

Litigation Survival Guide For Fathers

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This Guide is Not Legal Advice

It is absolutely essential that the reader of this litigation guide understand that the information contained herein is not meant to be a substitute for legal advice. Neither is the information contained on our law firm website. This manual is for informational purposes only.

No guide can be a substitute for competent legal advice of a licensed attorney. Each individual case needs to be evaluated by a professional to tailor the legal needs to unique requirements of each case.

The facts of an individual case change the law that may apply as well as the strategy. Attorneys trained and experienced with the law are the people best equipped to properly apply the law to the facts of a particular case.

Any information contained within this guide that gives the appearance of being legal advice should be disregarded as legal advice. Instead the facts indicated within this guide are merely meant to inform the reader and expand his understanding of some of the laws and issues surrounding father's rights.

Suggestions or examples are meant to advance the reader's knowledge of father's rights litigation experience so that one can more intelligently discuss or focus the issues with their attorney, with their ex-spouse, with their family, the courts or others.

One should always consult an attorney on any issue concerning child custody, parenting time (visitation) and child support.

This Guide Cannot Cover Every State Law

We live in a country where each of our 50 States can enact their own laws. This would make it impossible for me or any other lawyer to write an informational guide that specifically covers the differences of every State. Even if an attorney researched and wrote about each State Law, the work would be huge and very costly to publish, let alone be impractical for any individual user as they would have no use for 49 of the other State laws. However, I have found in the research that I have completed that States are copy cats. That is, there are very similar laws on the books of every State or at least many of them.

In the area of child custody, many States follow some variation of making determinations of child custody based upon the “best interests of the child.” Also, that means that the experiences and strategies are going to be similar as well.

The information you are about to read is a synopsis of Michigan Law or experiences based upon Michigan Law. It is meant to give the reader a general overview of child custody litigation as it may be applied to father’s rights issues. Since most States use the basic “best interests of the child” standard, you should still find this information helpful. If you are not in Michigan, the law may be similar but have some differences. You should take the time to research your own laws in your State and also listen to your attorney, especially over differences so that you understand exactly what you need to do in your State.

The body laws discussed are much more in depth than presented with this guide. Instead this guide focuses on experiences, strategies, expectations and applications during litigation as well as other issues involving the system. There is a vast body of case law and statutory law that is not discussed. If you wish for more discussion on the law, then you should obtain our Father’s Rights Manual: *For Frustrated Fathers*.

While the information contained herein is accurate to the date of the copyright, the law is constantly changing and some of the information inside this manual may change over time.

The laws in other States can vary widely so that attempting to understand another State's laws merely by reading this manual is not advisable. There are strategies and procedures discussed to help you appreciate what needs to be done to assert your rights and fulfill your responsibilities. These discussions do cross State lines and should prove helpful regardless of the State you are in. Insight into what you are facing and what you should do can do nothing but help you in your endeavors as a father of divorce.

About the Writer

The Litigation Survival Guide for Fathers was written by Ghazey H. Aleck II, Fathers Rights Attorney. The Father's Rights Manual: *for frustrated fathers* was also written by Ghazey Aleck.

Ghazey H. Aleck II, is the founder of Aleck and Jenkins, Attorneys at Law located in Clare, Michigan, established in 1987. Mr. Aleck has been an attorney since 1986. Prior to becoming an attorney, he was a police officer for several years. In 1992, Ghazey Aleck was elected Clare County Prosecuting Attorney. Fathers rights litigation has been a large part of his practice since 1989.

In 1997, Mr. Aleck returned to the full-time private practice of law where he established himself as the father's rights attorney. With over many years of handling divorce and child custody matters, Ghazey H. Aleck II, has developed a significant body of knowledge and experience in getting father's their rights.

"I decided to begin emphasizing father's rights in my law practice because too much attention has been directed at going after 'deadbeat dads' while the devoted dads received little or no attention or help. Society is hurting our children by overlooking their need to have both a mother and a father, not just a mother and a banished father," Aleck says of his work. "Besides this, there are many fathers who are just better parents and should have custody of the children, for the children's sake."

Over the years, Ghazey H. Aleck II has become a well-known attorney having appeared on local television news broadcasts and programs around the State of Michigan. His cases have been reported in local, statewide and national newspapers and newsletters. Ghazey Aleck has been a guest on local, regional and national radio talk shows.

Besides litigating and fighting for fathers rights cases of his own, Ghazey H. Aleck II has also been a legal consultant for other lawyers and on other cases involving father's rights issues.

Setting Your Expectations Correctly

So you've decided to fight for child custody? Or have you been constantly hauled into court by the ex-wife? How do you cope? What should you expect?

I decided to start this guide with setting your expectations correctly because if you don't, you could be setting yourself up for failure and disappointment. With such a highly emotional charged issue as child custody, you can't afford to have the wrong expectations.

I find that the fathers that are most rigid in their approach to child issues are the most likely to fail. They fail because a rigid approach causes a few problems. The first problem is that rigid people do not make good parents in the court's eyes. Rigid people cannot hide it either, as it is apparent to everyone. And, rigid people rigidly refuse to admit that they are inappropriately rigid. This leads to the second problem, you have to have a plan of attack before going into court either for custody or to defend yourself, but you also have to be flexible in battle. A rigid person sticks to the plan and would rather go down in flames than change directions.

