

B. 416-781-0334 E: brian@ludmerlaw.com

Brookdale Office
517 Brookdale Avenue
Toronto, Ontario M5M 1R8

Yonge Corporate Centre
4100 Yonge Street, Suite 602
Toronto, Ontario M2P 2B5

Bullet points for PAAO Webinar July 28, 2013

1. Introduction, About LudmerLaw and Topics for today (if time allows).
2. The Rule of Counsel.
 - Acting for the targeted parent
 - Acting for the aligned parent
 - Duty to report under Child Protection Legislation
 - Gatekeepers
 - Children's Counsel
3. Strategy in a PA Case
 - Delay is the major risk
 - Focus on disrupting the aligned parent's plans
 - i. PAS is a disease meant to be suffered in silence
 - ii. Name changes go to the child's identity
4. Strategy Continued
 - Manage your client's financial and emotional resources
 - Engage with aligned parent and counsel and document all suggestions and attempted resolution
 - Respond to all proposals even if obviously diversionary and tactical

- Make lots of proposals
- Ensure the next Court appearance is always pending

5. Strategy Continued

- Diversion causes delay
- Mediation
- Parental Coordination
- “Light” Therapy
- Waiting for OCL Report
- “Give the child room to figure it out”
- Motions, Long Motions and Trial Lists
- Case Management

6. “Light” Therapy versus “Reconciliation Therapy”

- Open versus closed
- Child Therapist versus multi-client
- Goal oriented
- Deliverable date
- “Therapeutic alliance”
- Perverse incentives for triangulated children
- Court-Ordered or not
- Choose the therapist carefully
- Avoid therapist fragmentation

7. Structuring Reconciliation Therapy

- Multi-party
- Fully open
- Goal oriented

- Time-limited
- Milestones
- Case Management
- All parties on the same page premises
- Non-therapeutic access

8. Case Management

- Directions
- Dealing with non-compliance
- Finding of contempt and suspension of sentence
- \$500 per missed visit with TP or therapist
- Ongoing CAS involvement
- Early insights from therapy
- Review of original Order

9. The Differential Diagnosis

- Build evidentiary case to reflect
- Needed for assessments, motions, therapy, parental coordination, CAS and trial
- Published diagnostics
- Attachment theory
- Third party Affidavits
- Pictures, videos, emails, albums, cards
- Timeline
- Daily diary
- Indexed emails by topic, date sender

- Telephone log

10. Pre-trial Questioning

- Obtain admissions
- Frame case
- Ask for positive parenting on the record
- Obtain undertakings
- Transcript informs mental health experts and the Court

11. Analysis of the Aligned Parent

- Deep narcissistic injury
- Psychological make-up
- Financial, emotional and familiar resources
- Weaknesses, openings and influences
- Fixated parents
- Sociopaths present well
- William Eddy – High Conflict Institute
- Dr. Craig Childress website
- Amy Baker website
- Linda Gotleib website
- Kathleen Ray website

12. The Differential Diagnosis Continued

- Criticisms of targeted parents are “issues” and rarely “parenting capacity impairments”
 - Consider a “TP Check-up” to certify normal range personality and parenting practices
- Disproportionality of children’s behaviour vs. issues
- Are there any values anymore? Validating children’s disrespect and lack of empathy – new tool in AF vs. JW 2013

- Therapy vs. assessment
- Therapy vs. structured reconciliation therapy
- Party-retained expert reports and witnesses
- “Theory of the case”

13. PA is emotional abuse

- Caselaw
- Why don't CAS get involved more frequently
- Physical abuse responses vs. emotional abuse responses

