreast of the latest developments through continuing education, you not only enhance your capability to make a positive impact but also navigate your GAL journey with more confidence and much less uncertainty.

Embracing mentorship and ongoing learning is a commitment – a commitment to excellence in your role as a GAL. It's an acknowledgment that being good at what you do means you will never stop learning and you will never hesitate to seek guidance when it's needed. It's also a commitment to learning everything you can beyond the basics and always exceeding the minimum standards required by this role. This commitment not only benefits you professionally but, more importantly, it benefits the children and families whose lives you touch.

## **FINAL THOUGHTS**

Stepping into the role of a Guardian *ad Litem* is more than just taking on another new case; it's embarking on quite a noble path. A path where your insight, dedication, and compassion can profoundly influence a child's life journey. Armed with a deep understanding of the South Carolina GAL and other child- and family-related statutes, prepared through rigorous training, meeting strict qualifications, and guided by the invaluable resources of continuing education and mentorship, you are not just ready but empowered to make a meaningful difference. As you

navigate through your first cases and beyond, let your commitment to the best interests of the children you're appointed to represent be your guiding star. Always remember, in the complex tapestry of family court, your role is pivotal – you are the voice that champions what is best for a child's future. Embrace this journey with an open heart and a keen mind, for every step you take has the power to shape a better tomorrow for the children you represent.



# **South Carolina Bar**

Continuing Legal Education Division

## **Courtroom Crossroads: The Intersection of Criminal Law & Family Law for the Child's Advocate**

*David M. Collins*

No materials provided



# South Carolina Bar

Continuing Legal Education Division

## Insight, Not Inference: The GAL's Role in Illuminating, Not Deciding, the Facts

*Jennifer M. Creech*

No Materials Provided



# South Carolina Bar

Continuing Legal Education Division

## The Invisible Wedge: Tools to Uncover, Navigate, Heal, & Halt Alienation and Alienating Behaviours

*Leslie Armstrong*  
*Dr. Yvonne Parnell*

The Invisible Wedge:  
Tools to Uncover, Navigate, Halt & Heal Alienation

Dr Yvonne M Parnell  
Leslie A. Armstrong, Esq., LPCA  
January 26, 2024  
South Carolina Bar Association

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THE INVISIBLE WEDGE: TOOLS TO UNCOVER, NAVIGATE, HALT & HEAL ALIENATION

1 Tools to uncover  
alienation

2 Tools to navigate  
alienation

3 Tools to halt & heal  
alienation

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Part 1: Tools to Uncover  
Alienation

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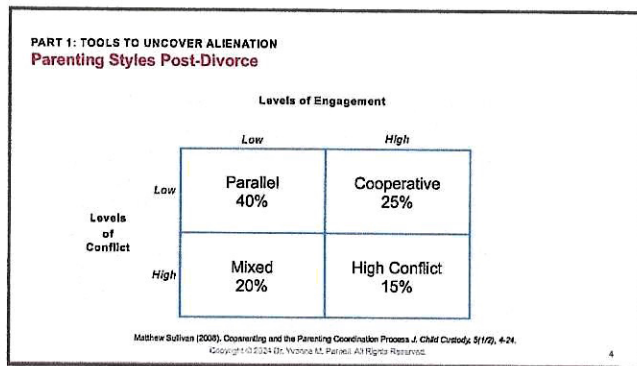
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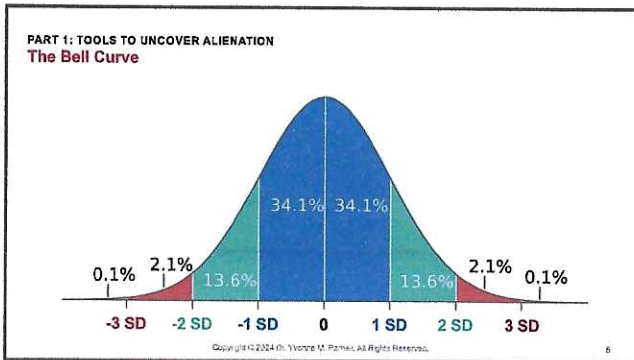
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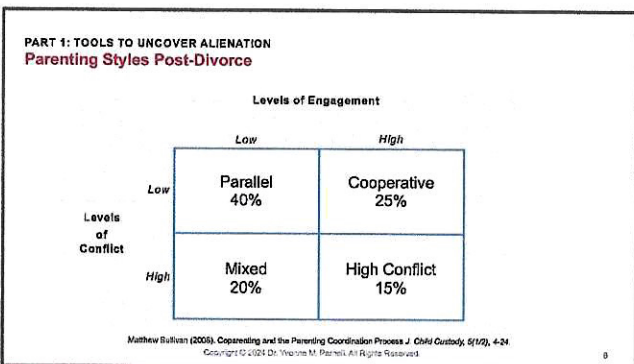
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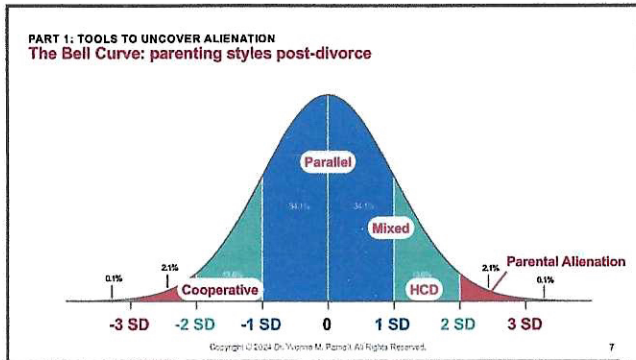
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**PART 1: TOOLS TO UNCOVER ALIENATION**

“ Perhaps the biggest obstacle to professional's understanding of the concept of parental alienation and its consequences is that the actions of the people involved in these families are literally beyond the realm of the experience and/or the emotional tolerance of most professionals, even those in the mental health field. ”

Douglas Romborg (2017) Parental Alienation: Origins, Controversies & a New Paradigm in *District of Columbia Psychological Association Quarterly Newsletter*

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Definition of Parental Alienation**

“ Parental alienation is a mental condition in which a child – usually one whose parents are engaged in a high-conflict separation or divorce – allies himself or herself strongly with an alienating parent and rejects a relationship with the ‘target’ parent without legitimate justification. ”

Lorandos, D., Bernet, W., Sauber, S., Richard (Eds.) (2013), *Parental Alienation – The Handbook for Mental Health and Legal Professionals*

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Baker Model for the Identification of Parental Alienation**

- **Factor 1:** The child manifests contact resistance or refusal, i.e., avoids a relationship with one of the parents, usually in the context of a high conflict divorce
- **Factor 2:** The presence of a prior positive relationship between the child and the now rejected parent
- **Factor 3:** The absence of abuse, neglect, or seriously deficient parenting on the part of the now rejected parent
- **Factor 4:** The use of multiple alienating behaviors on the part of the favored parent
- **Factor 5:** The exhibition of many of the 8 behavioral manifestations of alienation by the child

William Bernet MD and Lawrence L. Corwin PhD (2022) The Five Factor Model for the Diagnosis of Parental Alienation  
in the American Academy of Child and Adolescent Psychiatry (AACAP) 10

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Prevalence of Parental Alienating Behaviors vs Parental Alienation in children**



**22 million American adults**  
are the unreciprocating target of parental alienating behaviors

yet



**4 million children**  
are moderately to severely alienated from a parent

Bernet, van der Wal, Baker, Edgar, Gidycz, Stenberg, & Gray (2024) Prevalence of adults who have been targets of parental alienating behaviors and their impact.  
Child and Family Services Review 171 (2024) 11

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Baker's 17 parental alienation strategies**

1. Badmouthing / Denigrating the TP
2. Limiting contact
3. Interfering with communication
4. Interfering with symbolic communication
5. Withdrawal of love
6. Telling the child that the TP is dangerous
7. Forcing child to choose
8. Telling the child that the TP does not love him/her
9. Confiding in the child
10. Forcing child to reject the TP

Baker, A.J.L., & Darnall, D. (2009). Behaviours and strategies employed in parental alienation: A survey of parental experiences. *J of Divorce & Remarriage*, 45(1/2), 97-124 12

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Baker's 17 parental alienation strategies**

- 11 Asking the child to spy on the TP
- 12 Asking the child to keep secrets from the TP
- 13 Referring to the TP by the first name
- 14 Referring to a step-parent as "Mom" or "Dad" and encouraging child to do the same
- 15 Withholding medical, academic, and other important information from TP  
 Keeping TP's name off medical, academic, and other relevant documents
- 16 Changing child's name to remove association with TP
- 17 Cultivating dependency/undermining the authority of the TP

Baker, A.J.L., & Dornell, D. (2008). Behaviours and strategies employed in parental alienation: A survey of parental experiences. *J of Divorce & Remarriage*, 45(1/2), 87-124

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**Factor 5: The children**

**Both:**      **+**      **2 or more:**

- ☐ Campaign of denigration against the TP
- ☐ Frivolous rationalizations for the child's criticism of TP
- ☐ Lack of ambivalence
- ☐ Independent-thinker phenomenon
- ☐ Reflexive support of the AP against the TP
- ☐ Absence of guilt over exploitation and mistreatment of the TP
- ☐ Borrowed scenarios
- ☐ Spread of the child's animosity towards the TP's extended family

Lorandos, D., Benet, W., & Sauber, S. R. (2013). Overview of parental alienation. In Demetrius Lorandos, William Benet, and S. Richard Sauber (Eds.), *Parental alienation: The handbook for mental health and legal professionals*. Copyright © 2014 Dr. Verna M. Pomeroy. All Rights Reserved.

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**PART 1: TOOLS TO UNCOVER ALIENATION**  
**High Conflict Divorce vs. Parental Alienation**

<b>High Conflict Divorce</b>	<b>Parental Alienation</b>
It takes two to drive the conflict	It only takes one to drive the conflict
Children have relationships with <b>both</b> parents	Children have a relationship with AP only
Children maintain ties with extended family on <b>both</b> sides	Children sever ties with TP's extended family
Children maintain <b>loyalty</b> to both parents	Children are loyal to one parent only
Children will not want to testify against either parent	Children will want to testify against the TP
Normal child/parent conflicts expressed with ambivalence	Treats TP & others with contempt and guiltless disregard
Can be treated using office methodology: family systems therapy & family reunification therapy	Office methodologies are contra-indicated

Alan Blotchy, William Benet, and Jennifer Herman, January 2022 Michigan Family Law Journal: A Roadmap for the Treatment of Parental Alienation  
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## Part 2: Tools to Navigate Alienation

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### PART 2: TOOLS TO NAVIGATE ALIENATION Factor 5: The children

Primary Symptomatic Manifestations	The Child's Symptom Level		
	~ Mild	+ Moderate	++ Severe
Campaign of denigration (May or may not include a false allegation of sexual abuse)	Minimal	Moderate	Formidable
Weak, frivolous, or absurd rationalizations for the depreciation	Minimal	Moderate	Multiple absurd rationalizations

Richard A. Gardner, B. Richard Saebel, Demosthenes Loraides (2001) Chapter 1: Introduction  
The International Handbook of Parental Alienation Syndrome: Conceptual, Clinical and Legal Considerations

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### PART 2: TOOLS TO NAVIGATE ALIENATION Factor 5: The children

Primary Symptomatic Manifestations	The Child's Symptom Level		
	~ Mild	+ Moderate	++ Severe
Lack of ambivalence	Normal ambivalence	No ambivalence	No ambivalence
Independent-thinker phenomenon	Usually absent	Present	Present
Reflexive support of the AP against the TP	Minimal	Present	Present
Absence of guilt over exploitation and mistreatment of the TP	Normal guilt	Minimal to no guilt	No guilt
Borrowed scenarios	Minimal	Present	Present
Spread of child's animosity to the TP's extended family	Minimal	Present	Formidable, often fanatic

Richard A. Gardner, B. Richard Saebel, Demosthenes Loraides (2001) Chapter 1: Introduction  
The International Handbook of Parental Alienation Syndrome: Conceptual, Clinical and Legal Considerations

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**PART 2: TOOLS TO NAVIGATE ALIENATION**  
**Factor 5: The children**

Additional Differential Diagnostic Considerations	The Child's Symptom Level		
	~ Mild	+ Moderate	++ Severe
Difficulties at the time of transitions	Usually absent	Moderate	Formidable, or visit not possible
Behavior during visitation	Good	Intermittently antagonistic and provocative	No visit, or destructive and continually provocative behavior throughout visit
Bonding with the AP	Strong, healthy	Strong, mildly to moderately pathological	Severely pathological, often paranoid bonding
Bonding with the TP prior to the alienation	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological	Strong, healthy, or minimally pathological

Richard A. Gardner, S. Richard Sauber, Demosthenes Lorrados (2001) Chapter 1: Introduction  
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**PART 2: TOOLS TO NAVIGATE ALIENATION**  
**The Alienating Parent's Symptom Level**

	The Alienator's Symptom Level		
	~ Mild	+ Moderate	++ Severe
Presence of severe psychopathology prior to the separation*	Most often absent	May or may not have been present	Most often present
Frequency of programming thoughts	Occasional	Frequent	Persistent
Frequency of programming verbalizations	Occasional	Frequent	Persistent
Frequency of exclusionary maneuvers*	Occasional	Frequent	When possible
Frequency of complaints to the police and child protection services	Occasional	Frequent	Repeated

Continued...

