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Even When You Win You Lose: Targeted Parents' Perceptions of Their Attorneys

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A survey was conducted of adults who self-reported being targets of parental alienation. Two research questions were addressed: (1) what proportion reported experiencing their attorneys as caring, competent, diligent, communicative, and providing advice regarding interactions with other professionals on the case, and (2) to what degree was the most recent primary attorney perceived to be helpful and competent by these same standards? 150 individuals were randomly selected from a database of people who had personally contacted the author regarding parental alienation (with the assumption that some e-mails would no longer be valid and that some of the individuals would not be targeted parents, which was true for 34). Of 116 possible responses, 76 surveys were returned, resulting in a response rate of 66%. Responses to the survey revealed almost uniformly negative views of attorneys, with several areas being particularly troubling. These results offer several concrete ways in which attorneys and their targeted parent clients can work together better.

The problem of parental alienation has long been recognized as having mental health as well as legal implications (Gardner, 1998). When a parent tries to and/or succeeds at manipulating a child to reject the other parent, recourse for that parent can and often does involve both mental health professionals (therapists for the parent, psychological evaluators, court-appointed therapists for the child, custody evaluators, and so forth) and legal professionals (attorneys, judges, guardian ad litem, and so forth). Dr. Richard Gardner, the forensic psychiatrist who brought this issue to light and coined the term

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parental alienation syndrome (PAS), was aware of this intersection and addressed much of writings to parents as well as professionals in both of these arenas (e.g., Gardner, 1998). Since then some research and certainly personal narratives and clinical observations have accumulated to form an emerging body of knowledge about alienated children's behavior (as opposed to children who are estranged from a parent for reasons other than parental alienation) (e.g., Baker & Darnall, 2007; Clawar & Rivlin, 2001; Gardner, 1998; Kelly & Johnston, 2001), the strategies that alienating parents utilize (Baker & Darnall, 2006; Baker, 2005; 2007; Darnall, 1998; Warshak, 2001); and the long-term effects of parental alienation for the children (Baker, 2005; 2007).

In addition, some clinical wisdom and initial research has been conducted to shed light on the felt experience of being a targeted parent and the toll that experience takes. Vassiliou and Cartwright (2001) conducted a small scale study ($n = 6$) to explore the thoughts and feelings of targeted parents. Several important themes were brought to light in this work, including the sense of powerlessness and frustration targeted parents feel. Baker and Darnall (2006, 2007) conducted two surveys of approximately 75 parents who were concerned about the parental alienation efforts of the other parent. Results of these studies also highlighted the twin themes of frustration and powerlessness. However, virtually nothing is known about the experience of being a targeted parent as it relates to the legal arena other than vivid anecdotal accounts (Baldwin, 2008; Groner 1991; Mendelson, 1998; Meyer, 1999; Richardson, 2007; Sutherland, 2002). These narratives portray the chronic frustration, intense and nearly overwhelming sense of helplessness and/or rage at the ongoing interference; and the nearly constant dread that as bad as things are, they will probably get worse.

What is lacking to date from this literature is any quantitative data regarding parent's experiences with their attorneys hired to deal with custody disputes. The current study was undertaken to begin to take a look at the subjective experience of being a defendant/plaintiff in these types of legal interactions. It was hoped that these data could shed light on specific ways that attorneys and their clients could better understand each other and work together for the betterment of the child and the family. It was expected that several problem areas would be identified that could be the focus of specific continuing legal education and advocacy efforts on behalf of such parents. The survey focused primarily on client perceptions of key components of the attorney-client relationship as outlined in the American Bar Association's (2007) model rules of professional conduct, specifically: caring, competence, diligence, communication, advocacy, and advising.

METHODS

A survey study was conducted in September and October of 2008. Subjects were randomly selected from a large database of individuals who have

contacted the author about the issue of parental alienation (excluding professionals, stepparents, and people from outside the United States or Canada). It was expected that several of the people randomly selected would no longer have valid e-mails and/or would not meet the inclusion criteria, defined as (1) being a self-identified targeted parent,¹ (2) having been involved in a legal episode regarding visitation/access/custody/parenting time, and (3) having hired an attorney for at least some portion of the legal episode. Thus, a larger than necessary sample was selected with the expectation that a significant number would be eliminated, which was borne out. Of the 150 names randomly selected from the data base, 34 had invalid e-mails and/or did not meet the criteria (were grandparents, did not have any legal episodes, only acted pro se). Of the remaining 116 surveys, 6 people refused to participate, 4 said that they would complete the survey but never did, 30 people never responded (although it was confirmed that the e-mail was delivered), and 76 completed the survey. Thus, the response rate was 66 percent. This is considered a lower bounds estimate as presumably some of the people who did not respond, did not meet the criteria but did not indicate so. If all of the 30 people who did not acknowledge receipt of the survey in fact were not eligible, the response rate would be 88 percent. This is considered the upper limit and the true rate is deemed to be somewhere between the two (i.e., between 66% and 88%). Two of the completed surveys had corrupted files that made it impossible to include the data in the analyses. The maximum valid n for analyses was 74.