More often than not, when I have had a rigid person, they will usually make decisions to their own detriment. For example, I had a father who ignored the fact that we had a pro-mother jurisdiction and went for sole physical custody because he (rightfully) thought that the mother's environment was so bad that the court had to agree that he should have custody. The mother feeling our resolve, offered to change the custody arrangement from where she already had custody to sharing split time in a joint custody arrangement. My client refused and pressed on feeling that split custody did not solve the children's problems. He lost and the kids stayed with the mother full-time. This was a system problem which we will talk about later in this guide. However the point to be made is that the facts were on dad's side but he lost. My client's rigidity wouldn't allow for him to acknowledge a system problem so the kids were the ones who paid.

This brings me to my second point. Any position a father takes in any court case

whether it be custody, visitation or support, has to be about the children. You must be flexible in your approach. You must be reasonable and rational. Your personality must be centered and moderate. You cannot show any anger or frustration. You should research the system and the laws for yourself even if you have an attorney. You must think about the best way to express yourself. You must figure out ways to get to the point quickly. But always, it must be about the children. It must be about their best interests even if it is contrary to your personal interests.

If pressed, just about every father or mother would say that they would lay down their life, if need be, for their children. However, when a dad faced with an outrageous support order says, “how am I supposed to live?” in response to such a support order, it doesn’t sound like he would lay down his life for his children. Instead the emphasis should be on the children and his response is better put, “how are the children going to benefit if you push me into poverty?”

Sometimes the best way to correctly set a person’s expectations about custody, visitation or support litigation is to tell them what not to expect. There is a lot not to expect. This does not mean it is hopeless. Rather if you understand what you are up against, your chances of success go up dramatically because you can find your ways around known obstacles. Later in this guide you will find that I will go into detail over many of these areas. But for now you should not expect the following:

1. Don’t expect a good lawyer to find you.
2. Don’t expect all family lawyers to be pro-father.
3. Don’t expect litigation to be cheap.
4. Don’t expect the litigation to be fast.
5. Don’t expect the litigation to be fair.
6. Don’t expect your lawyer to do all the preparations.
7. Don’t expect your lawyer to know your case better than you do.
8. Don’t expect a lot of time in court to present your case.
9. Don’t expect that all of your evidence will be allowed.
10. Don’t expect the Friend of the Court (or other support agency) to put out much effort to help you.
11. Don’t expect your witnesses to be perfect.
12. Don’t expect your own testimony to be perfect.

13. Don't expect to lay out every fine detail to the court.
14. Don't expect all of your subpoenas to be honored.
15. Don't ever expect a psychological evaluation(s) to win (or lose) your case.
16. Don't expect your lawyer to be always right.
17. Don't be afraid to compromise if the circumstances are right.
18. Don't badger your attorney, the Friend of the Court or the Court.
19. Don't try to lie your way to victory.
20. Don't pick the first lawyer you see.
21. Don't stiff your lawyer for attorney fees.
22. Don't expect the judge to see everything you think he should see.
23. Don't expect witnesses to be truthful, especially the opposing side's friends and family.
24. Don't expect to be nice in your pursuit for custody.

Your Role

When you face divorce or decide to fight for custody, you must first pick the right lawyer. Don't assume that all family law lawyers will fight for fathers. Many take the easy way out in litigation and that means when you walk through the door talking about getting custody of your children, they will tell you that you can't get custody, or just be downright negative about it. A father usually has to go to trial in order to get custody so there is no easy way out. The lawyer you pick must be a trial lawyer.

It's your role to find the right attorney. The right attorney will realistically assess the law and the facts and tell you the truth. It may not be what you want to hear but before he tells you that you can't, a good attorney will listen and probe you for more information. Some attorneys just don't think fathers should have custody and will not realistically assess your situation. Instead of that in depth analysis, you will get a quick negative comment about your chances before he or she knows the facts of your case. If you get a quick negative, find a quick way to get out of that office.

It is your role to find the lawyer that listens and explains their position after fully exploring the facts with you. A good lawyer has no problems telling you about themselves either. Be aware that some lawyers will tell you what you want to hear just to get your money. However, as long as you are vigilant in looking for the right lawyer, it will become apparent to you which attorney is just trying to get your money. Interview more than one attorney so you can get a feel for what to expect. Listen to good referrals you get from others that have had a custody case.

Be patient in picking the attorney you will use. Most clients that come to me with horror stories after the fact, can look back and admit that they should have known from the first interview that the lawyer they hired was wrong for them. Beware of advertising of the attorneys too. Advertising merely shows you what the attorneys think that they are good at. It doesn't mean that they are actually good at what they do. The best lawyer has good credentials, a good bedside manner so to speak, good referrals and good advertising.

After you pick the right attorney, make sure you understand the court system. You have bought this guide and that is a good indication that you are on the right path. Learn all you can

about the judge and procedures utilized locally in custody case. You will be surprised at what you pick up. Go sit in on a custody case. Talk to others who have had custody cases.

All

of this will make you more help to your lawyer too.

