False Allegations of Parental Alienation

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It is common in custody and access disputes to hear parents accuse the other parent of turning their mutual offspring against them. Denials of engaging in alienation activities are also asserted with regularity. As such, the validity of an alienation allegation often becomes hotly contested.

Modern concepts of parental alienation stem in large measure from the work of the late Columbia University psychiatrist, Richard Gardner. In 1985, Dr. Gardner introduced the term, “Parental Alienation Syndrome” to indicate a specific disorder in which a parent successfully turns a child unjustly against the other parent. In his practice, Gardner noted that cases of Parental Alienation Syndrome seemed to emerge primarily during the course of child custody litigation. Since Gardner’s original description, over one hundred professional manuscripts have appeared on the Parental Alienation Syndrome.

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The literature on Parental Alienation Syndrome is controversial. For example, there is considerable debate as to whether Parental Alienation Syndrome should be considered a psychiatric disorder. However, there is virtually no debate that in certain family disputes, one parent may engage in behaviors designed to alienate the other parent from his or her offspring. Accordingly, this article focuses exclusively on aspects of parental alienation, be they part and parcel of Parental Alienation Syndrome or not.

When a parent charges that the other parent is engaging in alienating behaviors, that allegation is either true or false. While there are numerous professional articles regarding the clinical specification, diagnosis, and treatment of parental alienation, there is a glaring void in the literature regarding false allegations of parental alienation. The purpose of this article is to begin to address this neglected area.

CLINICAL DEFINITION

Parental alienation occurs when one parent turns his or her offspring against the other parent. Such behavior may be justified or unjustified. An example of justified alienation occurs when a parent properly teaches his or her child about the dangers of interacting with the other parent who has an extensive history of sexually and physically abusing that child. An example of unjustified alienation is when a parent convinces his or her child that the other parent has not provided any financial support for the child when proper financial support was actually provided. In the case of Parental Alienation Syndrome, the alienation is always unjustified. Unjustified parental alienation is a form of child abuse.

A false allegation of parental alienation is defined as an enduring erroneous claim by one parent that the other parent has engaged in behavior designed to turn their mutual offspring against the parent making the charge. This definition has several components worth examining.

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First, a false allegation of parental alienation (FAPA) means that the parent charged with alienating the offspring is not engaged in parental alienation. By definition, the claim of alienation is erroneous.

Second, the definition of a FAPA does not dictate whether the alienation has been successful or not. All that is required for definitional purposes is that a parent has been accused wrongly of engaging in behavior designed to alienate the offspring from the parent making the claim.

A parent who make a FAPA knowing it to be counterfactual is acting maliciously.

Third, a transient counterfactual declaration of parental alienation does not meet the present definition of a FAPA. In an acute false complaint episode, the parent is typically upset over some recent event or misimpression, and makes the charge against the other parent without proper consideration. Such accusations are usually fleeting and malleable, typically offered in a moment of emotional upset. In a short-lived allegation of this kind, the charges are abandoned on proper reflection and/or review of evidence contradicting the charge. In contrast, the definition of a FAPA as provided in this article indicates that the accusations are enduring.

Finally, a FAPA is never justifiable; at the core of its clinical definition is the fact that the allegation is incorrect.

CLINICAL DESCRIPTION

False allegations of parental alienation (FAPAs) may emerge in a variety of shapes and forms, but the end result is the same: An enduring erroneous charge that the other parent is poisoning the children against the claimant. A person making a FAPA must be viewed with serious concern given that it is not normal to promulgate untrue assertions that someone has committed child abuse.

The content of a FAPA can vary from case to case. For example, one parent may claim unjustly that the other is teaching the children that he or she is mentally disturbed, whereas another parent may declare incorrectly that the other parent is cleverly “bribing” the children to form a deleterious impression of the accuser. Other examples of FAPA based content include counterfactual charges involving alcohol and/or drugs (e.g., “she’s turning the children against me by saying that I am an alcoholic”), financial deprivation (e.g., “he’s telling the children that I have taken all his money and he’s now destitute because of me”), suspension of reasonable disciplinary actions (e.g., “he lets the kids do anything they want so that they hate me for having to play the tough parent”), mental or physical cruelty (e.g., “she keeps telling the children that I was always very mean to her”), and/or other poisoning information. FAPAs containing multiple content streams appear with regularity.