Sample

Table 1 provides basic demographic information on the survey respondents. As can be seen, the sample was between 33 and 66 years of age ($M = 46.6$, $SD = 7.3$). Slightly more than half ($n = 41$, 55.4%) were male. Respondents came from 30 states and Canada.² The majority (82.4%) of the survey respondents were currently divorced from the other parent, 4.1 percent were separated, and the remaining 13.5 percent were never married to that parent. In terms of legal status, half had full or joint legal status (although it was not necessarily enforced), one fourth had an “other” legal status including waiting to be determined by court, and about one fourth reported that legal status was no longer applicable as the children were currently over majority age.

¹These parents will be referred to as targeted parents but no independent verification was undertaken.

²Although originally people known to be in Canada were excluded, several of the participants were later found out to be in Canada and their surveys were ultimately included in the analyses with the assumption that their experiences would be relevant.

TABLE 1 Background Characteristics of the Survey Sample (n = 74)

	N	%
Age of Respondent		
30–39	12	16.4
40–49	37	50.0
50–59	19	26.0
60–69	01	01.4
Missing = 5		
Gender of Respondent		
Male	41	55.4
Female	33	44.6
Legal Custody Status		
Joint legal	37	50.0
Full legal	01	01.4
Other	18	24.3
N/A, kids over 18	18	24.3
Marital Status		
Divorced/separated	64	86.5
Never married	10	13.5

The Survey

The survey was comprised of 62 items. There were five items pertaining to background characteristics of the respondent (age, gender, state of residence, marital status with alienating parent, and legal status via a vis the child(ren)). This was followed by seven items regarding the legal episodes (number of legal episodes, date of most recent episode, length of time between first and most recent episode, whether current episode was still active, number of firms hired, number of attorneys hired, and number of judges assigned to the case(s)). The next portion of the survey contained two sets of 22 items each, asking about the respondent's experience with his/her attorney(s). The first set asked the respondent to report on all of the attorneys in general, with a six-point response scale (0 = not one attorney, 1 = only one of many, 2 = the one and only, 3 = some attorneys, 4 = most attorneys, 5 = all attorneys) while the second set asked the respondent to rate the most recent/current primary attorney on a five-point scale (0 = not at all, 1 = a little, 2 = somewhat, 3 = much, 4 = very much.) The 22 questions were as follows: one question about caring: attorney cares about you and your case; six questions about competence: took the time to understand all of your concerns, were familiar with all the relevant aspects and details of your case, were adequately prepared for hearings, understood parental alienation sufficiently throughout the legal process, were knowledgeable about responding to lack of compliance of the other parent, submitted motions and responses that accurately reflected your concerns; three questions about diligence: did everything possible to prevent and fight delays initiated by the other side, followed up with opposing counsel and judges in a timely fashion, and

vigorously advocated for your rights; four questions about communication: were available by phone/e-mail/in person in a timely fashion, explained the process to you in a timely and helpful manner, gave you sufficient opportunity to provide feedback on drafts of motions, and discussed and explained legal strategy with you; six questions about advisory role: prepared you to deal with court-appointed therapists, prepared you to deal with guardian ad litem, prepared you to deal with custody evaluators, prepared you to deal with psychological evaluators, prepared you to deal with child protective services, and prepared you for hearings; and two miscellaneous questions (billed you at the wrong rate/wrong number of hours and had support staff who were respectful and competent).

The final six questions were as follows: an open-ended question about any other complaints and concerns about the attorneys; a dichotomous variable about whether the respondent had ever acted pro se (0 = no, 1 = yes); a five-point question about the frequency with which the respondent experienced anxiety and or depression during the legal episode(s) (0 = never, 1 = rarely, 2 = sometimes, 3 = often, 4 = very often); a five-point scale regarding the respondent's satisfaction with the final court order(s) (0 = not at all, 1 = a little, 2 = somewhat, 3 = much, 4 = very much); a dichotomous question about whether the rights as outlined in the final order(s) were enforced (0 = no, 1 = yes); and an open-ended item asking for explanation of how, if at all, the rights were not enforced.

