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# INTRODUCTION

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I am a trial lawyer. Like other trial lawyers, I am the ultimate generalist. While my practice overwhelmingly focuses on litigating and trying complex cases involving parental alienation in American family courts and internationally, I, ultimately, am a generalist. I have no formal education or training in medicine, psychology, social work or other related disciplines. But as Ed Zschau, the polymath professor at Princeton, once said, I learn the most the fastest when I don't know what I'm doing. In order to present a case involving parental alienation, I first had to educate myself on the concept of alienation, the empirical science supporting the theory, the Five-Factor Model that's used to diagnose parental alienation, the effective legal and mental health interventions. That was the easy part. Then came the hard part: Educating the judges and persuading them to intervene in cases involving parental alienation.

Judges too are generalists, almost all of them. Like trial lawyers, judges have to be able to solve legal problems that can touch on almost anything. And that is why judges do not depend upon their own knowledge of everything, but on how to assess and evaluate the arguments of the lawyers. It's the lawyers who have to understand. It's the lawyers who have to marshal the evidence that's needed to persuade and empower a judge to do the right thing. A good trial lawyer can teach anything. She will break it into parts. She will explain it so a judge (or a jury) could understand it. And she will do it in a manner that speaks to common sense, devoid of dogma or ideology. This book is meant for the lawyers—lawyers who have to educate themselves about parental alienation, break it down into parts, master the topic, and then explain it to judges. So, when judges say, to quote Dickens, "Barkis is willing," the lawyers are able to respond, "We'll help."

I owe debt and gratitude to the experts who have helped me understand the theory of parental alienation and have been unfailingly generous with their time and knowledge to answer my questions. First and foremost, I acknowledge my mentor and former law partner, Demosthenes Lorandos, Ph.D., J.D.,

who got me interested in this area of practice and encouraged me in my efforts. To him I owe an immense debt of gratitude and I thank him for all that he has done. I also wish to acknowledge the work and support of William Bernet, M.D., Richard Warshak, Ph.D., Amy J. L. Baker, Ph.D., Steven G. Miller, M.D., and Linda Gottlieb LMFT, LCSW-R. I am a dwarf standing on the shoulders of these and other giants who have significantly contributed to the field of parental alienation. Of course, any errors or omissions in this book are mine alone and should not be attributed to these scholars or experts.

A few words about the legal cases that I have cited and referred to in this book. Family law is the domain of state law and jurisdictions vary in their approach towards parental alienation. A New York family court's orientation towards parental alienation may differ, at times, from that of California's. Even within a state, a court in the urban area that has significantly more experience in handling cases involving mental health issues may take a different approach than a rural court, which may not have had similar opportunities. A domestic relations judge in Chicago, for instance, may be more familiar with the theory of parental alienation and the effective interventions that are required to remediate it than a judge who presides over a domestic relations docket in a rural Illinois county. The cases cited in this book are not cited for their precedential, binding value—in fact, there may be none since very few cases involving parental alienation have been adjudicated by state supreme courts. So why cite them? For two reasons.

First, it is important for a lawyer representing a targeted parent (a parent who is the target of the alienating parent's behaviors) to understand that regardless of the jurisdiction, the underlying behaviors of an alienating parent and the symptoms of an alienated child remain the same. Whether one is a family court practitioner in Alaska or Arizona, when confronted with cases involving parental alienation, one will find a similar set of behaviors, facts, and circumstances. It is important to note that some cases do not actually use the term "parental alienation" or derivations thereof. But they are still useful and illustrative of the tactics employed by alienating parents. While the diagnosis of parental alienation is limited to children who meet the criteria of the Five-Factor Model, many high-conflict cases have evidence of alienating behaviors that may have mild to severe effect on the children. The judicial opinions written by trial and appellate courts of such cases can be instructive as they may illustrate how judges, lawyers, parties, and other court-appointed or court-involved professionals manage, navigate, confront, and put an end to these alienating behaviors. I have found it helpful to read the judicial decisions from various courts around the country (and internationally). It is always interesting to me to see how a lawyer presented the case in one particular jurisdiction, what theories together with evidence were presented to the court, how the presiding judge reacted to it, what, if any, was

the legal intervention, and finally, in case of an appeal, whether the decision was sustained at an appellate level.

Second, while a judicial opinion from a foreign jurisdiction may not have precedential value, it may still end up having significant educational value and might empower a judge in another jurisdiction. As the Supreme Court Justice Stephen G. Breyer explained in his book, *The Court and the World*, there's something to be said about learning from foreign sources: "[I]f someone with a job roughly like my own, facing a legal problem roughly like the one confronting me, interpreting a document that resembles the one I look to, has written a legal opinion about a similar matter, why not read what that judge has said? I might learn from it, whether or not I end up agreeing with it." Breyer, S., *The Court and the World*, 240 (Knopf, 2015). When a lawyer before a Michigan family court is trying to persuade the court to order a specialized program on reunifying the alienated child with the targeted parent, it may be helpful to show to the court what a Maryland judge did when faced with a similar situation. The wheel doesn't need to be invented every time. Perhaps the Michigan judge may agree with the Maryland judge's decision or reasoning; perhaps not. But a lawyer can certainly try and use the similarities between the two cases to put forward a persuasive argument to empower a judge who otherwise might not feel inclined to blaze a new trail in ordering effective mental health interventions to remediate alienation.

A review of judicial decisions from the courts around the country demonstrate that parental alienation is widely acknowledged and used as a concept by courts and practitioners. But there is push back. Some opponents of the concept of parental alienation are detractors who will stoop to any level and will turn a blind eye to emerging research, empirical studies, and judicial decisions that are increasingly in support of the concept of parental alienation. For them, there is no such thing as parental alienation and despite significant evidence to the contrary, it doesn't exist. Some are concerned about the weaponization of the theory of parental alienation and how it is misused against abused women as a legal strategy to win custody disputes. Others cherry pick the research findings or conflate different phenomena. Together these opponents of the concept of parental alienation create smokescreens and confuse the field by conflating theories, draw sweeping contradictory conclusions about the parental alienation theory, present strawman arguments, and put forward ideologies masquerading as science. The result is confusion, misinformation, fallacies, myths, and *woozles*—unsupported and misleading claims that are widely disseminated and often repeated. Hopefully, this book will help the practitioners to separate the wheat from the chaff.

As this book will demonstrate, there is no doubt that parental alienation exists and that American courts have acknowledged the concept. At the same

time, it should be acknowledged that the theory of parental alienation is, on occasions, misused. There are cases where the concept of alienation has been used to counter evidence of abusive behaviors and justified rejection of an abusive parent by the child victim. However, this is true of any theory or phenomenon. In the area of domestic violence, courts have seen and called out false or orchestrated allegations of “abuse.” We don’t discredit the concept of domestic violence or intimate partner violence due to some rogue actors misusing or abusing the theory to suit their nefarious agenda. To do so would be to throw the baby out with the bathwater. The same could be said of the concept of parental alienation. In fact, it is ironic that the current struggle to legitimize the concept of parental alienation and to give it a place that it deserves in social science research is reminiscent of the struggle, decades ago, made by the advocates against domestic violence and child abuse.

Litigating cases involving parental alienation is tough. It is gut wrenching to see a parent use their child as a pawn and weapon to hurt the other parent. Having a practice that is devoted to litigating these cases, day in and day out, in courts around the country and internationally could easily result in burnout. I am fortunate to have support of a team of professionals without whom my work (and the writing of this book) would not have been possible. I am thankful to my colleague and associate, Andrew Bossory and research assistants, Laura Tobon, Dana VanKleeck, and Elle Murphree.

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