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SPECIAL SECTION

Does Christmas Have to Be on Dec. 25? Custody Strategies for a Better Life

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Special to the Legal

People get divorced every day. Some handle the “uncoupling” well. Most do not. Having exclusively practiced family law for almost 30 years now, one of the greatest mysteries that remains to me is why people keep fighting long after they are living two separate lives, particularly when there are children involved. When parents break up, they often claim their separation is to spare the children from living in a toxic environment that exists when they are living under the same roof as a couple. The parents promise the children that it will be better for them to live in two happy homes, rather than one unhappy home. However, very few couples keep this promise to their children.

I often see two households where the children are schlepped back and forth and the parents keep fighting. The worst offenders cannot even exchange the most basic of pleasantries at a custody transfer or at a little league game when they run into each other. They fail their children on a weekly basis. Often, in my initial consultations with clients I recommend that, if they cannot find a way to change that dynamic and rise to a new level of cordiality for the sake of their children, they should just stay together. The only thing worse for these kids than listening to their parents constantly fighting in one home is having them navigate fighting across two households. Remember: the children did not ask for this, yet they are the ones who are inconvenienced. Try living between a hotel and your house for a few weeks to remind yourself what it is like to manage all of life’s pressures while being uprooted every few days. Moving between two households wears on children, and the least parents can do is deliver the closest thing to a “silver lining” that they can ... two happy homes and cooperating parents who rediscover the respect they once had for each other when they first met and actually liked each other.



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It is critical for lawyers to advise clients that it is the parents, and not the children, who should be ready to sacrifice in divorce proceedings. Parents should be inconvenienced ... not children. Our culture has grown increasingly selfish in its uncoupling. How often do we see two parents trying to get as far away as possible from each other post-split, because they do not want to have to orbit around the same community of their “ex?” It is our job as lawyers to shed some wisdom onto these tough situations and challenge the parents to think long and hard before they move to two separate communities, let alone two separate towns or two separate states.

So how do we, as family law practitioners, prepare these clients for as pleasant a parting as possible? While navigating my clients through the process, I try to reinforce three things:

(LACK OF) DISTANCE MAKES THE HEART GROW FONDER

For the children’s sake, parents need to commit to streamlining their children’s lives during that critical 18-year span of their childhood. Straddling two separate communities is a recipe for disaster. Fights and expensive legal battles ensue regarding the selection of schools, sports leagues, synagogues, parishes, the location of doctors and dentists, and so on. Years pass and navigating two communities does not get any easier. You’ve heard that old adage “small kids, small problems ... bigger kids, bigger problems,” right? This aptly applies in this situation too.

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Once your children turn 18 years of age, you can move to your favorite spot anywhere on planet Earth, but for those first 18 years of their childhoods, it is key to live close to your ex. Do not be lulled into thinking that distance is surmountable. It is not. Do not do it to yourself as parents, and do not do it to your children. When children are babies, parents think that distance is merely a “matter of driving.” Then school age nears and the disagreements begin. Where will Johnny play t-ball, what elementary school will Jane attend? Sadly, parents have already started to plant their roots in separate communities because no one warned them otherwise; they have purchased homes and started relationships with people who cannot just “pick up and move.” It is a future conflict that experienced lawyers should see coming from a mile away and should save their clients the heartache. Anticipating and heading off such problems is part of what good custody lawyers are paid to do.

CHRISTMAS IS NOT ON DEC. 25

So many people are tortured by the holiday schedules. People lose endless hours of their lives that they will never get back plus thousands and thousands of dollars fighting about Christmas or Thanksgiving or the holiday of choice and who gets the kids when. To avoid the madness, we need to imagine a world where Christmas is not always on Dec. 25. We fail as family lawyers when we do not challenge our

clients to think outside of the proverbial box, and urge them to let go of the societal and internal pressures they place on themselves; pressures that do not allow them to consider celebrating Christmas on Dec. 26 or Thanksgiving on Black Friday, at least every other year. Consider a scenario in which a child does not have to be uprooted midday on holidays, days that are meant to be worry-free and peaceful from morning to night.

Some of the people who demand to *split* instead of *alternate* the major holidays are the same people who cannot even manage a simple smile and a warm hello at the edge of the driveway as their children uncomfortably move from one parent to the other during the custody exchange. Children just want to have fun and be happy, and parents need to end the practice of acting as if they are taking these stands “for the children.” Just stop.

NO TRASH TALKING

Bad-mouthing another parent or their motives irretrievably damages children’s psyches. Early in my career, a wise family law master explained it to a client like this: “Think of how you would feel if your child’s teacher said to you, ‘That kid of yours is a real jerk.’ Your blood would boil, and your heart would drop.” That same terrible feeling pulsates through your child’s body every time he hears you speak disparagingly about your ex, or their plans that “inconvenience” you, or how they run their household when your child is there. Your child loves you both with all of his or her heart. Respect that.

One of my favorite mottos is, “It is never the wrong time to do the right thing.” Family law attorneys have an incredible opportunity to coach our clients through some very turbulent, terrible times. If we do our job well, parents will go on to set wonderful, independent examples for their children, and the children will grow up having a living example of what doing the “right thing” means. Like celebrating Christmas on Dec. 26. •