RESULTS

The first set of data presented pertain to number of legal episodes; length of time between first and most recent episode; and the number of attorneys, firms, and judges involved in the case. These data are presented in Table 2.

Number of legal episodes ranged from 1 to more than 20 (Mean = 12.3, SD = 16.8). Half of the respondents had between 1 and 5 episodes and 17 percent had more than 20. Slightly less than half had legal episodes still active and for the sample as a whole the most recent episode was initiated between just a few months ago to over 14 years ago. For those with more than one legal episode, the length of time between the first and the most current episode ranged between less than a year to over 10 years; the maximum was 14 years and the mean was 5 years (SD = 3.5 years). The respondents hired between 1 and 8 firms (Mean = 2.9, SD = 1.6) with only one fifth staying with a single firm, and between 1 and 12 attorneys (Mean = 3.1, SD = 2.1). The respondents had between 1 and 20 judges (Mean = 3.2, SD = 3.0) assigned to their case(s). Number of episodes was statistically significantly correlated with number of firms ($r = .28, p < .02$), number of attorneys ($r = .30, p < .01$), and number of judges ($r = .42, p < .001$). Thus, the more cases, the more firms, attorneys, and judges were

TABLE 2 Number of Legal Episodes, Attorneys, Judges; and Length of Legal Episodes

	N	%
Number of Legal Episodes (n = 70)		
1-5	38	54.2
6-10	09	12.9
11-20	11	15.7
More than 20	12	17.1
How Long Ago Most Recent Episode Was Initiated (n = 73)		
Within past year	31	42.5
Between 1 and 2 years ago	09	12.3
Between 2 and 3 years ago	13	17.8
Between 3 and 4 years ago	04	05.5
5 or more years ago	16	21.9
Current Case Still Active (n = 74)		
No	41	55.4
Yes	33	44.6
Length of Time Between First and Most Recent Legal Episodes (for those with more than 1 episode) (n = 69)		
Up to 1 year	10	14.5
1-2 years	06	08.7
2-3 years	11	15.9
3-4 years	09	13.0
4-5 years	04	05.8
5-10 years	22	31.9
10+ years	07	10.1
Number of Firms (n = 74)		
1	15	20.3
2	23	31.1
3	14	18.9
4	09	12.2
5	08	10.8
6-8	05	6.8
Number of Attorneys (n = 74)		
1	15	20.2
2	22	29.7
3	15	20.2
4	08	10.8
5	05	06.8
6+	09	12.6
Number of Judges (n = 68)		
1	17	25.0
2	18	26.5
3	14	20.6
4	09	13.2
5	01	01.5
6+	09	13.2

likely to be involved. Table 3 presents the responses to the questions about caring of the attorneys.

Regarding attorneys in general, the one question on the topic of attorneys caring about the client and the case received very low ratings with only 20 percent of respondents reporting that all of their attorneys cared

TABLE 3 Frequency Distribution of Responses Regarding Attorney's Caring

	Not one	1 of Many	Some Most	All of Many	1 of 1
<hr/>					
Caring of Attorneys in General					
Cared about case	16.4	34.2	28.8	20.5	
(Mean caring = 1.5, SSD = 1.0)					
	Not At all	A Little	Somewhat	Much	Very Much
<hr/>					
Caring of Primary Attorney					
Cared about case	16.9	15.5	16.9	23.9	26.8
(Mean caring = 2.3, SD = 1.4)					
<hr/>					

about them and the case. Over 15 percent reported that not one attorney cared. Regarding the primary attorney, the average caring score was 2.3, somewhere between somewhat and much, with only about one fourth of the respondents reporting that their primary current/most recent attorney cared very much about them and their case. This feeling was reflected in the open-ended comments made by the respondents, such as the following, "The second attorney didn't care about my case. . . . She left the country to adopt a baby for an extended period of time, was completely unreachable and didn't have someone cover her work for her. After about a year with her and many mistakes on her part (untimely responses to judge, etc.), we met with her in a last attempt to salvage the relationship. She told me, "No-one cares about your case . . . not even me, except that I represent you." Several other respondents made comments about the attorneys only being "in it" for the money and lacking any compassion or concern for the clients, such as "I feel like he couldn't care less about custody/access/visitation/parenting time. All he wanted to do was have his paralegals and himself bill as many hours as possible." Another theme reflected in these comments was that the attorney minimized the client's concerns and encouraged the client to settle the case. "Told me to give up fighting for custody" and "Tried to convince me to settle before all of my concerns were heard" which was also experienced as a lack of concern for the client and his/her plight. Table 4 presents the data regarding perceptions of attorney competence.