Richard A. Gardner, S. Richard Sauber, Demosthenes Lorrados (2001) Chapter 1: Introduction  
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**PART 2: TOOLS TO NAVIGATE ALIENATION**  
**The Alienating Parent's Symptom Level**

	The Alienator's Symptom Level		
	~ Mild	+ Moderate	++ Severe
Litigiousness	Occasional	Frequent	Repeated
Episodes of hysteria*	Occasional	Frequent	Very frequent
Frequency of violation of court orders*	Occasional	Frequent	Repeated
Success in manipulating the legal system to enhance the programming	Minimal attempts	Occasional to moderate	Repeatedly successful
Risk of intensification of programming if granted primary custody	Very low	Mild to moderate	Extremely high to the point of being almost inevitable

Richard A. Gardner, S. Richard Sauber, Demosthenes Lorrados (2001) Chapter 1: Introduction  
The International Handbook of Parental Alienation Syndrome: Conceptual, Clinical and Legal Considerations  
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PART 2: TOOLS TO NAVIGATE ALIENATION  
Child's symptom level vs Risk to child

Child's symptom level ≠ the level of risk to the child

Mild symptoms ≠ mild risk to the child

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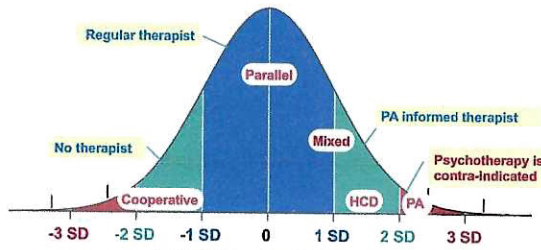
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PART 2: TOOLS TO NAVIGATE ALIENATION  
The Bell Curve: What works



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PART 2: TOOLS TO NAVIGATE ALIENATION

A **correct** diagnosis leads  
to **correct** treatment  
and the patient **improves**

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## PART 2: TOOLS TO NAVIGATE ALIENATION

An *incorrect* diagnosis leads  
to *incorrect* treatments  
and *iatrogenic* effects

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PART 2: TOOLS TO NAVIGATE ALIENATION  
Tips for the on-going investigation

- Inform parents at the outset that your recommendations are based on your investigation and will not be the result of bias, and remind them of this if accused of bias later on
- Open the child interview with "What do you know about why I'm here?"
- Close with "Was there anything else you were supposed to tell me?"
- Maintain rapport with suspected AP, if possible
  - If threatened, the AP may alienate the child from you and purposefully stymie your investigation
  - Attack on the GAL wastes time, money, and judicial resources
  - Reflect without validating

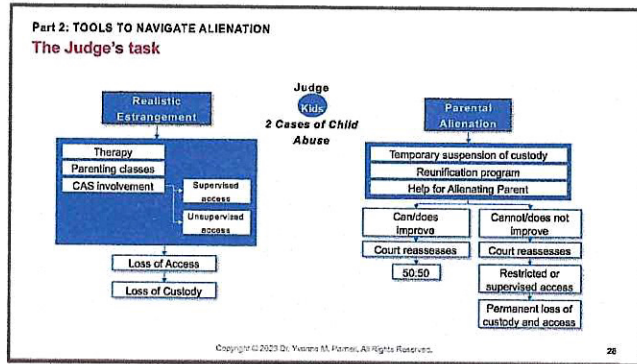
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PART 2: TOOLS TO NAVIGATE ALIENATION  
Tips for on-going investigation

- Maintain rapport with parties falsely/mistakenly alleging alienation, if possible
  - Parties seeking to justify their own bad behavior by alleging alienation when it is not present may also stymie your investigation/attacks the GAL
- Maintain rapport with the suspected alienated child, if possible
  - If you aren't joining them in denigrating the TP, they may be suspicious of you
  - Don't attack and don't defend parties
  - Ask questions that encourage critical thinking and inform your investigation – "Is it possible that there could be another reason why Mom/Dad did not come to pick you up on time?"
- Consult with your colleagues and engage in self-care

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## Part 3: Tools to Halt & Heal Parental Alienation

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## PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

### Differential Management and Treatment

	The Child's & Alienator's Symptom Level			
	- Mild	+ Moderate	+ Severe	
<b>Legal Approach:</b>	Court ruling that primary custody shall remain with the alienating parent	<b>Dis A. (intermediate)</b> 1. Court ruling that primary custody shall remain with the alienating parent 2. Court appointment of PA therapist 3. Sanctions: a. Post a bond b. Fines c. Community service d. Probation e. House arrest f. Incarceration	<b>Dis B. (potentially irreversible)</b> 1. Court ruling that primary custody shall be transferred to the alienated parent 2. Court appointment of PA therapist 3. Extremely restricted visitation by the alienating parent, monitored to prevent indoctrinations	1. Court ruling that primary custody shall be transferred to the alienated parent 2. Court-ordered transnational-site program
<b>Psycho-therapeutic Approach:</b>	None usually necessary	Treatment by a court-appointed PA therapist	Transnational-site program monitored by court-appointed PA therapists	

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 The International Handbook of Parental Alienation Syndrome: Concepts, Clinical and Legal Considerations

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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Severe Parental Alienation Intervention Programs**

**Family Bridges** Dr. Randy Rand, Dr. Richard Warshak & Dr Yvonne M Parnell  
 ■ USA ■ Canada ■ Australia ■ South Africa ■ Israel ■ Italy  
 ■ Sweden ■ Slovenia ■ UK

**Turning Points for Families** Linda Gottlieb MSW  
 ■ USA

**Family Reflections Reunification Program** Kathleen Reay & Lynn Steinberg  
 ■ Canada

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**Family Bridges**

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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Family Bridges: Goals**

**Family Bridges workshop goals:**

1. Prepare children to cooperate with court orders that require them to live with a parent whom they have rejected, claim to hate or fear
2. Improve the quality of the parent– child relationship

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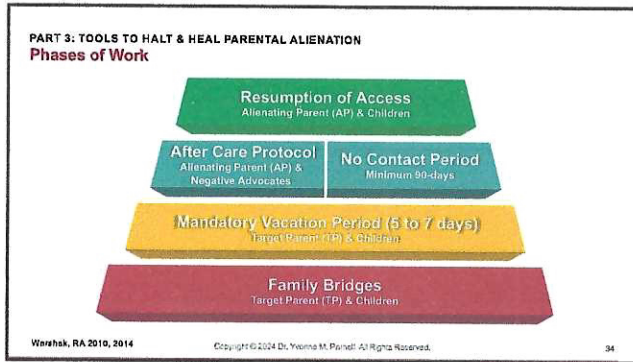
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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Family Bridges: Logistics**

**TP to arrange a FB Intake consultation, as early as possible:**

- Assess the suitability of the family for the workshop
- Determination of workshop and transportation professionals
- Determine an appropriate location for the workshop
- Provisions of Court Orders
- Protocol for eliminating known risks and/or harm to children during transportation
- Rationale for suspension of contact
- Scientific literature about PA and FB and information to rebut anti-PA sentiment
- Case law

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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Family Bridges: Logistics**

- The TP is Court-ordered for the FB 4-day workshop for the children – USD \$23,500
- Extra, variable costs include:
  - Airfares for workshop leaders, TPs, children
  - Transportation costs for children to workshop
  - Accommodation and food costs
- The AP is Court-ordered to pay for the FB Aftercare Protocol
  - A well-motivated AP whose goal is to reunite speedily with their children at the end of the 90-day No Contact period can complete the educational component in 14 hours and obtain overnight visits with their children in an additional 8 hours
  - At \$350/hr, that is a total of USD \$7,700

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

Minimum Legal Prerequisites for the FB workshop

- A Court finding of severe parental alienation
- Temporary reversal of custody
- A minimum 90-day no contact period between the AP and the children
- The appointment of an Aftercare Professional (ACP)

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

Family Bridges: What happens there?

- FB is not psychotherapy
- Based upon the Psychology of Totalism
- Standard educational curriculum for every family
- Multi-media presentations
- Every item is carefully selected to reverse engineer the programming and brainwashing processes that culminate in a severely alienated child
- The child uses this reliable information to evaluate their experiences with the AP and the TP

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

Family Bridges: Curriculum

DAY 1

- Orientation to life after court orders
- An empathic understanding of what happened to them
- Experiential learning of how their reality was corrupted
- Family activity

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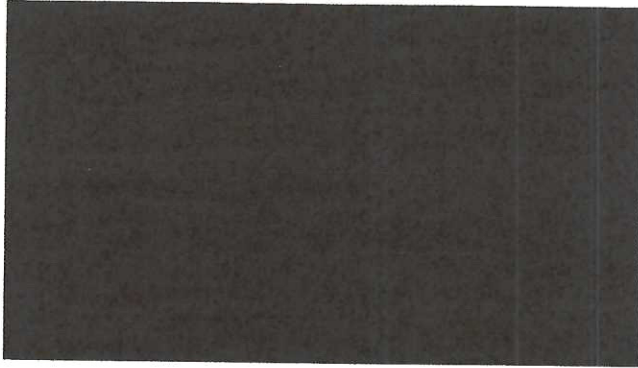
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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION  
Family Bridges: Curriculum

**DAY 2**

- Neurobiology of stress and Social Neuroscience
- False allegations of sexual abuse
- Divorce module
- Healthy Parenting and conflict resolution skills
- Family activity

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

Family Bridges: Curriculum

DAY 3

- Prosocial skills
- Listening skills
- Rediscovering personal identity
- Active problem solving
- Family Meetings
- Family Activity

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION

Family Bridges: Curriculum

DAY 4

- More family meetings
- Preparing for going home as a family
- Aftercare: What about my Mom? What about my Dad?
- The 90-day No contact period
- Post-workshop questionnaires and evaluations
- Saying goodbye

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Results | FB Workshop

Dr Parnell in Canada



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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION  
Results: Family Bridges | Participants at the time of the release of Judgment

N = 60 children in 28 families

*N = 9 children negatively impacted by case hijackings before FB*

*N = 1 Eighteen-year-old excluded by Judge & TP*

*N = 50 children made it to Family Bridges*

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION  
Results: Family Bridges | Treatment Group vs Control Group