The ways in which FAPAs are presented vary across cases as well. For example, some accusers may limit their alienation claims to specific audiences, such as relatives, friends and/or the legal professionals involved in the case. On the other hand, some may express the FAPA to anyone willing to listen, be it on the sidelines of the soccer field, the supermarket, the hair salon, or the golf course. FAPAs may be presented in a variety of ways, ranging from histrionic displays of anger and tears, to emotionally flat, well composed presentations.

MOTIVATIONS AND CONSEQUENCES

The motivations generating FAPAs have yet to be studied scientifically but it would seem useful to divide the allegations into two pertinent categories: (1) those made by persons who fully believe the FAPA; and (2) those made by individuals who know the allegations are baseless.

A parent who sincerely believes the other parent is turning their mutual offspring against them when it is clearly untrue, would appear to be suffering from a delusion. A delusion is a fixed belief that does not change in the face of contradictory data. This means that the individual interprets information in the environment idiosyncratically which fits the delusional content. In other words, it almost doesn’t matter what the other parent actually says or does—the accuser has his or her interpretation and the delusional FAPA remains intact.

A parent who makes a FAPA while knowing it to be counterfactual, is acting in a malicious manner. Such an individual makes the false allegations with a conscious determination to generate certain consequences. These may include trying to:

1. Hurt the other parent
2. Modify access
3. Isolate the children
4. Gain a litigation-based advantage
5. Elicit others' support
6. Provide cover for his/her own misbehavior
7. Eliminate perceived threat from the other parent
8. Elevate one’s feelings of control and/or
9. Obtain other benefits

The negative consequences for asserting a FAPA can be serious. Children may be ripped apart in loyalty conflicts, experience unnecessary damage to parental relationships, be forced to endure painful separations from a loving parent, and suffer behaviorally and emotionally. The parent falsely accused may not only bear immeasurable emotional pain and loss of relationship quality, he or she is placed on the defensive and may be forced to incur significant financial obligations in order to try to establish his or her innocence. Finally, the accuser also may face negative consequences, some of which may not have been anticipated. These may include:

1. Acting out by the children
2. Disapproval from certain relatives and/or friends
3. Episodes of guilt and/or regret
4. Heightened hostility from the parent falsely accused
5. Unwanted legal actions and
6. Other unintended events

PSYCHOLOGICAL INTERVENTION

The primary tasks facing mental healthcare providers in a FAPA case seem relatively straightforward:

1. Help the accuser to stop making the erroneous complaints to any and all persons;
2. Assist those who have suffered from the FAPA campaign; and
3. Provide remediation to the wrongdoer in order to prevent a relapse.

In the field of medicine, the Food and Drug Administration requires generally that interventions offered to the public must first be demonstrated scientifically to be effective and safe. Unfortunately, no such requirement applies to mental health treatment. At present, there is no scientific evidence that a FAPA can be treated successfully. In addition, the author is unaware of any well developed psychological treatment program for modifying a FAPA. Accordingly, once a person has promulgated a FAPA, referral to a mental health practitioner provides uncertainty regarding clinical outcome.

Many attorneys and other professionals seem to operate under the impression that even in the absence of scientific evidence any treatment may be preferable to no treatment. That assumption is not without risk. For example, there is significant scientific evidence that psychotherapy can produce iatrogenic effects in certain cases. Furthermore, complaints about the competence of mental health professionals in dealing with parental alienation related issues in custody litigation are not uncommon. Thus, at the present time, it would seem imprudent to expect mental health professionals to be highly effective in modifying FAPAs, and it is possible that psychological intervention in some cases could prove harmful (e.g., when a court ordered psychologist believes the false allegation to be true). Confidence in treatment efficacy will increase when proper scientific evidence on FAPA management accumulates.