Learn as much as you can about the law in your jurisdiction. You can pick up a lot on the internet. Our *Fathers Rights Manual* gives a good overview but you also want to learn your State's specific laws. When you learn the law, you will focus your efforts better. You will talk the right language which will make you more effective. By knowing what is going on, you will be less emotional and all of this will help you help your lawyer more. Everyone knows about the poor sap who sits down at a poker game without knowing the rules--he is destined to lose his shirt! The same is true about the poor sap who doesn't take the time to learn about the rules in a custody case.

Helping your lawyer is one of your most important roles. No attorney will know your case better than you know your case. You will need to come up with proof for the lawyer to present to the court. I always have my clients make a list of all the reason they want custody, make a pros and cons list about themselves and the mother, make a list of witnesses together with names, addresses, phone numbers and brief description of their testimony, and gather exhibits together like school records, police reports, photos and such. As you can see, you can help your lawyer a lot. You need to be thinking about your case so that you can suggest strategies but you can't do any of this if you do not educate yourself as to what you are up against.

Keep in mind that when you go for child custody, the litigation can be vicious and intense. Expect to hand out some legal abuse and expect to receive some as well. This does not mean you should construct a vicious plan. It means be prepared to do what you have to do. Try to do it as civilized as you can, but be prepare to go nasty.

Finally, you need to take the emotion out of your approach and show everyone concerned that you are entitled to custody--that it is in your children's best interest. This also means being prepared to expend some serious resources. If you won't pay your attorney, they inevitably quit working just like anyone else who doesn't get paid. Your

role is therefore pivotal because you are really in control of everything and how it turns
Think about it.

Your Attorney's Role

Most people who go to an attorney are emotionally distraught--especially when it involves their children.

However, the first thing you need to realize is that your attorney is a legal counselor, not an emotional counselor. Lawyers pick up ways to handle client stress and sometimes they do help, but your attorney's role is really to deal with your legal issues, not your emotional issues. If the stress becomes unbearable and you start getting aggressive or rude with your attorney, seek out an emotional counselor and deal with that stress. Otherwise, you may find yourself unrealistically assessing your case, your lawyer and the system. Your own emotional issue can lose you the case!

Keep in mind that there are many factors that your lawyer is trying to deal with in representing you. The court systems are trying to rush things along. They often have competing interests about achieving justice while trying to finish cases. This means that your attorney is juggling competing concerns as well and may be taxed by pressure of the system. If you see this happening, you can see how important your role is as we went through in the last segment of this guide. Your role is crucial.

Also, many run of the mill family law attorneys do not make much money from each case. If you get one of these lawyers, they may not be able to get everything done that you need done in order to win. On the one hand they have to stay in business but on the other hand they need to represent you properly. If they are not making much money per case, then they will have a hard time staying in business and they will have a hard time representing you properly. Beware of this type of lawyer.

Your attorney's job, more than anything else, is to make sure that you are heard. I have told new lawyers that worked for me to make sure that the client is heard so many times that I sounded like a broken record. The reason I told new lawyers this is that if the client's case is not heard, then the client will conclude that a bad result is the lawyer's fault. Furthermore, if the client's case is heard the chance of success go up dramatically but if a judge defies logic in his decision, then the client will know that it was a wayward judge rather than the facts or their lawyer that caused the bad result.

Therefore, for a lawyer to make sure your case is heard, it is his role to find out as

much as he can about your case. He needs to make sure the evidence is lined up so that you are heard. A lawyer needs to know what the witnesses are going to say and prepare them the best he can under the circumstances for trial. He needs to subpoena the witnesses that need subpoenas and do what he can to make sure that they are there to testify. A lawyer needs to figure out what your best exhibits will be including photos, letters, reports and such. He needs to weave this evidence into a theme and present it to the judge in a way the judge will appreciate on an emotional level as well as on a legal level which will entitle you custody pursuant to law.

Keep in mind that the lawyer's role is marshaling your evidence so that you can be heard and this process can be quite complex. He must deal with court procedures called Court Rules and Rules of Evidence. Not all evidence is allowed. Evidence that deprives the other side from testing the evidence's strength is not allowed. If a party cannot cross examine, challenge or test the quality of the evidence or if it could be unreliable for any other significant failing on the part of the evidence, then it would be excluded. So it is also your attorney's role either to find good evidence or strengthen inadmissible evidence and find ways to get your case admitted. However, do not expect every piece of evidence to make it. Sometimes no matter how hard we try, some very good evidence can't get in. This also must be balanced against the costs and against wasting too much time on a lost cause as to getting in certain pieces of evidence.

Lastly, your lawyer has a set of ethical rules he must follow. So, besides getting your facts together, dealing with the idiosyncrasies of the judge, making your case fit the law, guiding your case through the procedures and rules of evidence, he must make sure he does not violate any ethical rules. This means he should not advance witnesses or evidence that will perpetrate a fraud upon the court. So if you ask your lawyer to violate any ethical rules, a good lawyer will not do so. Besides complicating the presentation of your facts, a lawyer is duty bound to bring to the attention of the court that a witness is lying or an exhibit is fraudulent as soon as the lawyer learns of this. Making your lawyer

dodge ethical issues while trying to marshal your assets does not put you in a good position to win custody. Let your lawyer do an honest job with an honest case.