Sample size  
N = 60

Treatment group  
n = 50

Control group  
n = 10

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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION  
Results: Family Bridges | Outcome of the Family Bridges Workshop on Day 4

N = 50 children attended the workshop

*N = 2 teens were saboteurs who chose to leave before the end of FB*

*N = 48 completed the workshop and successfully reunited with the TP*

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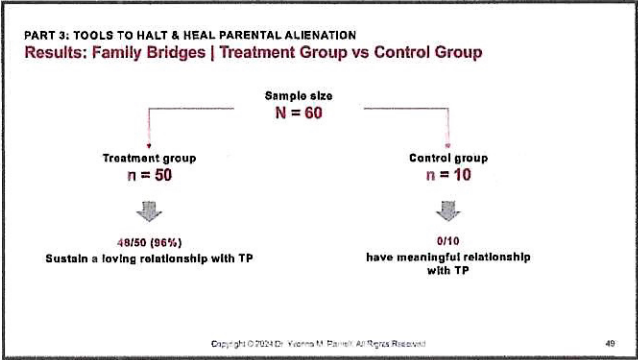
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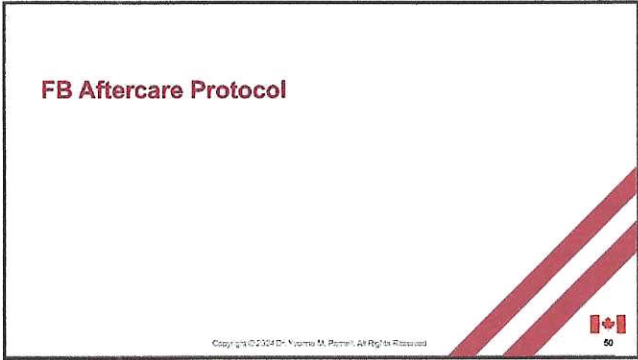
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PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION  
Four stakeholders

Child	CRP 3.1.2 CRP 5.7.6	<ul style="list-style-type: none"><li>To achieve development of permanent, healthy, nurturing relationships between the children and both parents, <i>when possible</i></li><li>To protect the child's psychological gains made in the 4-day workshop</li></ul>
Target Parent	CRP 3	<ul style="list-style-type: none"><li>To protect the repaired relationship with the Target Parent</li></ul>
Alienating Parent	CRP 12 CRP 9	<ul style="list-style-type: none"><li>To educate the alienating parent about Court ordered benchmark behaviors for resumption of contact with the children</li><li>To act as a messenger between the children and the alienating parent</li></ul>
Court	CRP 18	<ul style="list-style-type: none"><li>To provide fresh body of post-judgment behavioral data to the Courts</li></ul>

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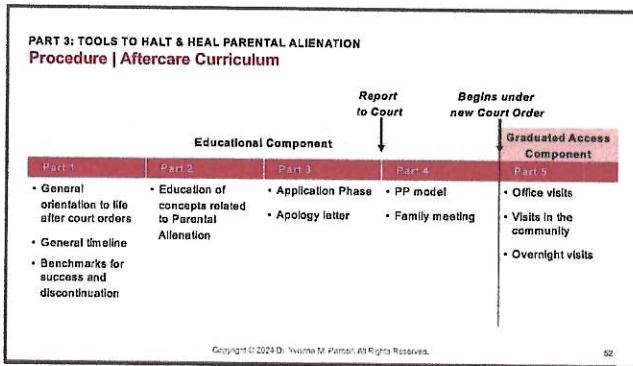
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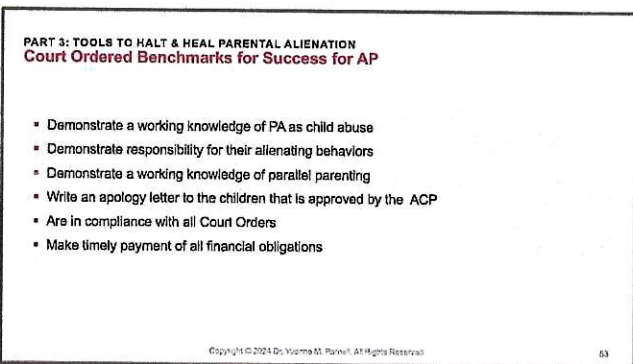
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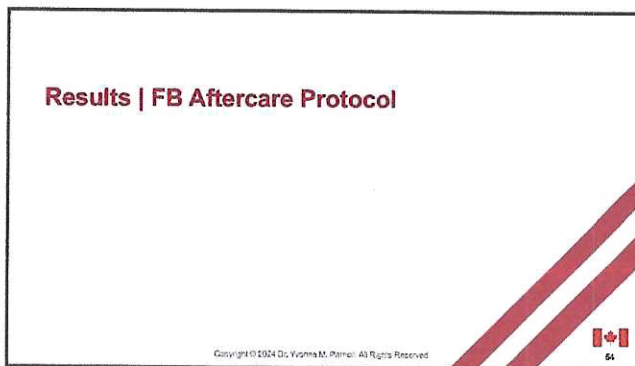
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### Results: Family Bridges | Participants at the start of the Aftercare Protocol

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**N = 1** adult child was re-alienated within weeks of returning home

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[illegible]

DSM-V Diagnosis	Frequency
Antisocial Personality Disorder	13
Borderline Personality Disorder – severe	6
Narcissistic Personality Disorder	4
Paranoid Personality Disorder	3
Factitious Disorder	2

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**N = 11** parents came to at least 1 appointment

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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Results: FB Aftercare Protocol | Alienating Parent Participants at the start of the ACP**

**N = 10** parents came to more than 1 appointment

- N = 5** parents persevered and got Court-ordered access to their children (18% success rate)
- N = 5** parents stopped going to Aftercare and did not obtain legal access to the children

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**PART 3: TOOLS TO HALT & HEAL PARENTAL ALIENATION**  
**Results: FB Aftercare Protocol | How do the children fare?**

- **34.8%** I'm ready for contact with the AP (16/46)
- **34.8%** I'm not ready for contact with the AP, **yet** (16/46)
  - ✓ They want stability as they complete high school and apply to University
  - ✓ Mom/Dad is not well, yet
  - ✓ There is a beauty to calm vs chaos
  - ✓ They do not want to have access before their younger siblings can too
- **30.4%** Are still in Aftercare (14/46)

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**Conclusions**

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THE INVISIBLE WEDGE: TOOLS TO UNCOVER, NAVIGATE, HALT & HEAL ALIENATION  
Conclusions | Family Bridges and Family Bridges Aftercare

Key Factors for success:

- Strong Court Orders for FB workshop and FB Aftercare
- A minimum 90-day No-Contact Order
- Professional transportation
- An intervention: FB workshop
- The FB Aftercare protocol
- Time .....2 years, for solid adjustment

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THE INVISIBLE WEDGE: TOOLS TO UNCOVER, NAVIGATE, HALT & HEAL ALIENATION  
Conclusions | Key Take-aways for Guardians ad Litem

- PA cases are a subset of HCD cases that require different interventions
- Severe PA cases are a subset of parental alienation cases and require different interventions than mild and moderate cases
- Traditional therapy is not just unhelpful, but actively contraindicated in alienation cases. Don't make this mistake in recommendations
- If the Guardian misses this dynamic, then well-intended recommendations can actually make things worse for the child
- Familiarize yourself with the 17 alienating strategies. APs use the same playbook and this is how they cause alienation in the child
- Familiarize yourself with the 8 behavioral manifestations in children – alienated children present in a unique way – this is how to identify them
- In severe cases, intensive interventions are the only solution, and data tells us that they work – even when cases seem hopeless, all is not necessarily lost. "Don't give up!"
- Be prepared to give the Court the information they need, using concrete examples, to determine and Order the correct interventions for your ward
- Consult with colleagues & remember to engage in self-care

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THANK YOU



Building Family Bridges  
Reuniting and Strengthening Families

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# **The Invisible Wedge: Tools to Uncover, Navigate, Halt & Heal Alienation**

**Dr Yvonne M Parnell & Leslie A. Armstrong, Esq., LPCA**

## **REFERENCES**

- Baker, A.J.L. Canadian Symposium for Parental Alienation Syndrome Toronto 2016
- Baker, Amy J.L. (2018) Reliability and validity of the four-factor model of parental alienation. J of Family Therapy p. 100-118
- Baker, A.J.L., & Darnall, D. (2006). Behaviors and strategies employed in parental alienation: A survey of parental experiences. J of Divorce & Remarriage, 45(1/2), 97-124
- Baker, Amy & Fine, Paul. (2008). Beyond the High Road: Responding to 17 Parental Alienation Strategies without Compromising Your Morals or Harming Your Child.
- Bernet, William; and Greenhill. Laurence L. (2022) The Five-Factor Model for the Diagnosis of Parental Alienation J of the American Academy of Child and Adolescent Psychiatry Vol 61 (5)
- Bernet, William; Gregory, Nilgun; Reay, Kathleen M; Rohner, Ronald P. An Objective Measure of Splitting in Parental Alienation: The Parental Acceptance-Rejection Questionnaire. J Forensic Sci (2017) p1-7
- Bernet, William; Gregory, Nilgun; Rohner, Ronald P, Reay, Kathleen M. Measuring the Difference Between Parental Alienation and Parental Estrangement: The PARQ-Gap. J Forensic Sci (2017) p1-7
- Gardner, Richard A., Sauber, S. Richard, Lorandos, Demosthenes (2001) Chapter 1: Introduction The International Handbook of Parental Alienation Syndrome: Conceptual, Clinical and Legal Considerations
- Harman, Jennifer J., Leder-Elder, Sadie, Biringen, Zeynep (2019) Prevalence of adults who are the targets of parental alienating behaviors and their impact. Children and Youth Services Review V106 104471
- Harman, Jennifer J.; Saunders, Luke; Afifi, Tamara (2022). Evaluation of the Turning Points for Families (TPFF) program for severely alienated children. J of Family Therapy Vol. 44 279-298
- Hart, S. N., Brassard, M. R., Baker, A. J. L., & Chiel, Z. A. (2017). Psychological maltreatment of children. In J. Conte & B. Klika (Eds.), *The APSAC Handbook on Child Maltreatment: 4th Edition* (pp. 145-162). London: Sage Publications.
- Hirigoyen, Marie-France (2016) Parental Alienation as an abuse of weakness. Chapter 5 In Dr Roland Broca & Olga Odinetz (Eds), Separations conflictuelles et alienation parentale

# **The Invisible Wedge: Tools to Uncover, Navigate, Halt & Heal Alienation**

**Dr Yvonne M Parnell & Leslie A. Armstrong, Esq., LPCA**

- Lorandos, D., Bernet, W., & Sauber, S. R. (2013). Overview of parental alienation. In Demosthenes Lorandos, William Bernet, and S. Richard Sauber (Eds.), *Parental alienation: The handbook for mental health and legal professionals*
- Megged, A. & Megged, S. (2019, September). Can We Force “Spontaneous” Reunification? Systemic Therapy with Parental Alienation. Presented at the meeting of Parental Alienation Study Group, Philadelphia.
- Miller, S. G. (2012). Clinical reasoning and decision-making in cases of child alignment: Diagnostic and therapeutic issues. In A. J. Baker, & S. R. Sauber, *Working with Alienated Children and Families: A Clinical Guidebook* (p. 8-46). New York: Routledge.
- Reay, K. M. (2015). Family reflections: A promising therapeutic program designed to treat severely alienated children and their family system. *American Journal of Family Therapy*, 43, 197-207. <https://doi.org/10.1080/01926187.2015.1007769>
- Romberg, Douglas (2017) Parental Alienation: Origins, Controversies & a New Paradigm in District of Columbia Psychological Association Quarterly Newsletter
- Sullivan, Matthew (2008). Coparenting and the Parenting Coordination Process *J. Child Custody*, 5(1/2), 4-24.
- Wallerstein, J.S., Kelly, J.B. (1980). *Surviving the Breakup: How Children and Parents Cope with Divorce*. New York: Basic Books, Inc., Publishers p. 28
- Warshak, Richard A. (2010) Family Bridges: Using Insights from Social Science to Reconnect Parents and Alienated Children, *Family Court Review*, 48(1) 48-80
- Warshak, R. (2019) Reclaiming Parent–Child Relationships: Outcomes of Family Bridges with Alienated Children, *Journal of Divorce & Remarriage*, 60:8, 645-667



# South Carolina Bar

Continuing Legal Education Division

## Parenting in a Changing World: Crafting Parenting Plans for the 21st Century Family

*Kristina Parise Noe*



# Parenting in a Changing World:

Crafting Parenting Plans for  
the 21st Century Family

Kristina Parise Noë,  
Parise & Noë Law Firm, P.A.