CONSIDERATIONS FOR THE LITIGATOR

In light of the above, what should litigators do when confronting a FAPA?

First and foremost, a strategy must be developed for how to deal with the FAPA. Here, a plan of action should be designed individually to confront the FAPA and its consequences. Failure to adapt one’s strategy to the issues imbedded in the particular case could lead to an increased likelihood of ineffective management. For example, if one uniformly takes the approach in every case to attack the accuser at every available opportunity related to the FAPA, one could miss chances to trap the malicious or delusional parent into errors that gain litigation advantages. One could also imagine that in select circumstances, such an approach could be taken out of context and painted as evidence of the “chronic hostility problem” of the person being accused. Additionally, it would seem at a minimum that a FAPA based on a delusion is a different entity than one based on maliciousness; such a distinction may lead to heterogeneous paths for tackling the
baseless charges. Carefully crafted strategies designed idiosyncratically would seem to provide a better alternative than a “one size fits all” approach. Unless one is facing an opposing client prone to making obvious errors, proving an allegation of parental alienation to be false requires considerable discipline, diligence, and cleverness. Significant “brain power” is most likely required if the allegation is to be properly confronted and managed. Specialized expertise may need to be consulted. Failure to allocate sufficient resources of time, budget, and proper personnel may leave the litigant and legal counsel at a distinct disadvantage. Trapping the accuser would seem more likely to occur from a well executed plan as opposed to relying solely on momentary reactions to unfolding events. Effective case preparation is typically essential for combating a FAPA successfully.

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Once the falsity of the allegations is established clearly, one should consider approaching the bench for an order requiring the person promulgating the FAPA to stop doing so immediately. Ideally, the court order should identify specific consequences for noncompliance. It would seem that the more immediate and potent the consequences, the more likely the chance for success. In some cases, a change in custody or other time-sharing arrangements may be appropriate. One should be certain not to underestimate the skill of a sophisticated and determined FAPA campaigner, nor the limits of the bench’s power to control such an individual’s behavior in private encounters; at times, innovative judicial intervention may be required.

In those situations in which legal remedies are available and appropriate (e.g., tort, criminal prosecution for perjury), these should be properly considered. Obviously, not all cases should follow this path. However, in certain circumstances, such maneuvering may provide a degree of control over the FAPA campaigner.

Finally, it is important to recognize that the victims of a FAPA may need some type of support. This may or may not mean referral to a mental health care provider. In some cases, the litigant may respond well to the support of the attorney and/or his or her staff, depending on the relationships and expertise. Research has demonstrated that children can also be quite resilient. Certainly, the degree and range of difficulties generated by the false allegations will play an important role in determining which professionals may or may not be needed.

CONCLUSION

While FAPAs appear to be commonly encountered in custody and access disputes, attorneys should never lose sight of the fact that it is abnormal for an individual to promulgate baseless assertions that someone has committed child abuse. When allegations of parental alienation are made, they should always be taken seriously and when shown to be false, the person who made the allegations should be viewed with considerable concern.

There is no doubt that FAPAs create significant problems for the families forced to deal with them. At times, litigators may find these problems to be challenging and frustrating. Given the lack of research, the management of false allegations faces significant obstacles.

While FAPAs have yet to be studied scientifically, untrue allegations of sexual abuse have begun to receive some investigative attention. Although this research is controversial and focuses primarily on false allegations of sexual abuse made by children or by adults experiencing counterfactual memories of childhood sexual abuse, perhaps it will begin to lay a foundation for better understanding of FAPAs and what can be done about them.

Without proper scientific research, mental health professionals are not well equipped to modify FAPAs and are unable to offer research supported recommendations to the court. Such a state of affairs leaves the families so afflicted in less than desirable circumstances.

ENDNOTES


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