The Court System

If you want to know how a judge is going to look at your case, go to a playground and watch the kids playing there. The judge will have the same feeling as you have when you are watching those kids playing. He has no personal stake in the outcome. He has no emotion tied up in what happens. He sees things in a detached way.

Whether you are in a divorce or a post divorce custody dispute (or a custody case being unmarried) there will be a trial ultimately if the case cannot be otherwise resolved. In divorce, we call it a trial. In most other child actions, we call it a hearing. They both function the same way. The judge hears witnesses and sees evidence and makes a decision. For purposes of this guide, I will refer to every final hearing as a trial.

Each jurisdiction is a bit different. This is true from State to State but it is also true from court to court within a State. Thus, it is important for you as a litigant to find out exactly how your jurisdiction works so you can help your lawyer navigate through its unique requirements.

Generally though, a litigation starts with a lawsuit, motion or petition. From there you may have an immediate hearing to see what happens next or to set temporary custody and support while your action is pending. After that, depending on the jurisdiction, you can have a scheduling conference, a referee hearing on the issues, a settlement or other status conference, discovery hearings and then your final trial.

The court system is suppose to move along fairly quick for child custody cases but even that can be slow. As you can see from the number of court hearings, you are involved in something that could be quite involved and expensive as well.

As I have touched on, the court is supposed to do what is in the best interests of the children, but it does not always turn out that way. The courts are devising ways to get rid of cases. The laws are tightening up to get rid of cases and the system is coming up with procedures to get rid of cases. What happens to doing what is in the best interests of the children? It doesn't happen as often as it should.

In Michigan, our court of appeals has ruled that the preference of the child

standing alone is not cause for a change of custody motion and it does not matter how that child is when the child expresses a preference. It has ruled that an intra-State move is not cause for a change of custody motion. The Statute itself says that there has to be a change of circumstances before a change of custody motion is proper and the courts are finding less and less things to be a change of circumstances. They are merely trying to get rid of cases. Thus, you really have to beef up your paperwork to stay in the case. However, during the divorce you don't have to worry about as many restrictions so this is the real time you need to fight for custody. If you wait until after you are divorced, there is a growing body of cases that are coming out that are designed to stop you from asking for a change of custody.

The courts are also sending those cases that do survive through a legal gauntlet to referees or facilitators. A full trial before the referee is held in some cases, however you do not have to settle for the referees decision and can have the judge hear the case. This doubles the costs of a trial because your case is tried twice. By doubling the costs, people tend to go away. It gets rid of cases. In Michigan, litigants kept going forward in spite of the doubling of costs (probably because they were not going to give up on their children as the courts had hoped) and Michigan now does not guarantee that you can have another trial. Instead the court can choose to read the stale, emotionless transcripts from the referee hearing and make a decision (that usually upholds the referee decision). Again, they keep trying to get rid of cases.

You need to find out what your jurisdiction is doing so that you can cope with and get around these problems. It can be done. If you would lay down your life for your kids, you can find a way around courts trying to get rid of cases. If you are not prepared for this, you could find yourself quite frustrated getting smacked out of the blue with the obstructionism of the courts. In Michigan, lawyers are taking the referee hearings seriously and they try the case as if the judge is going to read the transcript by putting things on the record that shows what the judge would be missing by reading a transcript (like indicating the witness has made an inappropriate emotional outburst on the record).

Lawyers are noting problems with the referee hearing so that a new trial in front of the judge can be effectively argued for instead of a mere review of the transcript.

On child custody matters especially, most judges do not realize that what they are being asked to do is use force. Before we had courts, people took the law into their own hands and used their own idea of justice to force others to do as they wish. They might beat up the other person, take that persons property or even kill that person to fit their idea of justice. Besides providing people with a different outlet for dispute resolution, our courts were supposed to add some consistent principles for people to use in order to know right from wrong. When someone violates one of these principles, you can go to court to force that person to comply. When a judge issues an order and it is not followed, men with guns (police) ultimately may show up. A court is using force. One time, I blatantly said to a judge, “judge, if you are going to use force, don’t force the father out of the child’s life.” The judge outright told me he had no idea what I was talking about. I explained it to him like I just did to you and then he got it. Keep in mind that most judges think that they are merely rendering opinions and do not realize the force behind what they are doing. This can be used to your advantage like I did to the judge. It made him have to rethink what he was doing. But also you should keep in mind what you are asking because you are asking for the use of force so it better be justified.

Courts have historically been in favor of mothers more than fathers. The laws changed making the “best interests of the child” the foremost concern. This change was supposed to equalize the position of the parties. In some ways it has, but in many ways it has not. To give you an example, the Michigan legislature enacted a law that says that it is a presumption that joint (shared time) custody be used when custody is in issue. The courts instead created a fiction and said that joint custody has two components: joint legal custody and joint physical custody. Joint legal custody is where the parties share decision making responsibilities and joint physical custody is where the parties share time. Thus the courts found a way to follow the law by always awarding joint legal custody with physical custody to the mother. You cannot find a legislative law that splits

the joint custody into two pieces. The courts did this. You will still find that the entire court set up favors the mother when it should not.