# When Did Parenting Plans Become a Thing in South Carolina?

The Supreme Court of South Carolina  
Re: Temporary Hearings in Family Court  
**ORDER** [November 21, 2012]

Pursuant to Article V, Section 4 of the South Carolina Constitution,  
**IT IS ORDERED** that the following procedures shall apply to all Temporary Hearings scheduled after the date of this Order:

8. Each party shall submit at the Temporary Hearing a Financial Declaration, a Background Information Sheet Form SCCA 459 (11/12), and a proposed parenting plan pursuant to S.C. Code Section 63-15-220 if custody is contested.

# What Does Section 63-15-220 Say About Parenting Plans?

(A) At all temporary hearings where custody is contested, each parent must prepare, file, and submit to the court a parenting plan, which reflects parental preferences, the allocation of parenting time to be spent with each parent, and major decisions, including, but not limited to, the child's education, medical and dental care, extracurricular activities and religious training. However, the parties may elect to prepare, file, and submit a joint parenting plan. The court shall issue temporary and final custody orders only after considering these parenting plans; however, the failure by a party to submit a parenting plan to the court does not preclude the court from issuing a temporary or final custody order.

(B) At the final hearing, either party may file and submit an updated parenting plan for the court's consideration.

(C) The South Carolina Supreme Court shall develop rules and forms for the implementation of the parenting plan.

STATE OF SOUTH CAROLINA	)	IN THE FAMILY COURT OF THE
	)	_____ JUDICIAL CIRCUIT
COUNTY OF _____	)	
_____	)	
	)	<b>PROPOSED PARENTING PLAN</b>
Plaintiff	)	<b>OF _____</b>
vs.	)	
_____	)	
Defendant	)	Docket No. _____

This document is being submitted for consideration at a Temporary Hearing, pursuant to SC Code of Laws §63-15-220, and will have no precedential effect against the submitting party at the time of trial.

HUSBAND/FATHER		WIFE/MOTHER	
Address	_____	Address	_____
Age	_____	Age	_____
Occupation	_____	Occupation	_____
Employer	_____	Employer	_____
Employer's Address	_____	Employer's Address	_____
Work Schedule	_____	Work Schedule	_____

CHILDREN'S NAMES	SEX	AGE	DATE OF BIRTH
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Please outline your proposed Parenting Schedule below. The items listed are intended to assist you in developing a plan; however, it is not required that you address each item. NOTE: Use Additional Space As Needed.

#### CUSTODY:

- Please designate which custody arrangement you propose.

☐ Sole Custody to \_\_\_\_\_

SCCA 466 (8/2012)

☐ Joint Custody

☐ Joint Custody with Primary Custody to \_\_\_\_\_ and Secondary Custody to \_\_\_\_\_.

☐ Other custodial arrangement: \_\_\_\_\_

#### **SHARING OF INFORMATION/MAJOR DECISIONS:**

- Please also identify the major decisions that need to be discussed between the parents prior to decisions being made and how any disagreements should be resolved. Be sure to include the following: (1) Medical & Dental Care, (2) Religious Training, (3) Education, and (4) Extra-Curricular Activities: \_\_\_\_\_

#### **PARENTING SCHEDULE :**

##### **REGULAR/SCHOOL YEAR SCHEDULE:**

- Based upon a fourteen day time period, how would you propose to divide time with your child(ren): (The below schedule is provided to assist you. However, you may choose to provide the requested information in a different format.)

Sunday	_____	Sunday	_____
Monday	_____	Monday	_____
Tuesday	_____	Tuesday	_____
Wednesday	_____	Wednesday	_____
Thursday	_____	Thursday	_____
Friday	_____	Friday	_____
Saturday	_____	Saturday	_____

Special circumstances for consideration during the school year, including extended weekends during the school year: \_\_\_\_\_

#### **SUMMER:**

- What summer schedule do you propose to follow for your child(ren):

☐ The regular school year schedule shall continue on a weekly basis. In

SCCA 466 (8/2012)

addition to this parenting schedule, the parent with secondary custody shall have [ ] additional weeks of parenting time to include the regularly scheduled weekend parenting.

- ☐ The regular school year parenting schedule shall be suspended during the summer, and the summer parenting schedule should be [ ]

Special circumstances for consideration during the summer: [ ]

#### HOLIDAYS & BIRTHDAYS:

5. Identify holidays that carry a level of significance in your family life and address the terms of access to the child(ren) during those holidays. A list is provided below, but may not include all holidays. Include start date and time and end date and time for each holiday.

HOLIDAY	MOTHER	FATHER
New Year's Day	[ ]	[ ]
Martin Luther King, Jr. Day	[ ]	[ ]
President's Day	[ ]	[ ]
Passover	[ ]	[ ]
Easter	[ ]	[ ]
Memorial Day	[ ]	[ ]
Fourth of July	[ ]	[ ]
Labor Day	[ ]	[ ]
Halloween	[ ]	[ ]
Thanksgiving	[ ]	[ ]
Hanukkah	[ ]	[ ]
Christmas	[ ]	[ ]
Mother's Day	[ ]	[ ]
Father's Day	[ ]	[ ]
Child(ren)'s Birthday	[ ]	[ ]
Mother's Birthday	[ ]	[ ]
Father's Birthday	[ ]	[ ]
Other: [ ]	[ ]	[ ]
[ ]	[ ]	[ ]

#### RESTRICTIONS:

6. Identify any additional factors for the court to consider, such as exposure of the child(ren) to paramours, disparaging the other parent, supervision of internet use, exposing child(ren) to inappropriate material, use of drugs and/or alcohol, etc.

[ ]

#### CONTACT CONSIDERATIONS:

7. Address the method and frequency of contact each parent will have with the child(ren) while in the other parent's care (ie. Facebook, telephone, Skype, email, etc.). Also address the method and frequency of contact between the two parents.

[ ]

#### OTHER CONSIDERATIONS FOR THE COURT:

8. Please identify any other issues or concerns you would like for the court to consider in regards to the issues involving your child(ren) that has not already been provided in this document.

[ ]

#### APPOINTMENT OF A GUARDIAN AD LITEM:

9. I respectfully request that the court appoint a ☐ lay / ☐ attorney guardian ad litem for the minor child(ren).  
☐ I would like to request that the court appoint [ ] to serve in that capacity.  
☐ I do not have any recommendations as to the appointment of a guardian ad litem.

Submitted this the [ ] day of [ ], 20[ ].

MOTHER:

FATHER:

\_\_\_\_\_  
PLAINTIFF / DEFENDANT

\_\_\_\_\_  
PLAINTIFF / DEFENDANT

ATTORNEY FOR MOTHER:

ATTORNEY FOR FATHER:

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(NAME)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(PHONE/FAX)

\_\_\_\_\_  
(PHONE/FAX)



# Initial Thoughts

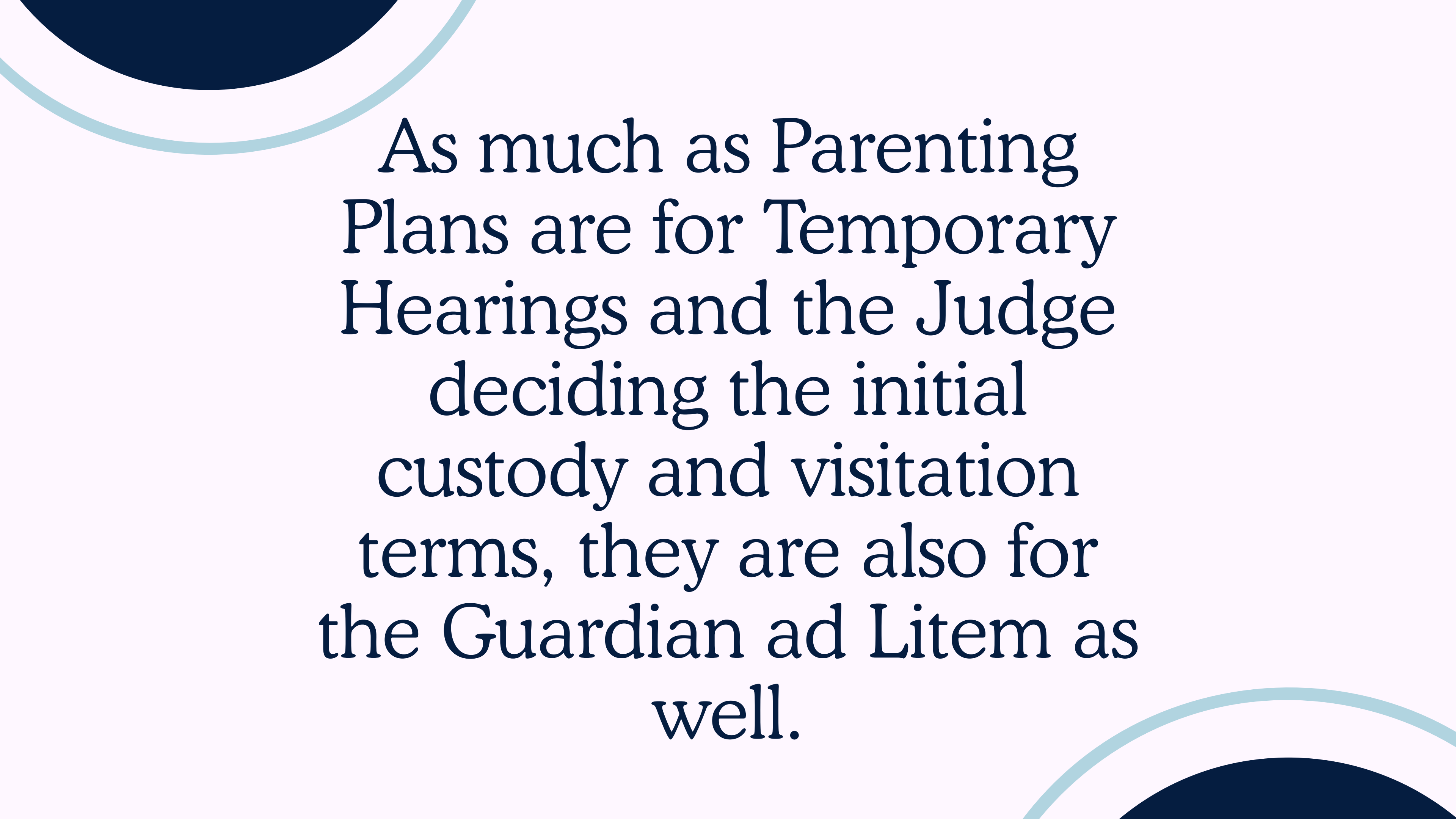
- Just another “form.” Wasted time.
- We have affidavits: What good are these?
- We have the “go-bys” already! We walk into Court and sometimes already feel like we know what the judges are likely to do insofar as the basics are concerned, particularly on each parent’s responsibilities and restrictions when the children are in his/her care.
  - Judge Brown’s terms
  - Judge Morris’s terms
  - Judge Snelgrove’s terms
  - Recently, the 11th circuit sent out its own preferred terms.

