



Parental Alienation by Jodi L. Wyman

Parents sometimes complain of “parental alienation” in custody cases. It is however a rare phenomena, but one that the Courts will take very seriously.

In fact, the Ontario Court of Appeal recently took custody of five year old twins away from a mother who had worked very hard to alienate the children from their father. Although she was otherwise a good mother, her conduct included withholding basic information from him, only allowing him to see the children during the daytime and abruptly uprooting the children from their community simply to get away from the father.

The Court found that the mother had an unreasonable and deeply ingrained refusal to support the twins relationship with their father. The only reason the Court could find for the mother’s extreme behaviour toward the father was that he had requested a paternity test after the couple separated. He had however been patient, had developed a good relationship with his children, took a number of parenting classes and

never spoke negatively of the mother in front of the children.

There are factors in the Divorce Act for Judges to consider when deciding custody. The Act specifically states that Courts are to consider each parent’s willingness to facilitate access with the other parent. It is considered to be in a child’s best interest to have a relationship with both parents. One (or both) parents may not be perfect, and in fact may be seriously flawed. But, they are the child’s parent, and that child is entitled to a relationship with them. They can judge the character of their parent when they are older.

The problem arises when parents cannot see that a terrible spouse may still be a fine mother or father. Or, they truly believe the child is better off not knowing the other parent. While most moms or dads in these cases will still begrudgingly accept the relationship, some will not. They will do everything in their power to ensure the relationship with the other parent is permanently damaged. They

will defy Court Orders and lie to the children about the other parent. They are said to be guilty of parental alienation.

Parents who withhold the children in spite of a Court Order for access can face fines or even criminal charges. Changing custody is an extreme step for a Judge to take, and usually the last resort. The children may have lived their whole lives with their custodial parent. Because of the parental alienation, they may be afraid of the other parent, or may not know them very well at all. Yet, now they will be living with that person full time. These cases are rare, and the evidence must be very clear and compelling. It is not an Order that a Judge will make lightly.

There does not seem to be an easy answer to these difficult cases. And, in ugly custody cases like these, it is always the children who pay the price.