

## **Critical Success Factors for Fathers Seeking Physical Custody of Their Children**

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### **Choosing the Right Attorney**

Believe it or not, this I feel this was decision played an enormous role in helping me get physical custody of my son. Never having done this before, but having talked to several family attorneys, I made one primary decision which drove my selection process: I must retain a female attorney. I know that there are probably many good male attorneys practicing family law, but the ones I talked to were not in this group. I discovered during my attorney selection process that female family attorneys inherently had a greater understanding of the nuances of family law and that they were much more skilled at making a case for me to have custody.

### **Keeping Complete Records and Documentation**

I did not have a full blown journal available at the time I decided to pursue custody of my son. But I did have mass quantities of receipts, personal organizer entries (which denoted weekends I had visitations), credit card bills, cancelled checks, and other paper trails. I spent about a month's worth of evenings of organizing this information into a chronological testimony of my commitment to being a responsible parent to my son. I ended up creating a 50 page journal of information within a Lotus 1-2-3 spreadsheet that I could easily sort and print based on several sets of criteria. When I tallied up all of the money I spent on things my ex-wife was supposed to have provided (i.e. haircuts, clothes, school supplies, etc.) as well as all of the miles I drove to see Brandon (480 miles per weekend) and the number of days I opted to take visitation with Brandon (over 100 days per year), the numbers spoke for themselves. Needless to say, when we entered this into exhibit during the modification trial, the opposing attorney could do little but attempt to deride my journal as "copious notes".

### **Petitioning for Custodial / Parental Evaluations**

Yes, it cost me a lot of money (approximately \$2400) and the experience is humiliating (a good psychologist can see right through you). But the effort is well worth your time. Getting the nod of approval from our court appointed psychologist put my attorney at great ease before our trial. According to my attorney, the courts typically agree 90% of the time with the decision of the evaluators with regard to physical placement of children.

### **Talking to Your Children's Neighbors on a Regular Basis**

If your situation is similar to mine (you suspect some no-good is going down in the home of your children) a couple of reliable eyewitnesses can really help your case. In my situation, I knew that something had gone down with Charles' kids when they abruptly ended their visit in the middle of the summer. I retained a detective to investigate, but the most of the information I obtained came when I asked a couple of the neighbors about what they knew. I found out that Charles had struck his oldest son in the side of the head during a heated argument after he claimed he couldn't be biologically related to Charles. The boy felt compelled to seek refuge

with juvenile authorities until mom could pick him up. This information helped greatly during depositions, custodial evaluations, and the modification trial. It helped the courts to realize the level of instability and hostility my son was being faced with in his home.

### **Being Actively Involved in Your Children's Education**

I had been to every school conference and planning session held for Brandon. I had also made my own notes about work I did with Brandon during his visits with me which I shared with his teachers. The real break came when my ex-wife agreed to allow me to retain one of Brandon's pre-school teachers to come into his home during the summer of 1996 to provide him with some additional tutoring. This provided several opportunities for an unbiased source to observe his miserable home life. I was surprised, I actually got this teacher to come to the modification hearing and testify on my behalf. I think she was motivated out of fear of Charles and her own convictions that my son should not be left in his care. Nonetheless, she did show up and testify for Brandon's sake. This was a big, big help.

### **Having the Right Judge Assigned to Your Case**

My attorney had a very, very good feel for each of the six district court judges who presided over the family courts. She also knew what reasoning and motivations each judge had in making decisions on child custody cases like mine. My attorney told me that there was one particular judge that we wanted, and we were lucky enough to get him appointed to our case (I'm not sure how this is done, but it is probably a combination of timing and luck of the draw). Judges, my attorney told me, more often than not make custody decisions using their own common sense and discretion, and then look to the evidence and the law to back up their decision.

### **Never Losing Your Temper**

I have pretty good control of my temper, and so I was able to get through this difficult period without losing my cool. The only time I came close was when Charles suggested that I pay for his smoking cessation classes after I asked my ex-wife for the millionth time to not allow him to smoke in front of Brandon. I think the importance of not losing your temper cannot be over emphasized. You do not want to have to have the courts and the judges hear about the times you lost it in front of your ex-wife or children, even if you were the victim of the situation or circumstances.

### **Running Your Custody Action Without a Budget**

If you seek custody of your children, I am sure that you have good reasons for wanting to raise them yourself. Why put their future developments at risk? Spend the money to have those depositions, parental evaluations, and other investigative work done. Your kids will thank you for it as adults!

### **Compile a Photo Album for an Exhibit**

I do not know for sure if doing this helped my case or not (no mention of it is made in the final ruling), but I did compile and submit into evidence a series of photographs I took over the course of two years of visitations with Brandon to show the quality of his home life

with me. I also took photographs of the section-8 apartments and trailer homes that he had lived in with his mother during the same period.

### **Video and Audio Evidence**

Like something out of a cheap detective story, I bought and wore a wire while I was in contact with my ex-wife and Charles. When Charles confronted me about calling in Child Protection Services, he was quite verbally abusive to me, and Brandon was present. My attorney used a transcript from the tape I made to successfully demonstrate that Charles possessed a hostile and uncaring disposition toward me and Brandon. While the transcript was useful for this purpose, the judge was not completely impressed with my tactics. He noted this in his final ruling, implying that he took all such evidence with a grain of salt since it was very easy for the wire bearer to bait the other party in to losing their temper while the tape was running. I recommend wearing a wire anytime things are less than friendly with you and your ex-wife or ex-girlfriend, only to refute any accusation that you acted less than calm around them. Just be sure to transcribe the tapes or videos you plan to use, as most courts probably won't listen or watch the originals due to time constraints.

**Note:** Recording conversations without the awareness or consent of the other parties involved may be illegal in your State. Check the laws for your State with regard to recording conversations, and consult your attorney before proceeding. -Editor