This does not mean that fathers cannot win. They do win custody more and more often. What it means is you have an uphill battle. You need to be determined and smart to make it happen.

One last thing, even when the courts are not that biased toward the mother, there is another unspoken problem you should be aware of. You chose to have children with the mother. Therefore, even if she is bad, the courts act as if you deserve each other. You should have picked your spouse better. This seems especially important in attempts to change custody later after custody was first established. The idea that the courts think that you deserve each other really kicks in when a change of custody is sought. You ask for a change of custody and point to how the children are being improperly raised and yet it seems like no one hears you. I submit it because the courts feel that you should have known what was going to happen to your children before you conceived them with this person so you get what you deserve. No court would ever say this is true but from my practice, it appears to be an unspoken truth. So this is another built in prejudice you need to think about overcoming.

As you can see, the court system is not about administering swift but fair justice. It can be slow, it can be unfair and it is often merely finding ways to get rid of cases. You can get justice if you can steer around the obstacles, meet the prejudices and hopefully have a competent judge in your jurisdiction.

Witnesses and Evidence

The funny things about witnesses and evidence is that it never seems to turn out to be what you thought.

Lawyers often say about each of their cases, “there is the case I prepared, the case I tried and the case I wish I would have tried.” What this means is when we prepare a case, we think that we have a good handle on what will happen during the course of a trial. But, at times the witnesses either freeze and do poorly or those witnesses you thought wouldn’t matter much do quite well. Then after you endure the shifting sands of the trial and the unexpected performances of the witness of trial, you look back and wish had you known the information that you now know now that the trial is over which usually means that you would have changed the line-up or emphasis of the trial to fit with what actually happened.

When I interview witnesses in preparation for trial, I dig out of them the most important things that will help the case. I tell the witnesses to concentrate on that important stuff because no matter what trial I have had over the many years of trying cases, witnesses will invariably forget something on the stand. No witness will ever get to say everything that they wanted to say. No witness will be able to rehash years of observations. And no witness will remember everything when under the pressure of testifying. So the most important stuff needs to be emphasized.

So you ask, “who can I call as a witness?” The answer is anybody with personal knowledge about what they are being called to testify so long as it is pertinent to the case. It can be relatives, friends, co-workers, acquaintances, teachers, counselors, psychologists, doctors, police, investigators, strangers who saw something important or others. To have personal knowledge, the person must have saw or heard something pertinent. However, a person cannot testify to hearsay--what someone else said they saw or heard.

Then you ask, “what are exhibits?” Exhibits are non-living things that either prove or explain the testimony. Once again these exhibits must be pertinent to the

custody proceeding. Exhibits can be photos of the proposed homes, other photos, videos, tape recordings, police reports, conviction records, report cards, medical reports, letters, journals, weapons, clothing and other things. You should discuss such exhibits with your attorney because some of the exhibits may not be admissible. For example, if you wish to enter a police report to show what the police officer saw or heard, it will be excluded as hearsay and you would need the actual police officer to testify. Whether an exhibit is admissible or not will often depend on why it is being offered.

When thinking about what witnesses or exhibits you will bring to your attorney's attention, think about how this information will fit into the theme of your case. I tried a case where the theme was that the mother had a man hating household which was bad for the boy for obvious reasons and bad for the girl because for her to grow up healthy she needs positive male affirmation and encouragement. Each of my witnesses ended their testimony by helping the theme. We let them tell the court about other problems in the mother's household, but we ended each witnesses testimony with information that would lead the court to the conclusion that we wanted, "that the children were growing up in a man hating household."

This brings me to my last point about witnesses. Did you notice that in the above paragraph, I said "information that would lead the court to the conclusion we wanted?" The reason that I said this in the way that I did is because my witnesses would not just end by saying, "the kids are growing up in a man hating household." They would give facts that would leave anyone listening with that conclusion. The witness may tell how the mother would say "all men are bad" or that the boy is "cursed by his sex" or tell about blatant sexual favoritism toward the girl. The court will reach the right conclusion when given the facts. Even if you are unsure, your attorney can argue what the evidence means at the end of the case. So make sure your witnesses tell the facts--not the conclusions. Instead of saying, "she is a mean mother", tell about the mean things she does without saying the word "mean". The court will be able to reach the conclusion on its own.

Psychological Evaluations

The courts are big on psychological evaluations. Many judges think that both parties and their witnesses stretch the truth or lie about what is really going on in a custody dispute. Having an expert do psychological evaluations of the parties as well as the children gives the court a seemingly impartial expert in which to look to in order to help the judge reach a decision. This sounds good at first but there a number of potential pitfalls for fathers.

The first and most striking problem is that the courts will often employ psychologists (and even worse limited psychologists or just plain old counselors) who will work for very little money. These psychologists or pseudo-psychologists are bottom feeders and any professionals that bottom feeds for the scraps they get are usually there because they do not have much to offer anyone who needs a good professional opinion.

While it is true that many of the written psychological tests are computer scored so that any psychologist should get the same result, a psychologist can choose to write into their report what part of the test that they want to mention. And, they do a clinical interview and can emphasize the good or the bad as they choose. I would not want one of these bottom feeders to write an opinion about my dog let alone me and my children.