Regarding competence of the attorneys in general (as far as the client can judge), the mean rating across the five items was 1.3 (between not one and one attorney). Looking across the five items it can be seen that 60 percent reported that not one attorney understood parental alienation, 42 percent reported that not one attorney was familiar with ways to respond to lack of compliance of the other parent, and over 20 percent reported that not one attorney understood the details of the case, were familiar with the concerns of the client, and filed motions that were responsive to those concerns. Less than one-third of the respondents reported that all of their attorneys were competent in these areas.

TABLE 4 Frequency Distribution of Responses Regarding Attorney's Competence

	Not one	1 of Many	Some Most	All of Many	1 of 1
Competence of Attorneys in General					
Understood concern	23.3	26.0	28.0	26.9	
Were Familiar details	23.3	27.4	23.3	26.0	
Responsive motions	30.6	25.0	23.3	26.0	
Understood PA	60.6	18.3	08.5	12.7	
Know. Compliance	42.3	31.0	09.9	16.9	
(Mean competence = 1.3, SD = .86)					
	Not At all	A Little	Somewhat	Much	Very Much
Competence of Primary Attorney					
Understood	21.1	15.5	15.5	21.1	26.8
Were Familiar	16.9	12.7	18.3	26.8	25.4
Responsive motions	19.7	14.1	16.9	19.7	29.6
Understood PA	32.4	12.7	25.4	15.5	14.1
Know. Compliance	31.4	08.6	17.1	20.0	22.9
(Mean competence = 2.0, SD = 1.2)					

The average competence score of the primary attorney was two, indicating that on average the respondents perceived their current/most recent primary attorney as only somewhat competent, with not even one third viewing their attorneys as very competent in any of the areas assessed. Not surprising, one third viewed their attorneys as not at all competent in understanding parental alienation.

Comments about competence abounded, with three main themes emerging: bad advice, errors in fact or judgment, and lack of familiarity with parental alienation. Comments made about bad advice of attorneys included, "He guaranteed me if I did what he suggested it would look good to the court but in the end it cost me my son." Comments about errors in fact or judgment included, "First attorney responded to first motion with gross errors in the document. She did not forward it to me for review prior to submission. This mistake damaged my credibility from the very start." And "I had a final male lawyer who said that even though he wasn't a divorce attorney it was 'all the same.' He thought I was owed child support and subpoenaed the tax consultant without asking me. She was my tax consultant too and was furious with me. He didn't know probate law and didn't realize there was a previous filing for modification of child support from dad and the judge had the option to rule for a change in support back to the date the modification was filed. The lawyer was threatening my ex husband that he would go after back child support when I didn't want it and caused a nastier argument I feel." And "My first attorney wasn't very good—the agreements had a lot of 'loose language' allowing for a lot of wiggle room from the children's mother. The first attorney was surprised at the children's mother's behavior—surprised that there would be problems from the other parent."

TABLE 5 Frequency Distribution of Responses Regarding Attorney's Diligence

	Not one	1 of Many	Some Most	All of Many	1 of 1
Diligence of Attorneys in General					
Was prepared/hearings	24.7	32.9	21.9	20.5	
Vigorously advocated	43.8	21.9	17.8	16.4	
Followed up	14.1	32.4	28.2	25.4	
Fought delays	44.9	23.2	15.9	15.9	
(Mean diligence = 1.3, SD = .91)					
	Not At all	A Little	Somewhat	Much	Very Much
Diligence of Primary Attorney					
Prepared/hearings	19.1	13.2	13.2	22.	32.4
Vigorously adv.	23.9	16.9	21.1	14.1	23.9
Followed up	18.5	09.2	10.8	23.1	38.5
(Mean diligence = 2.4, SD = 1.4)					

Specific comments made regarding lack of knowledge about parental alienation were prevalent throughout the surveys, including the following three, "None of the attorneys involved in my custody case understood the impact of PAS, how it doesn't go away as the children get older! They kept telling me, 'Once the divorce is over, they will come back to you'. . . they had NO IDEA!" "My first attorney did not understand PAS at all and actually called Dr. Gardner a quack. I should have fired her at that time. She convinced me to follow the GALs recommendation and not fight for custody although the GAL clearly stated the father's actions were the cause of the estrangement the kids and I suffered." And "I feel that both attorneys were not fully supportive of PAS issue . . . so I was treading on thin ice when I argued it to them which made me feel a lack of validation." Table 5 presents the data regarding respondent perceptions of the diligence of the attorneys.

