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Child Custody Disputes – Is There a Better Way?

Pat Kramer

Responding to the recent wave of violence set off by child custody disputes, Los Angeles Family Law Attorney Mark Baer blames family law litigation, a process that fans the flames of emotion. Attorney Baer contends that those involved in family law disputes should use a form of consensual dispute resolution to handle matters more constructively and that litigation should be used only as a last resort. By doing so, he believes violent incidents such as the recent Seal Beach salon massacre can be avoided.

"We could say that 'The System' causes people to go off the deep end," notes Attorney Mark Baer, who is a family law mediator and collaborative law practitioner as well as an experienced litigator. "Everybody going through divorce or custody issues is suffering from what some call 'temporary insanity.' The question is not whether a person involved in family law litigation will act out, but the degree to which they will do so. It may involve embellishing facts, making false allegations, treating each other disrespectfully in front of the children, or attempting to damage the relationship between the child(ren) and their other parent. All these things make it difficult to co-parent, or worse, may trigger someone who's already unstable, to commit an act of violence or kidnap a child."

Explaining the process, he says, "It starts with an Order to Show Cause which is filed with the court in family law cases when the parties cannot agree on child custody issues. Declarations are submitted to the court that are nothing less than character assassinations to convince the judicial officer that the other side is completely unfit to parent - while they are akin to Mother Theresa.

"After this process has begun, even if the parties resolve the custody matter through court-ordered mediation or otherwise, without the need for a judicial officer to make a decision, the damage has already been done. It takes an enlightened person to forgive their ex (the other parent) for the character assassination. And if the parents are able to eventually forgive each other, they would have to suffer from dementia to forget what was said about

them."

However, he notes that not every case is a good match for consensual divorce resolution.

"It is my opinion that approximately 15% of cases need litigation to some degree. The approximately 3% that end up in trial come from that 15%. However, many of the other 85% are being directed into litigation from the outset because traditional litigation attorneys do not understand mediation and other forms of consensual dispute resolution. They also "fear" that one party will not participate in the consensual dispute process in good faith and the case will ultimately wind up in litigation, thus causing the other client to incur more legal fees/costs than otherwise necessary. Those attorneys are not concerned about the fact that they are funneling many of the other 85% of cases into the litigation process unnecessarily and causing even more damage because of their "fear" over the 15% of cases."

Unless parties agree to participate in some form of consensual dispute resolution, they are forced to litigate their case. Moreover, attorneys often fail to advise parties of the alternatives to litigation, contrary to their ethical obligations to do so.

Ultimately, nobody knows what will trigger a person to commit an act of violence. However, Baer notes that the litigation process is enough by itself to push a sane person to act inappropriately when going through a divorce with children.

To curb the cycle of violence surrounding custody cases, he believes the U.S. courts should shift to the system already being used in Australia, England, Wales and Ontario, Canada where mediation and other forms of consensual dispute resolution are the first choice for family law disputes.

However, until the laws change, Baer says individuals and couples must take the initiative to resolve their family law matters this way rather than relying on litigation, a process that does nothing but exacerbate emotions that are already intense.

Mark B. Baer has practiced law in Los Angeles for twenty years with an office in Pasadena, CA. His firm represents individuals on issues regarding family law, divorce, child custody, child support, spousal support, restraining orders, paternity actions, or domestic partnerships.

Ninth Annual "Spirit Of Johnny Carpenter" Awards



Michael Carpenter

The 9th Annual "Spirit of Johnny Carpenter" Awards were presented Saturday December 3rd, 2011 by the New "Heaven on Earth" Ranch to Nancy Woodruff, Susan Bartlett and Robert Stephens. The Reel Cowboys hosted the event at their weekly meeting at Big Jim's Family Restaurant in the Banquet Room. OK Trophy of Sunland donated the plaques.

The "Spirit" award was created in 2003 by All Nations Church (Which hosted the event and their Thanksgiving Korean BBQ from 2003-2010) to recognize those individuals and groups whose works best reflect the spirit of Johnny Carpenter. Johnny was a stuntman, cowboy and actor whose original Heaven on Earth Ranch stood on Foothill Place in Lake View Terrace for almost 25 years. Johnny taught physically and mentally challenged children/young adults how to ride horses.

Council Member Paul Krekorian, 2nd District, City of Los Angeles, presented certificates of recognition to

each honoree. Also presenting certificates, were representatives from Mayor Antonio Villaraigosa and Council Member Tony Cardenas, 6th District. Certificates were also received from U.S. Representative Brad Sherman, 27th District, State Assembly Member Felipe Fuentes, 39th District and L.A. County Board of Supervisor Michael Antonovich, 5th District.

Past honoree's present at the ceremony were Richard Troy 2010, Royan Herman 2009, Phyllis Hines 2007, The Reel Cowboys 2005, Lee Diebold 2004, and Phoenix House 2003.

The New "Heaven on Earth" Ranch (NHOER) is a CA based 501 c(3) public charity based in Lake View Terrace, CA. Dedicated to the building and operation of the "Johnny Carpenter" Arena and Riding Program. The board of directors meetings are the last Thursday of the month at Cocos Restaurant, 10521 Sunland Blvd, Sunland. 7:00pm. To learn more about NHOER, visit their website at www.NHOER.org or call 310 538-3694. You can also email: lamikec@yahoo.com.

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