In my opinion, most of these bottom feeders have a bias or prejudice they let seep into their reports, evaluations and testimony. This can be extremely helpful if you are on the right side of the fence but it is devastating when you are on the wrong side. Where do you think that most fathers fall?

A court can hide behind a psychological evaluation and not really scrutinize it if they wish. So a psychological evaluation of a father can be used quite effectively against him. And, believe it or not, I have found that a father nearly always seems to have problems with a psychological evaluation being complimentary to him. This prejudice against fathers while more pronounced with the bottom feeders reaches into the more highly qualified psychologists as well.

In general all psychologists believe that young children are better off with a

nurturing mother. They, as a profession, seem to frown on joint custody (split time) arrangements. The psychological profession thinks children are better off having stability in one place. They ignore (or at least de-emphasize) for the most part that stability is not just a place, but it is associated with the parents, either one or both parents. In many counties in Michigan, courts are actually following a psychological study that says children under one year old should be primarily with one parent and the other parent should only get a few hours a week with the child. They base this on the psychological presumption that the child can only bond with one parent at a time. This becomes absurd when both parties work. When both parties work, the child can spend all week in daycare with a stranger but gets only 4 hours a week with dad. The psychological studies often do not match up with reality.

What really irks me as a fathers right lawyer is that these same psychologists that think that young children should be with a nurturing mother, also feel that teenage children, especially girls, need to be with their dad. So if we do what the good psychologists say, the court should award custody of the children when they get older to dad.. Instead, once mom gets custody the courts refuse to change it unless there is a change of circumstances and a showing by a tough clear and convincing evidence standard. If you want to get laughed out of court, cite the psychological studies that say teenage kids should be with their dads after mom already has had custody all those years and see what happens. Again, the psychologists can't match up with reality.

Joint (split) custody should be the standard for any aged child so long as both parties are good parents, in my opinion. Otherwise, psychologically speaking the children will miss out on half of what they need either early in their lives or when they are teenagers.

Also keep in mind that psychologists like nurturing attributes much more than a strict disciplinarian. The psychological evaluations favor nurturing persons over the disciplinarian. What are most fathers? You got it, disciplinarians. Fathers are raised to compete and to control what they can to get ahead. Control issues hurt dads.

Competitiveness hurts dads. Strict discipline hurt dads. Possessiveness hurt dads. They don't like anyone inflexible either. The reason for disliking such traits is these traits usually result in anger problems and in impatience, neither of which makes for good parenting. The failure, though on the part of psychologists and the court system, is that children get their character from their fathers because fathers hold their kids accountable.

If you think you can go into a psychological evaluation and just downplay your control issues or your strict discipline attitudes or any other personality trait, think again. The psychological written tests will find you out. These written tests are really quite good at getting a psychological profile when answered truthfully. If you try to make yourself look good, the test will report that too quite accurately.

My advice to fathers is to not get psychological evaluations done unless the mother is clearly much worse than you--not because you like to think of yourself as being superior but because she is really screwed up. A good test for me as to whether mom is really screwed up is that after I have heard the story a father tells me about mom's craziness, is to then ask the father to tell me about what he knows of mom's parents and her childhood. If the mother is as crazy as dad says she is, so are her parents, and her childhood had to have been a nightmare. If her parents and childhood were pretty good, then any claim that she is now emotionally a mess is probably wishful thinking or dad's skewed opinion due to the emotion of the divorce.

If you cannot avoid a psychological evaluation, get to a good counselor and start counseling because when the evaluation comes out, it will go against you, but if you are seeking counseling, you can minimize the impact; and you have a counselor who can testify how you work on the problems in the evaluation and that the problems cited in the evaluation were not as bad as they sounded.

Handling Your Children

Never involve your children in discussions concerning custody, parenting time or child support. If you think you need to involve your child in such matters, it proves you should not have custody and it proves that you are not a good parent. Children need not worry about such matters and the parent who involves them is really just trying to manipulate the children against the other parent. If you want to talk about being destructive to a child's development, just look for the child who is being used as a pawn in a child custody fight and you will find a child being destroyed.

If you find that the mother is including the children in an attempt to manipulate them or to turn them against you, don't try to fight fire with fire. Instead let the children know that custody is between the adults and that *all they need to know* is that both parents love them and that everything will be alright. Keep your discussions in general terms and reassuring in nature. You will not only help your children cope with a bad situation but it will get noticed by your children, by your attorney and by everyone involved with the case including the court. Your adult behavior will pay off in the end.

Oftentimes during a divorce, one party will get temporary custody while the matter is pending and the other will get visitation. If you get visitation, it will often mean that you will get the kids every other weekend. If this happens while the case is pending, then you better forget about being a disciplinarian. Use that time to spend quality time with the children. Do things that they want to do. Show interest in anything and everything that concerns them. Let the kids be themselves. Find out what they think and feel.

If you get a girlfriend, keep her out of their lives while the case is pending. Children want their parents to stay together and bringing a girlfriend into the mix causes resentment. How would one expect to get custody if a child resents you because you have a girlfriend, or because you use that limited time you have to discipline them; or because instead of doing what they want you do what you want making them feel like unwanted tag along guests.