# So, What is the Purpose of the Parenting Plan?

- Not all cases are made the same, despite the “standards.”
- These plans are the first, best opportunity to let the Judges and Guardians know any particular concerns of the case; what makes this case different? What needs do these children have that others do not?
  - Is there drug/ alcohol abuse?
  - Are there special needs involved?
    - Special medical needs?
    - Learning disabilities?
  - Particular concerns that aren't typically addressed, but need to be.

# So, What is the Purpose of the Parenting Plan? cont.

- They help to establish expectations for the client as well, from the outset.
  - Parents need to have their own plan for how to navigate the “new normal,” and need to be able to explain that plan to a Judge and a Guardian ad Litem.
    - Parenting plans can be used to gather scattered thoughts and to shoot down wild expectations.
      - I.e., a client who feels that supervision is necessary; why? How does that get implemented? Who is the supervisor and are they willing to fill that role? What is the time-frame for supervised visits?
      - If the parent can't explain to you what they think is best for their children and why, then it shouldn't be included in the parenting plan.



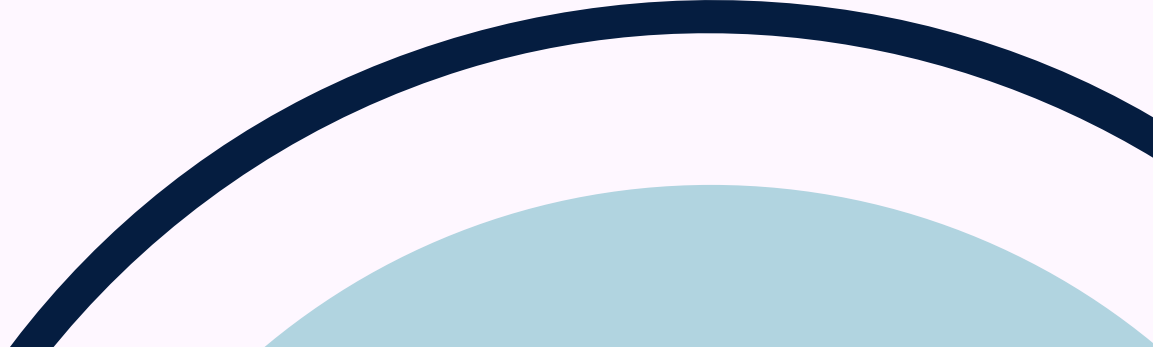
As much as Parenting  
Plans are for Temporary  
Hearings and the Judge  
deciding the initial  
custody and visitation  
terms, they are also for  
the Guardian ad Litem as  
well.





# **Attorney Considerations When Drafting Parenting Plans**

If you are an attorney, what considerations should you be making when drafting a Parenting Plan so that the Guardian as Litem appointed at the Temporary Hearing can begin their investigation with the best foot forward for your client?



# Attorney Considerations When Drafting Parenting Plans cont.

- Look at the parenting plan form itself; it is already set up for you to address the biggest issues.
- However, are you confined to the form itself? **NO!**
  - Unless you think your case is so simple, so straightforward that you won't need to elaborate on much of anything, there isn't a lot of room on the actual form.
  - Consider attaching fully fleshed out terms in one place that if approved by the Judge at the hearing, can be easily converted into a Temporary Order.

# EXAMPLE

**Submitted on behalf of Plaintiff/Mother**

**Parenting Plan Attachment- Submitted on behalf of Plaintiff/Mother**

**I. CHILD CUSTODY**

**CUSTODY:** Mother shall have sole legal and primary physical custody of the minor children.

**II. VISITATION**

**1. PHYSICAL CUSTODY PERIODS:**

a. Mother requests that all periods of Father's visitation be **supervised** (sight and sound), to be supervised by a neutral third party, for which Father should bear sole financial responsibility, if any, until such time as he provides a fully negative 10-panel hair follicle screen to Mother's counsel and the Guardian (directly from the testing facility). Upon providing the same, Father's periods of visitation outlined below shall be **unsupervised**:

- i. **Weekends:** Father shall have four (4) hours on Saturday and four (4) hours on Sunday on alternating weekends.
- ii. **Priority:** Regular weekend visits are superseded by the other specific visitation set forth herein.
- iii. **Holiday Schedule** (Holidays are defined with reference to the school district in which the children are enrolled): Absent further agreement or Order of the Court, Father shall have the following set periods of holiday visitation:

1. **Summer 2022:** The regular schedule should continue throughout the summer.
2. **Thanksgiving:** For 2022, Father shall have the children on

Thanksgiving Day from 10:00am until 2:00pm.

3. **Christmas:** For 2022, Father shall have the children from 2:00pm to 8:00pm on Christmas Day.
4. **Easter:** For 2023, Father shall have from 10:00am to 2:00pm on the Easter Sunday.
5. **Mother's Day/Father's Day:** For 2022, the child shall be with Mother on Mother's Day and shall be with Father on Father's Day from 10:00am to 4:00pm.
6. **Variation from schedule:** The parties shall have the right to vary visitation as can be mutually agreed upon in writing. In the event that the parties vary from the schedule for any period of time, either party can require both to return to the use of the schedule by giving notice in writing to the other.

iv. **Supervisors:** Mother requests that if supervised visitation is granted to Father, \_\_\_\_\_ should be designated as the supervisor for all father's visits on a temporary basis, and that father should bear the full responsibility for all costs associated therewith.

v. Additionally, should Father determine that he will be unable to exercise any part of his regular or holiday visitation, he **must** give Mother not less than forty-eight (48) hours' notice of his intention not to be present.

b. In the alternative, should the Court feel that unsupervised visitation is appropriate, Mother requests the same schedule as outlined above until such time as Father obtains suitable housing for himself and the children and upon additional

investigation and recommendations by the Guardian ad Litem.

2. Alcohol Testing: For all periods of Father's visitation, until further agreement or order of the Court, Father shall be required to utilize Soberlink to test his sobriety under the following provisions:
  - a. Father is the "Monitored Client", and Mother is the "Concerned Party."
  - b. The program to be utilized is the "Level 1 (Parent Time Only)," which entails a total of twenty (20) days of testing per month, with an unlimited number of tests over the course of those days.
  - c. The initial, regular testing times while supervised and/or non-overnight visitation continues shall be:
    - i. Within thirty (30) minutes of the time of pickup for visitation on Saturday and Sunday mornings, and again within thirty (30) minutes of the conclusion of the visitation; and
    - ii. Just prior to any visitation during any other time of the week that may be agreed upon from Monday through Friday and no later than thirty (30) minutes after their return to Mother; and
    - iii. With respect to the established testing times, the parties agree that Father is entitled to a leeway of up to 30 minutes prior to or after the established time to take the test (but no additional time to do a retest if required by the Soberlink system due to a failed test).
    - iv. If/when any holiday period is agreed upon, testing shall be within thirty (30) minutes prior to commencement of the visitation and within thirty (30) minutes of the return of children to Mother on that date and each day when

the children will be with Monitored Client over the holiday period.

- v. If the time for any period of visitation exceeds six (6) hours, Father will take a test every three (3) hours until the conclusion of the visitation.
- d. The testing activity reported to the "contacts" shall be pursuant to the "Plus Plan", whereby test results are sent in real-time to unlimited, designated contacts. The initial designation of contacts shall be:
  - i. Monitored Client: \_\_\_\_\_(email); \_\_\_\_\_(phone)
  - ii. Concerned Party: \_\_\_\_\_(email); \_\_\_\_\_(phone); and
  - iii. Guardian ad Litem
- e. By mutual agreement and with consent of the Guardian ad litem, the Monitored Client and the Concerned Party may change the Program Level, Plan, or terms of the testing at any time after the testing has begun, with all such agreements to be expressed in writing by both parties, their counsel, and the Guardian.
- f. Defendant Husband shall be responsible for all costs of using the Soberlink monitoring system, and he shall timely pay for such costs in accordance with the Soberlink plan terms.

### **III. OTHER PARENTAL GUIDELINES, RIGHTS & INSTRUCTIONS**

1. **Contact Information:** Both parents must keep the other advised as to their permanent address, e-mail address, home, cell, and work phone numbers if applicable, and must update the other as to any changes within forty-eight (48) hours of the change.
2. **Transportation/Pick Up and Return of Children:** For supervised visitation, unless otherwise specified herein, Mother, or someone designated by her on her behalf shall pick up and return the children to and from all periods of Father's visitation. In the event that



Father's visitation is unsupervised, he shall be required to pick up and return the children to and from Mother's home for all periods of visitation.

3. **Telephone/Internet Contact:** Both parents shall have reasonable telephone and e-mail contact with the children. E-mail is limited to age-appropriate use and ability to use a computer but does not require the purchase of a computer by either parent. Until otherwise recommended by the Guardian or ordered by the Court, the parties may each reasonably monitor the communications between the children and other parent for purposes of ensuring appropriate conversations but should work diligently to ensure that the children are unaware of such monitoring.
4. **General Communication and Important Events:** Mother shall timely notify the father of any reasonably important event occurring while the children are in her care, such as, but not limited to baptisms, recitals, school plays, sporting events, etc. Both parents may attend any public event if it is appropriate for parents to attend, but Father shall not, under any circumstances, utilize such events to directly threaten, coerce, or otherwise harass Mother or the minor children. When in doubt, Father shall be noticed of the event.
5. **Decision-making Authority:** Mother shall have the sole final decision-making authority on all major issues for the benefit of the minor children. Father, or anyone on his behalf, shall not undermine Mother's decision or convey to the children his disagreement with the decision, or discuss his feelings about the decision in the presence of the minor children, nor shall he attempt to usurp the decision-making of Mother, or countermand Mother's instructions given to those individuals involved with the care, education, or supervision of the children.
6. **Access to Records:** Both parents shall have full and complete access to all health care

providers, school records, school personnel, coaches, counselors, and other professionals involved the children's lives and shall be allowed to discuss their children's circumstances and needs with these people. Each party shall inform the other party of the identity of such people and if not otherwise reasonably available, provide the contact information for such people.

7. **Medical Emergencies:** In a medical emergency, each parent may make appropriate decisions and each parent is hereby granted the authority to and shall sign appropriate documents to protect the health and welfare of the children. This is not to undermine Mother's legal authority to make appropriate decisions. Father must make efforts to contact Mother upon the occasion of an emergency but shall have the authority to act in the emergency and shall not delay in protecting the children from imminent danger. Father may sign such forms as are required by the various providers in order to address the emergency. Thereafter, Father shall notify Mother as soon as possible as to the nature and the extent of the emergency.
8. **Failure to Pay Child Support/Denial of Visitation:** The failure to pay child support does not alter this visitation and the denial of this visitation does not alter one's duty to pay child support. (Remedies such as contempt may apply.)
9. **Relocation:** If either party moves more than fifteen (15) miles from the place where they were living at the time of the signing of the Temporary Order, they must give at least ninety (90) days' notice of such move.
10. **Illness:** Each parent shall notify the other of any serious illness relating to a child while under their care. A serious illness is defined as one which requires a child to be absent from school or deviate from his/her normal schedule for more than one (1) day. If the child

requires more than one visit to the health care provider for whatever malady, the party who has the child shall notify the other of the nature of the malady and the treatment.

11. The parties are directed that names such as Mom, Mommy, Mother or Dad, Daddy, or Father or the like are specifically reserved for the mother and father. Neither shall permit the use of such names by the minor child for persons other than the mother or father.

