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Top 10 Tips for Dealing with Relocation Cases

By Philip M. Stahl, PhD, ABPP

Relocation cases are often perceived as the most difficult to deal with, regardless of your role. These tips are specific to the various professional roles in a relocation case.

If you are a mediator:

- Recognize that these cases are very tough to settle. Try and encourage each parent to formulate a proposed parenting plan that maximizes each parent's time with the children. Encourage the away parent to communicate with the children via Skype and encourage the parent who has the children to communicate regularly with the distant parent about the children and how they are doing. Strongly encourage the present parent to keep the distant parent positive in the children's memories.
- When considering the parenting plans, recognize that recent research coming out of New Zealand and Australia suggests that the biggest burdens of travel fall on the children. Encourage the distant parent to consider traveling to see the child at least for several of their times together. Not only does this reduce the burden of travel for the children but also allows the distant parent to meet the children's teachers and friends, and participate with the children in extra-curricular activities. Help the distant parent recognize that this will help the children feel more connected to the parent.

If you are a child custody evaluator:

- Familiarize yourself with all the research and psychological literature on relocation and become familiar with relocation statutory and case law in your state/province. This is critical when considering how to approach a relocation case as a child custody evaluator. Recognize that the psychological literature identifies a number of relevant risks and protective factors to be considered in a relocation case. If the request is for an international relocation, research whether the country that the moving parent is relocating to is a signatory to The Hague Convention and whether or not the US State Department has identified problems with the courts in that country supporting a valid US custody and visitation order.
- Many relocation cases are "close calls" i.e. some significant factors

- Many relocation cases are close calls; many, some significant factors might favor the children moving and other significant factors might suggest against the children moving. When it is a close call, the evaluator needs to identify the risks and benefits of primary custody with the mother in one location and the risks and benefits of primary custody with the father in the other location, and avoid making an actual recommendation. Weighting of those factors is to be left up to the court. The evaluator is encouraged to give alternate recommendations depending on the weighting of the court.

If you are an attorney for the parent who wants to move:

- Be sure that your client’s reasoning for wanting to move makes sense. Ensure that your client will be a responsible gatekeeper and continue to encourage and support the children’s relationships with the other parent. Develop with your client a plan in which they will continue to communicate with the other parent about the children and keep the distant parent’s memory alive with the children.

If you are an attorney for the parent who wants to prevent the children from moving:

- Ensure that your client is prepared to be the primary custodial parent in the event that the other parent moves and the court does not allow the children to move.

If you are an attorney, regardless of which parent you are representing:

- Consider using a psychological consultant who can help you learn the psychological research and literature, and identify which risk and protective factors are likely to apply in your case. Such a consultant can assist you in determining the helpful and non-helpful facts of your case and can hopefully assist you and your opposing counsel in settling the relocation without litigation. If the case must be litigated, your consultant can assist you in arguments to the court. If need be, you may want an expert witness to testify about relevant factors to the court.
- Recognize that recent research suggests that children adjust to moves most easily when both parents are supportive of the outcome and remain child-focused. Encourage your client to stay child-focused and work with the other parent even after the case has been litigated.

If you are the judge:

- It is critical to approach each case without bias; either the bias that a parent should not move because children benefit when both parents are actively involved in the children’s lives or the bias that a parent with primary custody should be able to move for any good reason. Recognize that each case is unique and must be considered on all of the relevant factors in that particular case.
- Like the custody evaluator, learn the psychological research and literature on relocation and understand the multiple factors that result in increased risk of children’s adjustment or may serve as a protective factor and help the children’s adjustment in the event of a move. Integrate that understanding with the expected legal considerations as identified in your state’s statutory and case law.

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