14. *“We Hold These Truths to Be Self-Evident”*

- TP parenting capacity vs. issues capable of resolution amongst parties acting in good faith
- Highly detailed and prescriptive court orders are necessary
- Court orders must be multidirectional
- Court interventions must be immediate and given high priority
- A combination of legal, therapeutic and practical interventions is required
- Traditional therapy does not work
- It is irrelevant that alienated children do well in other areas of life
- Informal name changes are fatal to reconciliation
- Step-parent boundaries
- Women are victims too
- We are asking parents to be at their best when they are likely to be at their worse
- The role of children's “expressed views” vs. children's responsibilities
- Empirical research regarding children of high conflict divorce

15. The Differential Diagnosis Continued

- Alienators always make mistakes
- Extreme positions
- Exclusionary behaviour and tactics
- Alienators “never miss an opportunity to miss an opportunity”
- Statements to therapists and third parties such as CAS, Police, schools, coaches
- Hateful Affidavits – No Masters of Dramatic Arts

16. Differential Diagnosis Continued

- Logical flaws in theory of the case
- In an intact family there would be no rupture; intact family standards, custom, history and boundaries are forgotten
- AP search for aligned or unqualified therapists and contests reconciliation therapists
 - children caught in a PA dynamic constitute a “special population”
- Refuses PC's with arbitral powers
- Refuse interim contact
- Offer no solution other than TP work on their own issues
- Refuse to consider why children's attitudes don't soften with time
- Everything is a priority other than fixing relationship
- Cannot demonstrate use of appropriate guidance, boundaries, incentives and consequences, which escalate over time as children remain intransigent
- Refuse to present a “united front”
- Refuse to change parenting practices- no urgency
- Will not admit that the children are wrong and are over empowered- will just validate their “feelings”
- Cannot explain why children refuse to open up and reconcile

17. Legal Principles Applicable

- Dishonestly engineered “status quo”
- Enforcing interim access orders
- Motions for compliance vs. Motions for contempt
- Parallel criminal law and risk of breach of bail - need consent court orders to be at events

18. CAS Matters

- Scope of jurisdiction
- Qualifications and experience of staff
- Workload issues
- When is access frozen in the face of false allegations
- Records creation and need for witnesses and own note-taking
 - i. Get file disclosure early and contest
- Biases and errors
 - i. Source of data
 - ii. Collateral sources interview?
 - iii. Transference?
 - iv. Confirmatory bias?
- What is a custody/access dispute and what is a child protection concern
- Use and misuse of CAS “language”
 - i. “verified” and “not verified”;
 - ii. singular incident vs. pattern of behaviour

19. Legal Issues Continued

- The law of the duty to promote – “encourage” versus “require”
- Court Orders binding on children

- “The job of a parent is to parent”

20. Working with the Targeted Parent

- Don't overplay your hand
- Plans of care and logistical and family support
- Assessment coaching
- Parenting skills update
- Unconditional love, no guilt, move forward and a thick skin; avoid counter-rejection or over-eagerness
- Learn, be curious, try to empathize with the child's confusion

21. Tribal Warfare

- Aligned friends, family, neighbours
- Step-parents
- Schools and extra-curricular activities
- The aligned therapist and other enablers
- Family doctor is also AP's doctor

22. Assessments

- Distinction from OCL clinical investigator work
- When ordered
- Submissions
- Children's behaviour will get more extreme

23. Assessments Gone Wrong

- Transference
- Confirmatory and other biases
- Information sources with the same root
- Failure to conduct collateral interviews

- Failure to apply recognized methodology
- Failure to review documentation provided
- Errors in logical or inductive reasoning
- Failure to ask the right clinical questions
- Failure to understand family systems theory
- Failure to understand structural family systems therapy
- Failure to follow published methodologies (AFCC, OPA, Text Books)
- Party retained experts and critiques

24. How to Hear the Voice of the Child

- UN Convention on the rights of children
- Child representation
- Assessments
- Judicial interviews
- Therapist
- Childcare's testimony
- Children can reach a stage of distrust and fatigue after being interviewed by OCL, CAS, therapists, police, etc. and refuse to participate

For a consultation, please contact LudmerLaw using the information on page 1.