#### **IV. RESTRAINTS**

Both parties are restrained and enjoined from the following, or for allowing anyone else to do the following in the presence of the children, with their knowledge, or on their behalf:

1. Both parties are restrained against having any form of any physical or verbal confrontation or allowing another to do so in front of the children. This includes corporal punishments, which shall not be used on the children.
2. Father is restrained against consuming any alcohol within six (6) hours of the beginning of any period of visitation and throughout the duration of his time with the children. Mother is restrained against excessively consuming or being under the influence of alcohol (defined the same as might apply to driving under the influence) while the minor children are in her care. Both parties are restrained against the consumption of any illegal drug or the abuse of any prescription drug or allowing another to do so while the children are under his/her care.
3. All parties are restrained against the use of profanity around the minor children and from making any derogatory comments about or toward the other party, from alienating or attempting to alienate the children's affections for the other parent, or discussing this litigation, or allowing anyone else to do these things in front of the children or in any manner whereby the children might learn of the same, including on social media.

4. Neither party shall have the children on an overnight basis in the presence of an adult party with whom they have a romantic interest without the benefit of marriage. Overnight is defined as from the hours of 11:00 p.m. until 7:00 a.m. the following morning.
5. Both parties are required to see that the children while in their care receives proper medical attention and appropriately takes prescription medications or reasonably necessary medical treatments and to that end shall ensure that the children while in their care attends any scheduled medical appointments, and the parties shall timely exchange medications which are to be taken.
6. Both parties are restrained against conduct detrimental to the child of any particular nature relating to the particular needs of a given child, such as not smoking around a child who is asthmatic.
7. At all times the children shall be properly supervised and not left with babysitters who are not appropriate in any manner by way of age, conduct, past history or otherwise of which a parent or supervisor or visiting party has knowledge, should have knowledge or may with reasonable efforts have gained knowledge.
8. All parties are restrained against allowing the children to see or be exposed to movies, games, photographs, text messages, or other material or forms of entertainment or communication that are not age-appropriate, and each parent shall take all reasonable precautions against the same. In no case shall the children be exposed to any X-rated or pornographic material or R-rated movies. The parents may use discretion as to R-rated movies after a child turns sixteen (16) but if either parent objects, the child shall not be exposed to the R-rated movie.
9. Mother shall determine the children's appearance, i.e. haircuts, hair color, etc. In no event

shall either parent allow the minor children to have body piercing, tattoos, or other alterations without the express, written consent of both parties.

#### **VI. NO ADVERSE CONTACT ORDER**

Mother requests that Father be bound by a “no adverse contact order” (NACO), which shall restrain and enjoin him from engaging, directly or indirectly, in any adverse conduct towards Mother or her family members, including but not limited to excessive phone calls, emails or text messaging, contact at inappropriate times of the day without a bona fide emergency, coming on or about the residence or place of work of Mother or her family members without prior permission. This NACO shall permit Father to contact, associate and communicate with Mother only so long as she consents to such contact, association or communication. The purpose of this NACO is to both encourage and require civil contact and communication between the parties, and this NACO shall not be construed to trigger, implement or effect any provisions of the Federal Title 18 USC §922(g)(9), nor shall it be construed or is it intended to rise to the level of an order of protection as defined in the South Carolina Protection from Domestic Abuse statutes. However, in the event Father willfully violates this NACO he shall be subject to the contempt powers of the Family Court.



# Start with Custody

- Sole vs. Joint
- If your client is alright with a form of joint custody, be sure to define what that means.
  - If the client believes that he/she is better suited to make decisions about healthcare because they are a doctor or nurse or other healthcare practitioner, ask for it clearly and then explain why in your affidavit. Same idea for education decisions and a teacher/professor.
- Clearly explain what the expectations should be with regards to the sharing of information between parents when making major decisions. (You can also address this later in the parenting rights and restrictions, but you can also bring it up here as well).

# Custody cont.

- How many times have we all read something like, “The primary parent shall consult with the secondary parent on all major decisions, but in the event of a dispute, the primary parent shall be the final decision maker for the best interests of the children.”
  - Timeliness? When is it too little time for consultation?

# Parenting Schedules

- Lots to consider here; again, clarity is your friend.
- Things to note for the Judge and Guardian:
  - For the regular schedule, is your client comfortable with the “standard” and explaining why they are the more appropriate person to have a majority of the time, particularly during the school year?
    - Are pick-ups and drop-offs on the weekend a bad idea because the parties do not get along well, so that to and from school (Friday-Monday) is a better alternative? Or is one parent chronically forgetful of bags/ gear for the children so that exchanges at homes (Friday-Sunday) are a better plan?

# Parenting Schedules cont.

- For the Holiday schedule, are there special days for your extended family vs. the other parent's extended family?
  - I.e., are your children used to going to the paternal grandparents' home on Christmas Eve and maternal grandparents' home on Christmas Day? That might be a provision you want to carry forward and making note of it for the Court and for the Guardian to investigate could go a long way to maintaining those traditions and the sense of normalcy for the children.
  - Do there need to be restrictions of any kind, i.e., supervision, a phased in schedule, alcohol or drug testing? (Can also deal with in the Restrictions, but likely wise to address here in some capacity.)
- For each of these conditions, set forth the clear plan and then do any explaining that you need to in your affidavit.

# Restrictions

- This is really where you can get into the important things that a Guardian has more sway over and that a Guardian should really pay attention to.
- Standard Restrictions
  - Where is it important to propose changes to the “standards?”
    - Possibly when you have children who have special needs of some sort.  
Example:
      - A child with multiple therapies during the week, i.e., a child with autism having speech, OT, and PT.
        - Who takes the child and who picks up? Should both parents be allowed to attend? What happens to weeknight visitation?
      - Tutoring for grades

# Restrictions cont.

- When there are allegations of serious bad behaviors, make sure you have a solution.
- Examples:
  - Alcoholism/ drug use
    - Alcohol testing? How to test? Financial considerations?
    - Drug testing? Can a parent request a test? Are you asking for the Guardian to? What are the limitations?
- Exposure to a paramour(s)
  - Do we need a greater level of restraint, i.e., a specific person mentioned?
  - Are there same sex considerations needed?
    - I.e., Rather than some language saying “someone of the opposite sex,” should it refer to “someone with whom the parent is involved in a romantic or sexual relationship with”?
  - DEFINE OVERNIGHT

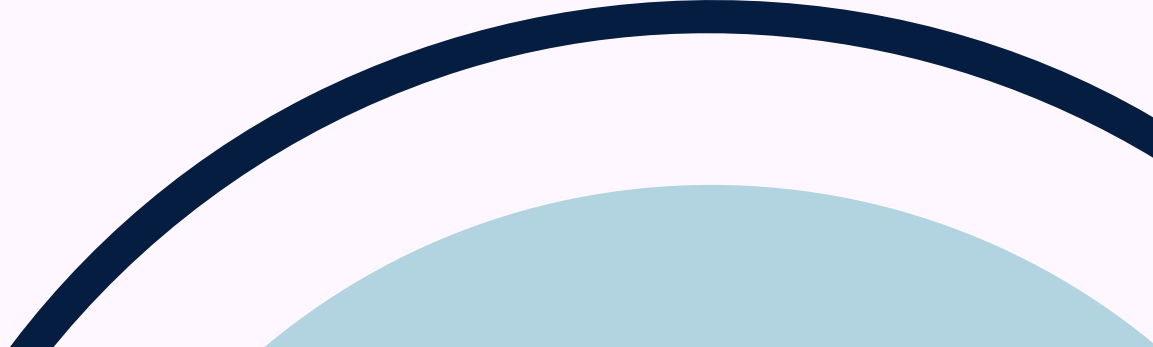


# Restrictions cont.

- Guns
  - Not even typically addressed in the standards
    - Has there been violence or threats of violence to warrant a request that guns be removed from the home?
    - Is there a complaint that the guns are simply not kept in a safe location, i.e., a gun safe?
- Communication Issues
  - What is reasonable contact for parents and children?
    - FaceTime?
    - Ages?
    - Children having their own phones?
    - Is there too much contact from one parent on other parents time? Do you need to implement a window of time for access?
    - Our Family Wizard or some other communication tool for co-parenting?



# Restrictions cont.

- Unfortunately, there are also very dumb reasons you may want to suggest additional restraints on behaviors. But if there are problems that endanger the child, THIS is where you let the Court and the Guardian know. The world is your oyster, and even if the Judge doesn't agree that a restraint needs to be implemented, you are still on record that your client believes there is a problem, and now the Guardian is aware as well.
    - Does a parent not use life jackets on boats?
    - Does a parent not use appropriate car/ booster seats?
    - Screen time/ video game limitations?
- 



# What Should a Guardian Look for in a Parenting Plan?

Now that we have helped craft a parenting plan to alert the Court and the Guardian of the many problems that the client believes they have, let's reverse it. You are a Guardian appointed on a new case, and as part of the document dumps from the lawyers, you receive copies of the proposed parenting plans from the Temporary Hearing.

What should you be looking for?

# What Should a Guardian Look for in a Parenting Plan?

- Is it the “standard” form, with no real additional information provided, no attachment?
- If it appears that there is additional information, try to review it prior to your initial meeting with the parties so that you ask about any immediate issues. (Lawyers, please try to send your packets first thing 😊)
  - Guardians cannot speak to custody and visitation issues generally by statute and case law, save and except for where a judge expressly orders it.
    - But are there safety concerns? Typically, this is where the area gets a little grey.
    - Look to the custody and visitation requests in the parenting plan versus what was ordered by the Judge.

# What Should a Guardian Look for in a Parenting Plan? cont.

- Most of the time, Guardians aren't present to hear what exactly the Judges say at the ruling, so reviewing the differences between the proposals and what was ordered may give some hints. Or, at the very least, it may lead you to ask questions of the attorneys or the parties in the initial meetings.
- Maybe there are no safety issues, but one parent clearly references special holidays for the family, and the other parent keeps things generic - not amending the parenting plan at all.
  - As the Guardian you may ask why that is?
    - Does one parent value consistency more than the other?
    - Would it be reasonable to follow through on what the "old" system was or would it potentially take away from the changes that must be made with two households?
    - Is this about a failure to co-parent or has one person simply always made the decisions in the past?

# What Should a Guardian Look for in a Parenting Plan? cont.

- If there are safety issues, did the court ask you to quickly investigate and to give recommendations on an expedited basis?
  - If so, what does the parent being supervised think of the concerns and how are they proposing to resolve them?
    - As an example, has it been alleged that there is alcohol abuse? Does the parent acknowledge a problem, deny, somewhere in the middle? And if they admit anything at all, are they willing to put in the work to make the child and the other parent (and the Court) feel better about the circumstances?

# What Should a Guardian Look for in a Parenting Plan? cont.

- You will want to review and compare both parent's plans and of course, feel free to think outside the box and take your own experiences into account when making recommendations regarding safety issues. Sometimes, your ability to do that—to think of something maybe the attorneys or the parents haven't considered—will greatly help the parties resolve the case by agreement in the end.
- If there isn't a requirement that you provide an immediate initial report, and the Court felt that the safety issues do not rise to that level, you should still take those types of things into account in your initial investigation and consider issuing a letter or report of some kind early on.



# Interpreting Rights and Restraints as a Guardian

- As it is for the drafting attorneys, the place where the parenting plans can have the biggest impact for Guardians are the rights and restraints.
  - Again, what is different from the “standard form” and how do the parties differ in what they think is appropriate?
    - One thing for a Guardian to immediately consider, and possibly even ask the clients about: are they even aware of what they’re asking for?
      - No disrespect to our lovely, talented, Family Court Bar, but we don’t always explain things well to our clients. Or our clients don’t want to hear it. Sometimes it takes a neutral third party to push a bit and ask, “WHY are you asking for this, specifically? What do you hope to get out of it? Is it necessary? Do you see this being a long-term solution?”

