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## Parental alienation: Defining the term and recognizing the threat

**F**or better or worse, family law stands at the intersection of law and psychology, particularly when children are involved.

A frequent psychological weapon that can overtake the divorce litigation, catching everyone by surprise with its intensity and “effectiveness,” is parental alienation.

In a recent case, it was referred to as the programming of a child by the alienating parent to believe that one parent is good and other bad, with the goal that the child completely rejects the other parent. *In re Marriage of D.T.W. and S.L.W.*, 357 Ill.Dec. 894, 964 N.E.2d 573, (1st Dist. 2011).

However, the variations and permutations of alienation are subtle and complex, so any definition is only the starting point for addressing the issue.

Similarly complicated is the task of differentiating alienation that is “reasonable” from the irrational forms of alienation in which the child’s reactions are disproportionate to the parents’ faults and inconsistent with the pre-divorce family history.

It is irrational alienation that we need to identify and prevent, because it can never be in the best interest of children.

### **Divorce wars, alienation campaigns**

The complexity of the problem begins with the very human fact that it is likely that every parent going through a divorce is at least tempted to “lobby” for himself or herself as the better parent.

To their credit, many parents never give in to the temptation or else catch themselves before any damage is done.

Parents who engage in bad-mouthing the other parent may be unaware of what they are doing, while others may be determined, directed and cunning. Research indicates that many alienating parents are insecure and need desperately to be identified as the beloved parent at the expense of the other.

Worse still are those parents who are deliberately punitive and want the other parent to regret

the decision to divorce at any cost.

Whatever the cause of the irrational alienation impulse, early intervention is important for the sake of the children involved. That is true because the terrible secret of irrational alienation is that it actually works unless it can be recognized and stopped.

The children of divorce are vulnerable and unsuspecting of being fed divorce poison by those they love. Psychological studies conclude that they absorb brainwashing quickly and soon believe it to be their own truth.

### **Representing the alienator**

Recognizing the alienating behavior of one’s own client is a necessary part of good lawyering. While your client may try to present plausible deniability, some behaviors are textbook alienation. You will recognize them when you hear them, assuming that you believe the source and have done an independent examination of the facts.

If your own client is denigrating the other parent to the children — criticizing their new residence, their housekeeping or their friends, exaggerating his or her

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own loneliness when the children leave for visitation and “bonding” with them in inappropriate ways such as sleeping with children too old for the practice or confiding adult secrets to them — that behavior is alienating.

Other behaviors — such as incessantly maintaining contact with the children though every form of technology while they are supposed to be with the other parent, disrupting interactions with the other parent’s family and questioning every judgment the other parent makes about the children — are also unacceptable for any well-intentioned divorcing parent unless real dangers exist.

Once an attorney recognizes an

### HOLLYWOOD LAW

**GEMMA B. ALLEN**



*Gemma B. Allen is a partner at the family law firm of Ladden & Allen Chtd. She represents clients in the areas of marriage, divorce, mediation, financial settlements and custody matters.*

unreasonable alienation, the harder assignment is deterring a client from it. Approaches include counseling against the destructive behavior and discussing the research available on the long-term effects for alienated children, especially for the client’s own children.

Studies show there can be many lasting consequences of alienation. Even children who appear to be functioning above the norm while avoiding the alienated parent can carry the hidden scars of unresolved family of origin issues.

As noted in 2010’s “Divorce Poison” by Richard A. Warshak, they

judge. Explain to them the case law and the power of the court to enforce its orders for visitation.

Perhaps the biggest deterrent for alienators is that a court could in fact take the children away from a parent who proves unwilling and unable to foster a relationship with the other parent.

### **Representing the alienated**

Being on the other side of the case and representing the alienated parent is even more challenging.

Time is not on your side. A campaign of alienation, if not “called out” and stopped, can have swift and damaging consequences. Historically, courts have not been the most friendly forum for complicated psychological issues.

It was tempting, if not necessary, for judges to defer to the strongly held feelings of an irrationally alienated child because practical alternatives seemed unworkable and unenforceable.

No one wanted to jail the child who refused to visit a parent.

There are still experts who minimize the problem and others who advise a passive approach to parental alienation and judges who are persuaded by them. The research is just now evolving, and the outcome of any given case cannot be taken for granted.

### **Back to the future**

There is a profound new level of psychological awareness in the contemporary courts and a willingness to utilize mental health expertise not just to do battle but to achieve a lasting peace.

Potential solutions for irrationally alienated children are being considered, including using mental health resources outside the court system, ordering issue-specific therapy, court-ordered placement of a child with the rejected parent for short or even longer periods of time and educational workshops that facilitate family healing.

If an attorney has a case involving irrational alienation, he or she can forge ahead with the knowledge that at least there is a growing recognition of the truth of the underlying issue and its consequences for everyone it touches.