Keep in mind that you cannot make up disciplinary losses on an every other weekend basis. If you try, you will just look mean spirited and bitter. The kids will not understand what you are trying to do when they live most of their time in an undisciplined environment and then meet with dad clamping down on them twice a month. Sure you love them and want to get them to grow up to be responsible people but you can't do the same things you would do when you lived under the same roof. When you lived under the same roof, you probably had the support of your spouse. You probably don't now. I always tell dads to talk to their children, work to understand, and get into their heads rather than resort to discipline. That traditional role of a disciplinarian will keep you from custody.

You will be setting up a new home now that you are divorcing and it is important for the kids to think of your new home as theirs as well. Don't take this for granted. Kids will not think of your home as theirs unless you work at it. Let them know that your home is their home and that you are still there for them just like you were when you lived at home. Make sure they feel that your home is theirs well before you introduce a new girlfriend or new wife to the home. If you have a girlfriend living there first, the kids will feel like they are guests and this will not bode well for you in a custody case. If possible duplicate what they have at their mother's house.

While it is a financial strain, make sure the kids have all the clothes, toys and supplies they need at your house so that they do not have to bring a thing if they do not want to. Some mothers will try to make it hard on you and send minimal things and refuse to let toys go with the children. If the mother allows more than the minimal to come with the kids, make sure that the stuff goes back, clean and in good shape.

Some mothers will try to get the maximum in child support and that can really hurt you financially. You will need to plan for this. You will also need to get the children to understand that your financial situation has changed just like their lives have changed. Do not put the blame on child support or the mother. Instead, just get them to understand that changes are happening and it includes your financial situation.

After the case is over and you want to introduce a girlfriend to the kids, make sure the girlfriend knows her place. She can never replace the children's mother and had better not try. She should not have the right to discipline the children especially no right to resort to physical discipline. If you want to avoid things getting way out of control, set clear expectations for the new girlfriend or wife. She is to be your wife, your support person and the children's friend. The word "step-mother" will never mean "mother" and should not entitle her to anything more rights than any other stranger has with your children. It doesn't mean she can't express her displeasure at the kids bad behavior nor does she have to be quiet as to her expectations. This really means you have to do double time to keep peace in the household through consistent discipline of your own. Your kids will cope better if it is their dad and only their dad that has the right to impose discipline.

In the end, you and your kids will be better served if you take the time to analyze every possible thing that may affect the kids. Your understanding and concern for their changing life is really important. One woman told me one time that she felt that kids will turn out the same whether she fretted over their lives or not. This is not true. You need to fret, probe and understand. You need to anticipate and talk things out with your kids. They learn from what you teach them. Don't assume they will turn out fine in the end no matter what. Don't assume that everything is ok. Ask them, then listen and believe what they say. It is important.

Handling Yourself

You need to have a clear head and keep your eye on the target. As you can see from this guide, there is a lot to contend with so you do not need confusion.

Thus, if you have a relative or friend constantly chirping in your ear, eliminate them. This person, while being good intentioned, is actually emotionally driven. This is especially true of your own parents and siblings. If you want a legitimate shot at custody, get these people in line. They cannot tag around with you to the lawyer's office nor can they constantly harangue you with their emotional rants. Be independent from these types. However, don't push them completely away. They should prove to be valuable witnesses.

You need to adjust yourself intellectually and emotionally for a custody battle as you can see from the foregoing sections of this guide. There is a lot to do. You need to make it job one to overcome all of the obstacles involved. Remember, make about the best interests of your children. Its not about you. Its not about your parents. Its not about your brothers, sisters, friends or others. It is about the best interests of your children. If you can't reasonably explain why something you are doing is in your child's best interest, you shouldn't be doing it.

When you get to court, you need to have yourself and your witnesses in line. They cannot show anger or disgust at opposing witnesses' testimony. You must sit there interested and attentive but keep emotion out of it. After all, if it is about your children's best interest, your anger has no place in the courtroom. You have to be straightforward and factual, not lopsided and emotional.

When you take the stand, you must answer the questions directly. Don't answer the question in such a way as to answer what you want because you have something particular you want to get off your chest. Listen to the question. Answer exactly what it calls for. If it can be truthfully answered with one word, then answer with one word. You should answer directly and briefly as possible. If more information is needed, that is for your attorney to ask you. It is not your job to give out information without paying

attention to the question. Pay attention to the question, and answer it truthfully and as briefly and directly as you can.

Remember, the judge is making the decision in your case. He is not emotional and will not appreciate your emotions if your emotions get in the way of answering the questions directed. If an appropriate emotion is connected to your answer, it is ok but keep anger out of all of your answers. Even if you are accused of something bad or outrageous, merely answer, "that is untrue." If you are defensive and argumentative it will look as if you need to defend yourself from unfair accusations. Never defend yourself other than to calmly say, "that is untrue."

Sit up in the witness chair. Look at the lawyer when the question is being made and then look at the judge and answer the question. As long as you are being truthful, honest and straightforward, it will never hurt to make eye contact with the judge since he has to decide the case. Don't worry that the judge may not be looking back at you when you answer the question to him, just keep doing it.

