

**Equal Justice Conference
April 15-17, 2004**

Working With Child Clients

Materials Index

1. **Case Scenario**
2. **Presenter Outlines**
3. **ABA Standards of Practice for Lawyers Representing Children in Custody Cases**
4. **Child Development: Guidelines and Implications for Visitation**
Frances Stott
5. **Children and Divorce**
H. Elizabeth King
6. **The Role of the Guardian Ad Litem**
Jacqueline Valdespino
7. **State Laws on Child Preferences**
8. **Put Something Back program information**
9. **Atlanta Volunteer Lawyers Foundation program information**
10. **Presenters' Biographies**

Fact Pattern:

Mary and Tom met in California. Tom was a bar tender and Mary was a waitress and part time bar back. They married in California and lived in California for eight years. All Tom's extended family lives in California, Mary's lives in Chicago. While living in California, Tom was arrested for Domestic Violence against Mary; after completing the intervention program, they got back together and decided to move to Georgia, where they did not know anyone and could start all over again. They have three children: Nicolas age 8; John age 12 and Tina age 14.

Until two years ago, Tom was very busy working at the local Wet Willies as the manager. However, he did attend games and school activities regularly; Tom always planned fun activities with the children during weekdays when the Bar was slow. He did not travel for business and was home most nights, but frequently not for dinner. Mary worked while the children were at school, however she continues to be the primary caretaker for the children. Currently Tom is the coach of John's Soccer Team.

Tom filed for dissolution after the parties were married for 16 years. Mary counter petitioned for permission to relocate; she wants to move to Chicago. Her mother lives in a 3 bedroom home and Mary can live there rent free while she helps care for her.

When Tom found out that Mary has also been dating someone in Chicago who has custody of his own children, he slapped her across the face in front of Tina. Nicolas and John love their home and want to continue living in Georgia. John particularly wants to continue playing on his soccer team. Tina wants to live with her Mother.

All three children attend public school; John has a learning disability, for which he takes medication. John is mainstreamed, although he does have some behavioral problems. Tina, while with Dad has been sneaking out of the house after hours and meeting up with friends at the local mall.

Dan Bloom

From a Judicial perspective, the issues I would address and which would concern me are:

- Domestic Violence
 - Was slapping Mary an isolated incident of domestic violence, i.e. the only one since moving, or has it been a regular occurrence since their move to Georgia?
 - Aside from the obvious affects on Tina as a result of her observing the slap, how have the other children been affected?
 - Has Tom been violent towards the children?
- Ages of the children
 - Given the disparity, how concerned should we be about keeping the sibling group together?
 - Given Georgia's law regarding the wishes of children 11 years of age and older, how is that going to affect this case?
- Relocation
 - What role should Mary's desire to relocate play in the custodial recommendation by the GAL or in the custodial decision rendered by the Court?
 - If Mary relocates to Chicago, how is the 4 year old going to be affected since long-distance visitation with young children is particularly difficult?
 - If the sibling group were not kept together, what effect would relocation have on the sibling relationships?
 - Do we take into account the fact that Mary would be living with her mother, rent free, whom she would help care for?
- Supervision/Primary Caretaking
 - How should we address John's learning disability? It appears that Tom has played a large role in the children's lives, but can he provide the stability and routine necessary for a child with John's issues?
 - How does Tom's inability to control Tina affect John's wishes to stay in Atlanta with him, especially considering his special learning needs?
- Infidelity
 - Should Mary's infidelity be something the Court concerns itself with as it decides custody?

DANIEL A. BLOOM

Dan is Deputy Director of the Atlanta Volunteer Lawyers Foundation, where he supervises the Guardian ad Litem program, as well as programs that address the civil legal needs of low-income individuals who reside in Fulton County. He trains attorneys and advocates on issues related to domestic violence, and is a regular participant in national symposia that address the issue. Dan also serves as a Magistrate Judge in Fulton County Superior Court, specially assigned to the Family Division. Formerly, he was a partner in the law firm of Kutner & Bloom, where he practiced in the area of domestic relations, and provided consultation to the Georgia Legislature on issues involving families and children. Prior to attending law school, Dan worked on Capitol Hill for the Department of Health and Human Services, where he focused on issues related to child abuse and neglect, foster care and adoption, and the Head Start program. Dan serves on the TPO Registry Steering Committee for the Georgia Commission on Family Violence, and on the Board of Directors for the Georgia Lawyers for the Arts and the Emory Public Interest Committee. He went to Tulane University for his undergraduate degree and received his J.D. from Emory.

Equal Justice Workshop

Betty's Notes:

INTERVIEWING CHILDREN:

Learn about the children from parents before meeting with them. Are they shy, outgoing, talkative, intelligent, etc? What activities interest them? Do they like school? Do they have friends?

