

Calming Down The Nervous Client

Suggestions for attorneys dealing with anxious child custody litigants
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The anxiety of the child custody litigant is all too easily understood: here is an individual who is already likely coping with an acrimonious divorce, who is now facing what can seem like a terrifying prospect: the reduction or even complete loss of custody of his/her children. But while it's easy enough to empathize with this person, it's equally true that working with such a client through all the many details of divorce litigation can be a challenge for even the most sympathetic family law attorney! How do you help your client stay focused enough to deal with the problems immediately at hand and then also, with the upcoming custody evaluation?

Here are 6 suggestions for client management during this difficult time:

- 1) Stress to your client that the evaluator's top concern is coming up with a parenting plan that is in the best interests of the children. That goal trumps almost any other point: if Mom or Dad has a close, loving & supportive relationship with the kids, it's not going to matter to me, the evaluator, if his/her home isn't decorated like Martha Stewart's., or if she never finished high school, or if she doesn't get along with her neighbor. This is not to say that those things are not part of an evaluation, just that they pale in importance to the relationship between the parents and the children.
- 2) Encourage your client to adopt a cooperative, conciliatory attitude. One of the most obvious red flags to an evaluator is a client who is unable to consider alternate points of view, or to weigh the merits of possible custodial plans, or who can find absolutely nothing positive whatsoever to say about their ex.
- 3) Please reassure your client that the gender of the custodial parent is not a predetermined outcome. Neither is income level or educational background. What we evaluators are looking for is the best fit between parent and child when it comes to custody. Dads can parent their daughters, Moms can provide a solid home base even if their income isn't as much as their ex's. Someone who only went through the 11th grade might have better parenting skills than someone with a Ph.D! The key point to emphasize is that evaluators do not use a "cookie cutter/one size fits all" approach when coming up with a custody recommendation.
- 4) Help your client come up with a rational list of concerns about custody. For example, is your client concerned because his ex-wife allowed the kids to eat whatever they wanted to, rather than insisting on a bal-

anced diet? Is she concerned because her ex-husband can't read well enough to help with basic homework tasks? The idea here is not to come up with a litany of complaints; it is the idea to help the evaluator be aware of any issues that are relevant but which might not be immediately obvious in the short time in which an evaluation is completed.

- 5) Educate your client about the importance of collateral sources that support the client's position. Now, this does not mean the client's mother or best friend! What we evaluators want is objective, unbiased information. People like the child's teacher, Scout leader, softball coach, pediatrician, etc. are ideal. Your client should urge these people to speak candidly about their personal knowledge (i.e. that which they have themselves seen or heard, not information---a.k.a. gossip--- that they may have picked up from others.
- 6) This is critical: reassure your client that s/he does not have to look like a "perfect" person! Custody litigants often think they have to deny any mistakes or faults. To the contrary, this tactic makes people look like they have no insight, are defensive, and cannot learn from mistakes! And trying to look perfect on a psychological test is particularly hazardous: these tests have unobtrusive ways to detect this kind of faking, which signifies a lack of candor on the part of the test-taker.

If your client still seems too anxious to be able to present him/herself effectively, it may be appropriate for an in-person consultation with an evaluator prior to the actual evaluation. Obviously, this cannot be with the neutral, court-appointed evaluator; it will have to be with someone else who is unconnected to the case in any way. I offer such a service: As an experienced child custody evaluator, I can explain to your client what to expect, how to present his or her case most effectively, and help eliminate apprehension of the 'unknown.' This service is not coaching: I do not give test answers or facilitate deception. What I do is familiarize your client with the CCE process, give feedback on how their approach might appear to an evaluator, and encourage a clear & forceful presentation of their position, always focused on the BIC. Most cases can be prepared in 3 visits or less.