Reporting on diligence of attorneys in general, the average respondent rating was 1.3, indicating that on average only one of many attorneys were perceived to show this crucial aspect of representation. Specifically, only between 16 and 25 percent reported that all attorneys were prepared for hearings, vigorously advocated for their rights, followed up with opposing counsel and judges, and fought delays initiated by the other side.

Diligence of the primary attorney was rated on average 2.4, with one fifth reporting that their current/most recent primary attorneys were not at all diligent in being prepared for hearings, vigorously advocating for their rights, or following up with judges and opposing counsel. On a more positive note, about one-third reported that their attorneys were "very much" diligent in these respects.

Many of the open-ended comments focused on lack of diligence as a key concern: "My biggest concern was apathy and nonaggressiveness on the part of the attorney. I paid them and expected them to treat my case with the same zeal as if it had been their own case, but they did not. My first

TABLE 6 Frequency Distribution of Responses Regarding Attorney's Communication

	Not one	1 of Many	Some Most	All of Many	1 of 1
Communication of Attorneys in General					
Were available	13.9	30.6	33.3	22.2	
Explained process	20.5	30.1	24.7	24.7	
Allowed feedback	21.4	32.9	21.4	24.3	
Discussed strategy	23.6	33.3	25.0	18.1	
(Mean communication = 1.5, SD = .84)					
	Not At all	A Little	Somewhat	Much	Very Much
Communication of Primary Attorney					
Were available	15.5	12.7	28.2	15.5	28.2
Explained process	20.0	14.3	22.9	22.9	20.0
Allowed feedback	26.5	16.2	13.2	20.6	23.5
Discussed strategy	24.3	21.4	14.3	21.4	18.6
(Mean communication = 2.0, SD = 1.3)					

attorney had the opportunity to have my ex-wife held in contempt of court for flagrantly violating the court's restraining order against removing and hiding the children from the other parent. But he didn't even raise the issue. My last attorney had too many clients to be able to give my case the time and attention it needed. When I met with him he would often be reading text messages on his phone while I was talking to him." "My attorney did not stand up for me and basically let them take everything from me." "The first and third attorney both did not move on motions as quickly as the second. They allowed the stall tactic of the alienator to continue. The stalling has to be the most frustrating aspect of this on-going fight. Nothing can get accomplished and it lingers so that the attorneys can make more money." And "I am frustrated at the painfully slow process in family court and he seems to not feel the same sense of urgency that I feel." Table 6 presents the data regarding respondent perceptions of attorney communication.

In terms of communication of attorneys in general, average scores were between one and two indicating that some but not all of the attorneys were perceived to have this skill. Specifically, only one quarter of the survey respondents reported that all of their attorneys were available in a timely fashion, explained the legal process, allowed them to provide feedback to drafts of motions, and discussed strategy with them.

Communication scores of primary attorneys averaged two, with only about one-fourth reporting that their attorneys were very much available in a timely fashion, explained the legal process, allowed the client to provide feedback on drafts of motions, and discussed legal strategy. Several of the open-ended comments focused on frustration and dissatisfaction with how attorneys communicated with them, including the following, "He is not accessible enough and very slow to respond to messages, questions, and information I provide him about the case, especially regarding PAS." And,

TABLE 7 Frequency Distribution of Responses Regarding Attorney's Advising

	Not one	1 of Many	Some Most	All of Many	1 of 1
Advising of Attorneys in General					
Prepared/therapists	72.9	15.3	03.4		08.5
Prepared/GALs	73.1	11.5	07.7		07.7
Prepared/cust. eval	71.9	12.3	05.3		10.5
Prepared/psych. evals	70.0	13.3	05.0		11.7
Prepared/CPS	66.7	17.8	04.4		11.1
Prepared/hearings	31.4	35.7	18.6		14.3
(Mean advisor = .43, SD = .78)					
	Not At all	A Little	Somewhat	Much	Very Much
Advising of Primary Attorney					
Prepared/therapists	55.8	15.4	09.6	11.5	07.7
Prepared/GALs	67.4	07.0	09.3	07.0	09.3
Prepared/cust. eval	58.7	06.5	10.9	10.9	13.3
Prep/psych. evals	61.2	08.2	06.1	12.2	12.2
Prepared/CPS	59.0	10.3	07.7	10.3	12.8
Prepared/hearings	27.7	16.9	18.5	15.4	21.5
(Mean advisor = 0.62, SD = 1.1)					

"My former attorney jeopardized my legal stance by failing to communicate in a timely manner with myself and the other attorney. I could not reach her for three weeks straight before I finally hired another attorney to salvage my case. She also failed to follow up on legal actions according to the game plan she laid out for me. She then sent me a bill for twice as much as she originally quoted." Several other respondents noted in their comments that after payment of the retainer, the attorney became noticeably less attentive and available if not impossible to reach. The following comment is representative of several made about this, "He asked for a \$3,000 retainer and after that I couldn't get him on the phone because he was always preparing for other cases." Table 7 presents the ratings of the attorneys in their advisory capacity.