Don't lean back in your chair or cross your arms as if you are defensive. Don't bounce in your chair. Put your hands in your lap and your feet on the ground. Sit up, make eye contact. Be calm and be confident. Everything will be ok. Remember that you will not be able to remember everything you want to say. Don't kick yourself over things you think you should have said. Make an outline of the most important things for you and your lawyer's use and get that information out. Everything after that is a bonus.

If you get so nervous that you are afraid you won't get the most important points out that is because you are concentrating on failure. A good story I heard a famous football coach should help you. He said something to the effect that if you lay a ten foot 2x4 board on the ground and ask your players to walk down it without touching the ground, over 90% will do so successfully. But if you put that board two stories up between two buildings, 90% will fail. This is because the first time the players concentrate on success and the second time they are concentrating on failure.

Make sure you are concentrating on success. If you get nervous, you are guaranteeing failure so forget about the nerves!

What is a Win in a Custody Case?

You can call it a win if you get custody of your children if you want but there are other wins too.

You win when your children win. Your children win when they get to have as much time as possible with both parents. Thus, joint custody could be a win if the children are lucky enough to have two good parents. In fact, in an ideal situation, I find that even when there is a great deal of animosity between the parents, if a court orders joint custody, the parties eventually work it out. The children like it when they get to be with both of their parents. Psychologists have recommended against such an arrangement when the parties will not work together but that approach, while understandable, is impractical. I think that the courts need to force joint custody and if the parties do not settle down for the sake of the children, then consider whether a change is order.

Even if you can't get a split time arrangement because of your job schedule or other obstacles, you would win by getting liberal time with your children because again they win. Liberal time would be more than every other weekend. It may include one or two overnights during the week or on the off week.

If the worst should happen and you don't get any of the above, you need to position yourself for the future. Make sure you have joint legal custody and use your case to educate the judge about potential problems. It will probably end up being a close call for the judge so he will remember the case when you return on a request for change of custody. Judge's hate to be wrong but if your spouse proves him wrong you may find that wrath going against her and you could find yourself in the driver's seat quicker that you would imagine.

Regardless of how it turns out, make sure you consider the future. Thinking about the future is another way to take care of your children's best interests. If you have custody, joint custody, liberal parenting time or minimal parenting time, you have to think about the impact of these arrangements on the children. Custody arrangements are open to change up until the children are 18 or graduate from High School, which ever occurs last.

After The Custody Case

There is life after a custody battle. The scars can linger but if the parties have their children's best interest at heart, the scars should fade after time. After all, you will see the mother of your children probably for the rest of your life. Children graduate and both of you will be there. Children marry and both of you will be there. Children start having their own children and both of you will be there. Children like to have their parents over for birthdays and holidays and both of you will be there--hopefully.

There have been many fathers who have come to me over the years that cannot see beyond the trauma of the break up who settle into a new pattern after the divorce or custody battle. Some couples settle for joint custody then work it out. Some will not speak to each other again.

Believe it or not everything works out in the end. I tell people who just broke up to take it one day at a time. You cannot think about tomorrow, next week next year or the future. If you try, all you will do is find yourself in despair because your life as you used to know it is gone. So for these newly break-ups I tell them to make plans for the day and get through the day. At the end of the day, make plans for the next day and get through the day again. Do this over and over again until the pain of the break-up subsides. If you need counseling, get it. Usually, you will get over the pain of the break-up in stages. At one month you will feel some relief. At three months you will notice the edge starting to come off. At six months you will see the light at the end of the tunnel and by one year you are over the relationship.

Certainly, each stage can be longer or shorter depending on the person but you will get over it. A very good psychologist told me one time that getting over relationships can be compare by analogy to getting a non-mortally inflicted wound in the civil war. They did not have pain relievers back then, so plan on it hurting like hell for awhile but you will live.

You cannot carry bitterness over the divorce into the future. After the custody case is over, you've got to get on with your life. If you are strong the kids will lean

toward you. If you live and let live over the break-up the kids will lean towards you. They will appreciate the fact that you are not holding a grudge against their mother and it will pay off.

Keep in mind that custody can be changed at any time prior to the children reaching adulthood. Even though it may seem silly, keep a log about problems the children experience at their mother's home. It can turn out to be very helpful.

File complaints if the mother refuses you parenting time. This builds a record for a possible change of custody in the future. It would also help you defend a motion if the mother wants to move out of State because if you demonstrate that she has a record of violating parenting time orders, how can the court enforce anything if she is out of State?

I had one case where the child (a girl) changed custody four times between the age of 13 and 18 so things can and do happen in those teenage years. Interestingly, I represented her husband against her later in her life and got a joint (split time) custody order after a trial and over the mothers objection. (Little did she learn from her own childhood).

Lastly, don't let child support drive you out of the children's lives. Often a father gets disabled or laid off and fails to request a child support reduction. This causes a big arrearage to occur and it could result in jail or prison. Some dads start running from the law as a result. They didn't know that they have to bring a motion to reduce child support but they expected it to be reduced whenever they got around to telling someone of their wage loss. You have to ask for the reduction when the wage loss occurs! Do it by filing a motion.

There is a future after your custody case and as you can see, there are things you can do to make your life with your children more secure. Protect yourself.