# Interpreting Rights and Restraints as a Guardian

- Suddenly, something that you thought was an issue, really isn't, or something you thought wasn't as big of a deal, now should be looked into more quickly.
- Other Considerations: There are really endless ideas that you can get for your investigation through digging into an expanded parenting plan. If a request to the court is unique or ANYTHING seems out of the ordinary, it gives you a place to start, at the very least.

# Interpreting Rights and Restraints as a Guardian

- Examples:
  - Parenting Plans and Witnesses
    - You are reading over the parenting plan, and you see that a child is engaged in therapies for their special needs, including speech therapy, OT and PT, all throughout the week. However, you look to the intake forms that the parties so kindly filled out for you before your first meetings, and neither has included them as potential witnesses for you.
    - You'll need to follow up to those providers about how the therapies are going.
      - Are there any problems between the parties that interfere with the therapeutic setting? Does one party support the therapies while the other does not?



# Interpreting Rights and Restraints as a Guardian

- Crazy restraints requested by one parent for the other.
  - Not just the standard level of crazy we expect in Family Court!
    - The over-the-top requests to limit a parent can work both ways: it can alert you to very serious bad behaviors by a parent that need to be limited, or it can alert you that a parent might be overly controlling or attempting to manipulate you and the court system to gain an advantage in the litigation.

# Final Thoughts

Lawyers:

Don't feel like you are constrained by the "standard" parenting plan form. If the case calls for really particularized needs, then ask for them. That make require additional space to explain what is needed, and if it does, go for it.



# Final Thoughts

Guardians:

If you are lucky enough to get an expanded parenting plan (or two!), use the extra information to guide you in asking your questions of the parties and making your recommendations to the Court.



Best of Luck to Everyone  
in your drafting!

**Kristina Parise Noë,  
Parise & Noë Law Firm, P.A.**





# South Carolina Bar

Continuing Legal Education Division

## Silent Voices, Loud Changes: The GAL's Role in Proving Substantial Changes when the Parents Fail to Do So at Trial

*Jenny R. Stevens*

Materials will be provided at a later date



# **South Carolina Bar**

Continuing Legal Education Division

## Child Custody and Visitation Case Law Update

*Gregory S. Forman*

Child custody case law update since January 2022

By [Gregory S. Forman](#)



Swain v. Bollinger, 435 S.C. 280, 866 S.E.2d 923 (2022)

- TPR/Adoption case between Father and Maternal Grandfather (Grandfather)
- Shortly after child's birth, Grandfather obtained custody through DSS because both parents were using drugs
- Mother eventually rehabilitated but Father continued to use drugs, engage in criminal behavior, and stopped paying child support
- Grandfather filed to terminate Father's parental rights and to adopt the child
- At trial the following year, the family court had concerns with Mother and Grandfather being listed as parents on the child's birth certificate, despite neither Mother, Grandfather, nor the guardian ad litem having an issue with it
- The family court found that Grandfather had proven grounds to terminate parental rights but failed to establish that termination would be in the child's best interests. The court based its conclusion on the fact that the birth certificate would include Child's grandfather and mother as parents and a denial of TPR and adoption would not affect Child's stability since grandparents had legal custody
- The Court of Appeals, in an unpublished opinion, affirmed. It acknowledging Father's conduct could be grounds for TPR if this were a DSS adoption, but because the grandparents already had legal custody of Child, TPR would not promote stability
- The Supreme Court granted certiorari and reversed
  - The family court granted undue weight to the birth certificate issue, especially as "neither Mother, Grandfather, nor the guardian ad litem expressed any reservations about listing Grandfather as Child's father. Further, the modern day family structure reflects itself in many forms—a historical change from the nuclear family that society traditionally viewed as the norm."
  - Supreme Court "reject[ed] the notion that because Grandfather already has custody, TPR and adoption would not promote stability for the child. Custody and adoption are clearly two distinct statuses, with the latter providing a level of permanency that a custody determination cannot. Without the adoption, Father would be free to attempt to inject himself into the child's life at any time, either by demanding visitation or by bringing an action for custody. When everyone—including Father—agrees that Child does not even know who he is, it is difficult to fathom how this could possibly be in Child's best interest."
  - The Supreme Court further noted that adoption would enable the child to qualify for Grandfather's social security benefits and that adoption would foster stability by leaving the child in the only living situation she had known
  - Finally, the Supreme Court rejected the Court of Appeals' suggestion that a different standard for TPR should apply when a child is in DSS custody
- *Swain* establishes an important point: TPR and adoption promote stability in a manner that mere custody cannot
- *Swain* also establishes that the family courts can approve a grandparent adoption without having to terminate the parental rights of that grandparent's own child

[\*Glinyanay v. Tobias\*](#), 436 S.C. 137, 871 S.E.2d 193 (Ct.App. 2022)

- Visitation modification case
- Family court awarded Mother sole custody and suspended Father's visitation rights, ordering Father to undergo a psychological evaluation and complete any recommended treatment, and ordering Father's counselor and daughters' counselor to determine when Father's visitation could resume
- Father appealed
- Court of Appeals first found it appropriate to allow children's counselor and the guardian ad litem to testify about statements the children had made to them
  - Counselors' testimony on children's hearsay was authorized by [Rule 803\(4\), SCRE](#) (statements "made for purposes of medical diagnosis or treatment and describing medical history, or past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof insofar as reasonably pertinent to diagnosis or treatment; provided, however, that the admissibility of statements made after commencement of the litigation is left to the court's discretion.")
  - "Rule 803(4) is subject to overextension (almost anything a mental health patient says could be "reasonably pertinent" to the diagnosis), and the wise trial judge will, when appropriate, deploy his discretion 'to admit the statements only as proof of the patient's condition and not as proof of the occurrence of the recited events.' That is what the family court did here. We recognize the 'selfish treatment motivation' may not hold up when the patient is a malingerer or afflicted by a mental malady like Munchausen's syndrome, but that is why [Rule 803\(4\)](#) contains the 'reasonably pertinent' requirement, and [Rules 401](#) and [403](#), SCRE, may be used to exclude the irrelevant and unduly prejudicial. It is also why we have cross-examination." (citations omitted)
  - Because counselor's testimony met hearsay exception, counselor's written report was merely cumulative or met requirements of [Rule 7\(c\), SCFCR](#) (authorizing written report of physician)
  - Guardian's testimony on children's hearsay statements was "cumulative to her report," which was entered into without objection
- Father also appealed denial of his request to cross-examine older daughter
  - Family court did in chambers interview of daughter
  - [Rule 23, SCFCR](#), regarding presence or testimony of a child
  - Court of Appeals found daughter's "testimony was not essential to establish the facts."
  - "[T]he counselors explained their diagnoses did not depend on whether Father actually did or said what his daughters claimed. What mattered was the girls' perceptions of and responses to the situations and environment. The counselors acknowledged these perceptions could be flawed, unrealistic, or mistaken. Because the truth of the events was not essential to the custody and visitation issue, the family court acted within its discretion in ruling Rule 23, SCFCR, did not require J's testimony."
- Court of Appeals affirmed Father's visitation being suspended
  - Court of Appeals cited evidence that the daughters' mental health had deteriorated from their visits with their Father. It further noted Father's visitation rights were suspended "without prejudice."

- Court of Appeals reversed provision suspending Father's visitation until his and daughters' counselors "deemed it appropriate."
  - Cited numerous cases that, "The family court cannot delegate its authority to determine the best interests of the children"

[Jacobs v. Zarcone](#), 436 S.C. 170, 871 S.E.2d 211 (Ct.App. 2022)

- Custody and visitation dispute involving Mother, Paternal Grandparents, and Stepmother, with Father deceased
- Family court awarded custody to Stepmother, visitation to Paternal Grandparents, and supervised visitation to Mother, who it found to be unfit
- Mother appealed
- Mother argued she cannot be unfit as DSS allowed her to regain custody of another child
  - Court of Appeals rejected that argument, noting “serious concerns about Mother’s ability to protect the children from David [Stepfather] given her repeated violations of the ‘no contact’ provision in the second DSS safety plan, her continuing refusal to believe David injured D.J., and her minimization of other incidents.”
  - Mother’s testimony indicated a clear disbelief that Stepfather had abused the children
  - Both the guardian *ad litem* and the children’s therapist noted Mother’s pattern of minimizing Stepfather’s behavior and not believing the children
- Court of Appeals found [S.C. Code § 63-3-550](#) gave Stepmother standing to seek custody of a neglected or delinquent child
  - Stepmother was most logical choice to have custody
  - Family Court and Court of Appeals still analyzed factors of [Moore v. Moore](#), 300 S.C. 75, 79–80, 386 S.E.2d 456, 458–59 (1989), and the doctrines of Psychological Parent and DeFacto Custodian
  - Court of Appeals affirmed finding that Stepmother’s was a Psychological Parent because Father had fostered Stepmother’s parent-like relationship with the children while he was alive
  - The Court of Appeals noted the amount of caregiving Father delegated to Stepmother while he worked
- The Court of Appeals vacated the portion of the family court’s order finding Stepmother to be a de facto custodian because the Children were not in Stepmother’s sole custody for one year prior to the commencement of this litigation.
  - It noted the controlling statutory language of [S.C. Code Ann. § 63-15-60\(A\)\(2\)](#)
- Court of Appeals affirmed award of grandparent visitation
  - Amount of visitation was agreed to between Grandparents and Stepmother
  - No finding that Mother’s visitation denials lasted in excess of ninety days, as required by [S.C. Code § 63-3-530\(A\)\(33\)](#)

[\*Rossington v. Rossington\*](#), 438 S.C. 63, 882 S.E.2d 170 (2022)

- Custody trial in which family court awarded joint custody
- Mother appealed
- In unpublished January 2022 opinion, Court of Appeals reversed and awarded Mother custody
- Father filed petition for writ of certiorari
- Supreme Court dispensed with briefing and partially granted writ
- Remanded for trial de novo
- Supreme Court found “it is more than likely the amount of time that has passed since the family court's order has resulted in a stale record incapable of reflecting facts and circumstances from which the current best interests of the child can be determined.”

[SCDSS v. Scott](#), 438 S.C. 400, 883 S.E.2d 229 (Ct.App. 2023)

- DSS abuse and neglect case in which family court placed Father on Central registry for sexual abuse of daughter and Father appealed
- Father unsuccessfully challenged subject matter jurisdiction because alleged abuse took place in North Carolina
  - Court of Appeals held there was subject matter jurisdiction as [UCCJEA](#) applied
  - Child custody had previously been litigated in South Carolina
  - Mother and child lived in South Carolina
  - Central registry finding could impact child custody
- Father unsuccessfully challenged use of child's counselor as expert
  - Child's counselor had graduate degree in counselor education and had counseled the child
  - Therefore, she "possessed the specialized knowledge to assist the family court in determining a fact in issue."
- At pre-trial court granted DSS's request pursuant to [S.C. Code § 19-1-180](#) to present child's out-of-court statement in lieu of testimony
  - Court of Appeals reversed
  - The expert's testimony that Child would "more likely than not" experience severe emotional trauma from testifying was insufficient "to find there was a substantial likelihood that Child would suffer severe emotional trauma from testifying."
  - The Court also expressed concern "by the lack of credence given to Father's suggestion to waive Father's presence in the courtroom to allow Child to testify."
  - It noted DSS had argued Father could question the people he thought Child may have been coached by as a remedy but that the family court then limited Father's scope of cross-examination
- Father successfully challenged limitations on his cross-examinations
  - Questions of expert's knowledge of divorce proceedings was relevant as "evidence regarding Mother and Father's divorce was relevant to the trustworthiness of Child's statements."
  - Cross-examination of Mother regarding motive was improperly limited "because evidence regarding Mother's motive to coach Child was relevant to facts in issue."
- Court of Appeals remanded for new trial



*Grungo-Smith v. Grungo*, 438 S.C. 508, 884 S.E.2d 219 (Ct.App. 2023).