Attorneys in their advisory capacity fared particularly poorly in respondents' perceptions, with an average score of less than .5. The vast majority of attorneys were perceived as not preparing their clients for the myriad of professionals that become involved in protracted custody disputes including court appointed therapists, GALs, custody evaluators, psychological evaluators, and child protective service workers. Regarding the primary attorneys, the advisory capacity was seen as the most problematic, with average scores less than 1. Around half of the sample reported that their attorney did not at all help them prepare for most of the professional interfaces involved in custody disputes and only one fifth said that their attorney very much did so. (Interestingly, the open-ended comments made by the respondents did not focus on this aspect of their experience.)

TABLE 8 Frequency Distributions of Final Survey Questions

	N	%				
		Not At all	Rarely/A little	Somewhat	Often/Much	Very Much
Acted Pro Se	38					52.1
Were Rights Enforced	05					07.8
Anxiety/Depression	00.0	02.7	11.0	23.3	63.0	
Satisfaction with order	61.1	12.5	19.4	04.2	02.8	

Looking at the two miscellaneous variables, about half of the respondents reported that some attorneys billed them at the wrong rate and/or for the wrong number of hours and only one third of the respondents reported that the attorney's support staff people were respectful and competent. Table 8 presents the final set of data regarding functioning pro se, experiencing anxiety/ depression, satisfaction with the final order, and whether the final order was enforced.

As can be seen, about half of the sample reported that they acted pro se (with slightly more males than females doing so, but not at a statistically significant difference). All reported feeling anxiety and depression with almost two thirds reported that this was the case "very often" and the same proportion reported being "not at all" satisfied with the final order. All but a few felt that their rights were enforced. Comments made by the respondents to elaborate and explain this issue fell into three categories. First, were comments that told a brief overview of the way in which rights were not enforced and the perceived impact of that on the child and the targeted parent. The following is typical of such a comment, "My ex-husband violated my rights from the initial custody order that was implemented at our judgment of divorce in July 2005 by not paying child support and continually interfering and undermining my parenting of our two children. He has continued to violate my rights, and during the summer of 2007 while our kids were visiting him for summer vacation, my ex-husband registered them in school and kept them. It has taken me one year to get them back and the order is not even final yet! It has cost me hundreds of thousands of dollars in legal fees, and I'm convinced my ex-husband will not follow the final order either." Other respondents focused on the extensiveness of the disregard for the final orders, such as the following comment, "My ex-spouse has currently over 50 violations of the current order within the past 1.5 years and NOTHING has been done about it." And "You can barely read a single paragraph of my final decree without running into an issue of non-compliance by my ex-wife." Other comments focused on the difficulty in obtaining enforcement and the financial and emotional costs of trying to do so, "The orders mean very little. It's the parents that must honor it. If it's not honored you must hire an attorney and go to court and pay dearly financially and emotionally.

It only entrenches the hatred from the other side, and causes stress for the child(ren). Courts find contempt charges petty by comparison to the more physical issues like drugs, abuse, and so on. Courts do not take the mental abuse serious enough, and realize the amount of unseen suffering the children endure from the hatred of one parent.” This idea that the courts did not hold non-compliers in contempt was echoed in several other comments such as, “Each time I return to court on contempt charges for my ex-wife not allowing visitation or communication or for her moving or changing schools or phone number without telling me (or for her falsifying school records stating that I am not allowed to gain access to records or communicate with my daughter), instead of holding her in contempt or forcing compliance, the court modifies the order to coincide with whatever my ex-wife has done or is doing.”

DISCUSSION

This study was undertaken to quantify the perceptions that targeted parents have of their attorneys hired to represent them in legal disputes regarding child custody, access, visitation, or parenting time. It was presumed that such clients would have few opportunities and little incentive to provide such honest feedback directly to their attorneys because of the high stakes nature of the situation and the immense power differential between attorneys and their clients.

Several highly notable findings presented themselves in these data. First, targeted parents involved in custody disputes are likely to have more than one legal episode (defined as all activity up to and including an order). In fact, close to 90 percent had already been involved in more than one legal episode, and the length of time that the respondent was involved in legal disputes was between 1 year and 10 years. Because only a small proportion of respondents had children over the majority age, it is quite likely that these numbers will only increase over time. Given the toll that participation in legal disputes can take on the individual, these data suggest that targeted parents, in addition to dealing with the concern about the loss and destruction of the parent-child relationship, also must contend with the chronic stressor of being involved in contentious, costly, and extremely high stakes litigation and court proceedings.

Second, only one fourth of the respondents had their case heard by a single judge and fully one fourth were assigned 4 or more judges. This suggests that there is considerable lack of continuity in the legal proceedings for the vast majority of respondents. While not being bound to a single judge—if that judge is biased or incompetent—could be advantageous, too much change among judges suggests that there is insufficient opportunity for a single judge to witness the full range of problematic behavior of the alienating parent.

Third, less than one-third of all respondents reported that all of their attorneys exhibited behaviors and attitudes deemed appropriate and necessary for adequate counsel, and approximately one-fourth felt that *none* of their attorneys exhibited such important behaviors as demonstrating that they cared about the client and his/her case, understanding all of the relevant concerns of the case, being familiar with all of the details of the case, explaining the process, allowing for feedback on motions, discussing strategy, being prepared for hearings, and following up in a timely fashion. High rates of dissatisfaction were also evident for filing motions that were responsive to the issues, vigorously advocating for the rights of the client, and preparing the client for the hearings. Particularly troubling was the fact that more than half of the respondents felt that none of their attorneys understood parental alienation, prepared them for therapists, GALs, custody evaluators, psychological evaluators and child protection services. Only a small proportion felt that all of their attorneys prepared them for these essential components of many custody disputes. When focusing on the current or most recent attorney only about one third of the respondents rated their attorney as “very much” exhibiting any of these attitudes of actions.

Clearly, parents who self-identify as targeted parents report high levels of dissatisfaction with most of their attorneys on the key components of the client-attorney relationship as it pertains to legal disputes involving custody/access/visitation/parenting time. Clients report low levels of feeling cared for and understood, low levels of engagement of the attorney in the process (knowing the details, discussing strategies, being available), low levels of communication, diligence, and functioning as an advisor. Two points need to be mentioned in regard to the high levels of dissatisfaction. The first is that it is possible that all clients feel dissatisfied with their attorneys and that the levels reported here are not remarkable in that regard. The second is that perhaps there is something inherently negative or critical about parents who perceive themselves to be victims of parental alienation such that they have created problems in their relationships with their children and in their relationships with their attorneys.

Regarding client satisfaction with attorneys, little is known. As Herrin pointed out in 1998, compared to other fields of consumer satisfaction, little attention has been paid to client satisfaction with legal representation. The situation does not appear to have righted itself in the past twenty years. Thus, there is little comparable data with which to compare the current findings. Even if comparable data existed which revealed similar levels of dissatisfaction, that would not negate the findings in any regard. It would simply mean that self proclaimed targeted parents are as unhappy with their attorneys as other clients are. This would still require attention.

The second issue is not one that can be addressed with current data. It is possible (although not terribly likely as the sample was to some extent randomly selected) that every respondent is a malcontented person who

would not be happy in any relationship, thus accounting for the difficulties with both their children and their attorneys. Ruling out this possibility is not completely possible with the current data but it should be noted that several of the respondents indicated some satisfaction with some attorneys and some were actually self-reportedly happily married and had positive relationship with other children (just not the child who was perceived to be alienated).³ The best way to rule out this potential confound would be to replicate the findings with a different sampling strategy.

Two additional findings require comment. First, all of the respondents reported experiencing anxiety and depression during the legal proceedings, and 85 percent said that this was true for them often or very often. These data, again, shed light on the intersection between legal and mental health aspects of parental alienation/custody disputes. More relevant to the purposes of this study is the fact that anxiety and depression are counter productive to both parenting under alienation conditions and engaging with one's attorney in a constructive manner. Parenting a child when the other parent is exhibiting alienation behaviors is extremely stressful as there is constant unpredictability, frequent intrusion, and ongoing conflict with both that parent as well as with the child. Responding to parental alienation requires enormous preparation, foresight, self-control, creativity, and energy, the very things that become sapped when one is depressed and/or anxious. Depression and anxiety decrease self-control and energy, making it considerably harder for targeted parents to provide an effective counter to the alienation. Needless to say, this is a self perpetuating cycle in which poor choices and impulsive actions create additional stress and shame on the targeted parents, making it even more difficult for them to function effectively.