- Custody modification case in which family court reversed prior joint custody arrangement and Court of Appeals reversed family court
- At the time of the parties' 2012 divorce, the family court approved their agreement to share joint custody of Children; specifically, a 5-2-2-5 schedule. The divorce decree provided, among other things, that (1) if one parent had Children for more than fifty percent of the time, the other parent would "contribute to the support and maintenance of Children"; (2) Children would be enrolled in any private school agreed to by each party; and (3) each party would abstain from using profanity or making derogatory comments about the other party and ensure others would not make such comments in Children's presence.
- In subsequent years, Mother began taking on more of the custodial responsibilities.
  - She moved five or six times but each time to a house that was either larger or closer to the Children's school and she claimed it was never more than a 35-minute drive (assuming no traffic) from Father's home.
  - She also took on primary responsibility for the Children's education and unilaterally selected their school.
  - Meanwhile, Father stopped exercising some of his weekday overnights due to work responsibilities or concerns over traffic.
- In 2019, Mother filed a modification case seeking sole custody and Father counterclaimed for same.
- At trial there were concerns over each parent.
  - Mother appeared to have coached the Children on how to interact with the guardian.
  - The Children reported to the guardian frequent arguing between Mother and Stepfather.
  - The guardian reported the Children being more relaxed at Father's home and they appeared nervous and uptight at Mother's home, requesting that the guardian interview them in their bedrooms and whispering so that Mother and Stepfather couldn't hear them.
  - At trial numerous witnesses testified as to Mother's good parenting.
  - Meanwhile Father acknowledged he chose not to exercise some of his visitation, did not object when Mother selected the Children's school, and credited Mother with the Children's academic success.
  - Despite his deviation from 50/50 custody, he provided Mother only \$1,200 in support.
- Given the conflicting testimony, the family court asked the guardian to make a custody recommendation.
  - The guardian stated she believed Father would be the better suited custodial parent based on the information provided by Children.
  - The family court awarded custody to Father and Mother appealed.
- The Court of Appeals reversed the change of custody to Father but did not award Mother custody.
- It found that neither party had shown a substantial change of circumstances. In so holding it noted: During trial, Father admitted, among other things, that: he failed to take advantage of his shared visitation blaming his failure on his work schedule and traffic; he never had Children in

his care for more than fifty percent of the time and failed to provide for them financially pursuant to the joint custody agreement; he did not take Children to school because it interfered with his work schedule, yet acknowledged he could have taken Children to school earlier or modified his work hours; neither Mother nor Stepfather prevented him from exercising his custody time and he praised Children's academic success and credited Mother for it; and the divorce decree did not prevent either party from moving, he never tried to enforce the school provision, and the divorce decree required the parties to share Children's expenses equally.

- On the other hand, the evidence and testimony demonstrate that Children behaved well and excelled physically, mentally, socially, and academically while under Mother's predominant care while she worked two jobs, working during the weekdays, every other weekend, and remotely at night after Children went to sleep. She moved five or six times to a larger home or closer to Children's school. Several witnesses, including Children's former school administrator, testified Children were well-adjusted, great kids, Mother was a good mom, and Children's academic success was due in part to Mother's involvement in their education.
- The Court of Appeals also expressed "concern with the family court requesting a recommendation from the Guardian because it should have only requested a recommendation in extraordinary circumstances, which were not present in this case. We are also concerned with the family court's heavy reliance on the Guardian's report and testimony in its findings because a family court should determine the best interests of Children after considering all the evidence presented at trial."
- Yet the Court of Appeals refused to award Mother sole custody:
  - While the testimony and evidence demonstrate that Children excelled under Mother's predominant care, it also demonstrates that Father was a factor in this success and a positive influence. Witnesses testified that Father was a good dad and saw Children at least once or twice a week; he took Children to dinner and spent time with them every other weekend; he demonstrated proactive effort to spend time with Children and participate in their lives; he withheld any disparaging remarks about Mother or Stepfather; and evidence from the Guardian indicated Father created a peaceful atmosphere where Children felt comfortable. Therefore, based upon the ample evidence demonstrating Children's emotional, social, and academic success under the original joint custody agreement, both parties failed to demonstrate a substantial change in circumstances or that the best interests of Children would be served by a change in custody.
- *Grungo-Smith* demonstrates the difference between the current *de novo* review and the pre-[Lewis](#) abuse of discretion review. The facts presented in *Grungo-Smith* appear to support an award of primary custody to either parent and there were clearly changes of circumstances from the parties' 2012 divorce: Mother taking on the majority of custodial caretaking and educational responsibility favoring custody to Mother; the children's significantly greater comfort with Father favoring his custody claim.
- Under an abuse of discretion standard, an appellate court would have likely affirmed any reasonable modification of custody. Under *de novo* review, the Court of Appeals found no substantial change.

Taylor v. Taylor, 439 S.C. 272, 886 S.E.2d 716 (Ct.App. 2023),

- Finds South Carolina's protection from domestic abuse statute encompassed abuse of stepchildren
- Wife sought an order of protection from domestic abuse against her husband on both her own behalf and on behalf of her minor daughter (who was not husband's child)
  - Wife's allegation was that Husband had molested her daughter.
  - At the emergency hearing, the family court found that Husband had abused his stepdaughter but found it could not issue an order of protection for her as she did not meet the definition of "household member" under the domestic abuse statute.
  - Wife appealed.
- The Court of Appeals reversed, finding the family court could grant an order of protection for an abused stepchild of the alleged abuser.
  - In so doing it looked to legislative intent to interpret the domestic abuse statute as the actual definitions in the code would lead to children being unprotected from domestic abuse.
- Under the definition of household member in South Carolina's domestic abuse statute, no child of spouses, ex-spouses, or former romantic companions would appear to be a "household member." That code subsection, S.C. Code Ann. § 20-4-20(b), defines "household member" as "(i) a spouse; (ii) a former spouse; (iii) persons who have a child in common; (iv) a male and female who are cohabiting or formerly have cohabited."
  - Court of Appeals noted that definition would not encompass stepchildren
  - However, subsection f allows the family court to grant an order of protection for "minor household members"
- In analyzing legislative intent, the Court of Appeals noted an intent to protect "minors" under subsection f even if those minors would not fall under the definition of household members in subsection b.
  - It also noted that the narrow reading of household member under subsection b would allow pets to be protected from domestic abuse while leaving most children unprotected.
  - The Court of Appeals held that this intent overcame the unduly restrictive definition of household members in subsection b.

- *Greene* has a rather lengthy factual and procedural history but the significant dispute was whether Father had sexually abused the parties' daughter. Allegations of Father touching daughter's "tickle spot" were raised by Mother twice in the two-year litigation period. There were also concerns Mother was engaging in parental alienation.
- During the litigation period, both parties underwent psychological evaluations to assess parenting capacity. Daughter underwent a forensic medical examination and two separate forensic interviews. Father underwent a psychosexual evaluation. Father was also ordered to turn over his electronic devices for review.
- From the summary of the forensic evaluator's and Father's testimony, it appears that Father was bathing daughter without using a washcloth and what the child reported to Mother was simply poor boundaries by Father. However, during the two-year litigation period, Mother repeatedly tried to limit Father's contact with daughter, tried to have the guardian relieved once the guardian began advocating positions she opposed, and stopped taking daughter to the court-appointing counselor once the counselor began advocating positions she opposed.
- At trial, Mother sought sole custody and Father sought joint custody. The parties presented various experts addressing the parental dynamic and daughter's purported disclosures.
  - The child's forensic examiner found no evidence to indicate daughter had experienced sexual abuse or was at risk of sexual abuse from Father, finding a stark difference between Mother's reports and daughter's initial forensic interview and between the child's first and second forensic interview—during which time Mother engaged in "behavior directed toward enabling disclosure."
  - The forensic examiner noted daughter was not alienated from either parent but that the parenting dynamic exhibited high levels of discord.
  - The child's counselor felt Father was more supportive of Mother's relationship with the child than Mother was of the Father's relationship.
- At the close of trial, the family court awarded the parties' joint custody with Father to have primary decision-making authority for daughter's education and health care, and Mother to have primary decision-making authority for her extracurricular activities and religious training.
- Both parties appealed but Father ultimately withdrew his appeal. The Court of Appeals affirmed the award of week-on/week-off physical custody and divided legal custody.
- In affirming the 50/50 physical custody arrangement, the family court noted the parties had been rotating daughter's placement on a weekly basis without incident since August 2019. It further supported the decision by finding: [T]here is a consensus among knowledgeable third parties, including the GAL and treating experts, that both Mother and Father are fit and loving parents. Thus, we find the circumstances of this case—including but not limited to Child's attachment to both parents, Mother's reactions to recommendations she finds unfavorable, and Mother's potential for unhealthy enmeshment with Child—constitute exceptional circumstances warranting the family court's award of joint custody.
- The Court of Appeals also affirmed the divided legal custody. "Despite their many disagreements and differing opinions, Mother and Father seem to mostly agree on Child's schooling, religious education, and pediatrician. To the extent they do not agree, however, the record supports the family court's assignment of the decision-making categories for Child's parenting."

- Greene may be the first published opinion affirming divided legal custody
- It is one of the rare cases affirming joint physical custody but is consistent with 50/50 custody being affirmed when there is strong parental discord and a history of 50/50 physical custody.
- In footnote 10, the Court of Appeals continues to express concern with appellate jurisprudence disfavoring joint custody.

[\*Fossett v. Fossett\*](#), 440 S.C. 576, 891 S.E.2d 515 (Ct.App. 2023)

- Custody modification case.
- The Fossetts were parents of sons aged 10 and 15 at the time of their divorce. That divorce decree granted Mother primary custody and Father visitation rights.
- A year and half later Father filed a custody modification action. He alleged two primary grounds: the sons' preferred to live with him and his remarriage.
- The family court appointed a guardian who met with the boys on four separate occasions. At trial, she testified that the children preferred to live with Father but expressed concern that this preference was likely influenced by Father's manipulative behavior. She also stated that neither child harbored any ill-will toward either of the parents and both exhibited high educational and extra-curricular performance.
- The family court denied Father's custody modification request. Father appealed.
- By the time this opinion issued one son had emancipated and thus the opinion did not address his custody. At the time of trial, the other child was ten years old.
- The Court of Appeals affirmed the family court's decision not to change custody despite the ten-year-old's preference. It noted prior case law had given little weight to the preference of a ten-year-old.
- It further noted that Father's manipulative behavior towards the child counterbalanced the preference issue, citing [S.C. Code Ann. § 63-15-240\(B\)](#) (providing an inexhaustive list of considerations for courts when determining the best interest of the child, including "the preferences of each child" and "the manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute").
- The Court of Appeals found Father's sharing with the children email conversations between him and Mother, in which he was highly critical of Mother, was the type of manipulation anticipated by § 63-15-240(B)(7) and that "such manipulation in the child custody context need not be an intentional effort to alter a child's custodial preference." Further, the guardian testified that she viewed the sharing of these communications as evidence of manipulation. Thus, the Court of Appeals declined to give weight to the ten-year-old's preference.
- The Court of Appeals also noted Father's remarriage and post-marital family environment was not a basis to modify custody. "While the record reflects that Father has fostered a healthy home environment for the boys, the GAL determined that the children are equivalently served in Mother's care. Also, absent additional supporting factors, remarriage is insufficient to modify a custody decree."
- The Court of Appeals further held Mother's homeopathic treatment of one child's severe eczema was not a basis to modify custody, as it did "not believe that Mother's actions reflect a dereliction of her responsibility to understand and meet the medical needs of her children."
- *Fossett* is the first reported custody opinion addressing a child's preference since South Carolina enacted section 63-15-240(B)'s statutory custody factors.