In addition, it is fair to assume that clients who are anxious and depressed are probably not any attorney's favorite client. They may be perceived as making unreasonable demands for contact to diminish their anxiety or require excessive and inappropriate degrees of reassurance to assuage the depression; they may be poor listeners in that high degrees of anxiety interfere with cognitive processing and they may not present well to other professionals on the case, making the attorney's job that much more difficult. To the extent that such clients are irritating and/or unlikable it is possible that attorneys are even less available and caring, further increasing the feelings of helplessness and hopelessness of the clients. In essence, targeted parents function as their own worst enemy throughout much of these high stakes legal actions.

Also of note, the vast majority of respondents reported that their final orders were not enforced. Many of the respondents took the time to write in additional comments and explain this in greater detail. These comments

³Based on additional comments on the survey and/or personal communication.

noted that lack of compliance with the orders was chronic and widespread, had serious and deleterious effects on the parent-child relationship, and was routinely ignored by the courts. Thus, even when targeted parents had the resources to pursue legal action and were fortunate enough to prevail through the complex and daunting process, they were not able to take advantage of the rights afforded to them by the courts because alienating parents did not respect the court orders, the attorneys were not inclined to bring this to the judges attention, and the judges were not interested in or able to force the alienating parent into compliance. Apparently, once the alienating parent determined that this was the case, noncompliance became the order of the day, so to speak.

Recommendations

Six recommendations arise from these findings. First, family law attorneys taking on alienation related cases could benefit from parental alienation specific training. Respondents did not feel that their attorneys were versed in this critical aspect of their case. The issue has been observed and written about extensively for at least 20 years, producing a wealth of information, resources, and training materials. It is time that continuing legal education and training be offered if not mandated, with special attention paid to developing effective responses for countering common legal strategies that entrench the alienation such as asking for unnecessary delays that often give the alienating parent the advantage of uninterrupted access to the child. Some states do offer continuing legal education and it is now time for all states to follow suit.

Second, attorneys who are dealing with the issue of parental alienation could help their clients deal with the non legal aspects of the problem by naming the issue for their client and providing them with relevant materials and resources. Several websites and support systems have been created specifically for targeted parents but too few parents are aware of them until it is too late and the child's alienation has progressed from the mild, to the moderate, to the severe level. Ideally, family/divorce attorneys could be educating and supporting every divorcing parent in order to provide them with the tools to recognize and counter alienation before it progresses. For example, Baker and Fine (2008) have written an e-book providing targeted parents with both a philosophy for how to interact with an alienated child as well as specific responses to 17 common parental alienation strategies. Warshak (2001) as well offers sound advice for targeted parents.

Along the same lines, if attorneys were aware that the vast majority of clients dealing with parental alienation are likely to suffer from anxiety and/or depression, they might be inclined to make a mental health referral to

the client. Sharing the data presented in this article could help normalize the experience and help reluctant targeted parents seek the professional support and guidance they need in order to have the maximum energy and resources to deal with the alienation.

On another note, attorneys should be educated about the high degree of dissatisfaction that targeted parents have about their competence, communication, diligence, and advisory function. As human service providers strive to increase consumer satisfaction across the board, attorneys should be apprised of the fact that they are not doing particularly well with these clients. No comparison data exist so it is not possible to ascertain whether this is specific to targeted parents. Attorneys should be particularly mindful to show that they care about the client and his/her case, demonstrate competence (and be willing to admit areas in which additional knowledge and skills are required and then seek out that information and training to become competent), be diligent, communicate in a timely and helpful manner (and perhaps ask the client whether they are doing so), and help the client prepare for the numerous other professionals who may become involved in the case. If the attorney does not believe that this is within the scope of the attorney-client relationship, they should alert the client to the need for preparation and make referrals or suggestions for avenues for becoming prepared. No attorney should remain silent on this matter as it could result in clients doing harm to their case by not understanding the purpose and nature of these interactions and evaluations.

Another important area for improvement is in enforcement of final orders. All but a few respondents reported that their rights were not enforced and explanations and descriptions abounded. Lack of enforcement ranged from minor infractions to complete lack of compliance on a long-standing basis that significantly interfered with the targeted parent's ability to see, spend time with, and function as a parent to his or her children. Clearly, much more work needs to be done in the legal arena to see that orders—that are so hard won—are actually translated into meaningful change in the parenting situation. As it stands, even when targeted parents win a right, they still lose in terms of seeing that right enforced.

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