What have the children been told about the situation? What have they been told about you? Who are you to the children?

Be relaxed and friendly but not pushy when meeting the children.

Explain who you are and what your role is. Something like, "I'm the person that is helping your parents figure out what arrangements would be best for you. They both love you very much and can't decide what to do so they have asked other adults to help them figure out how you can spend time with both of them."

In my experience it is very helpful for all kids to understand that you want to understand the best and worst things about each of their parents. No parent is perfect, although they wish they were, and you are trying to learn all about them. You are not asking them to "pick" a parent. You know they love both parents.

For some kids 8-12 years of age it is helpful to point out that even if they wanted to they don't get to make a "choice." Custody and visitation are grown up decisions. Although you want to learn about their feelings and concerns, they should not be under the illusion that they get to pick. (This serves several functions: the child does not need to feel responsible or guilty; the child can open up about all their feelings; even if they are to deliver a message from one of the parents they can then tell you other things and don't have to worry.)

I find it critical to meet with children at least twice: once with each parent. If they behave similarly with both parents and the content of what they say is consistent, you can feel more comfortable with your impressions. Be aware an event, which precedes the interview, may dramatically impact the child's behavior. For example if a play date had to be cancelled for your interview, they may behave negatively toward the parent bringing them as well as you. Be careful to think about the context of the situation before drawing any inferences.

Children often relax if they are drawing, throwing a ball, playing cards; talking about movies they have seen.

Watch the child's face as they talk to you. If they seem happy while describing something disturbing you may wish to inquire. You may learn that they are laughing out of anxiety, they may be pulling your leg or "joking," or they may be so accused to some situations that they regard them as normal or something to laugh about.

Note the language the child uses. Does it sound appropriate for their age or is it something they have heard, been told or rehearsed?

CHILD DEVELOPMENT ISSUES:

It is critical to consider each child's intellectual, cognitive, emotional, and social development. Be cautious with very intelligent children because they can appear to have more cognitive capacities than they do. Considering all of these factors is critical to understanding what they may say to you.

Piaget's stage of cognitive development gives us helpful clues.

Young Children:

- Don't think logically (magical thinking)

- Are strongly influenced by the situation (parent who brings them or events just preceding their interview)

- May divulge critical information

Don't expect children 7 or younger to think logically or to see causality correctly. They cannot place events in the correct time sequence and often engage in magical thinking.

Example: "I like to be with Daddy because the sun shines when I'm with him. I didn't like it when Mommy shot at Daddy."

School or Latency Age Children (7-12):

- Think concretely not abstractly

- Want justice and equality (as they understand it)

- Can form strong even pathological alliances with either parent

Children 7-12 are likely to think concretely and want things to be "equal." Example: "I think it should be equal. (Q) No, I don't like to be in daycare when I'm with Daddy." (Q) Maybe spend every weekend with Daddy? (Q) No, I like my weekends with Mommy. I don't want to change that!"

Adolescents (13-16)

Think abstractly

Are trying to form identities

Are attempting to separate from their parents and families

Are often still incapable of understanding the consequences of their actions

Are strongly influenced by material issues: allowance, car, etc.

Children 13 years of age and older have the capacity for abstract thinking but often lack perspective and the ability to plan for the future. Example: "Dad understands me. He respects my opinions. He knows I'm not a baby." (Does this mean that academic issues are not relevant? Are there not limits or structure? Is sexually precocious sexual behavior considered a "choice"?)

CRITICAL ISSUES:

Conflicting Wishes of Children:

*Should the oldest child's wishes trump the wishes of the younger children?

*To what extent should the past, current, or likely future relationships between siblings be the basis for decisions?

*Should the Court's (and many child development professionals) belief that siblings remain together be modified?

Children's Wishes:

Given child development issues and the complicated family situation is it likely the child's wishes adequately address the child's needs or best interests?

INTERACTIONS WITH JUDGES:

The GAL or child advocate for the experience should prepare CHILDREN if they might be asked (or required) to speak with a Judge. (

See the courtroom, Judges office or conference room, informed about robes, etc.

Learn who else might be present or learn about the conversation

Learn the impact of their conversation

The GAL or child advocate should prepare JUDGES

The Judges should be aware of the content of the child's conversations with you. The Judge should be informed if you anticipate the child may lie, be intimidated, or be influenced by other factors.

FACT PATTERN CONCERNS:

Domestic Violence

Children are at very different levels of development

Children's functioning behaviorally, academically and socially?

Relationship of each child with each parent? Past and Present and anticipated in the future. The role of the same sex parent in intact families is very important and especially during adolescence.

Does the parent:

Know the child

Have realistic expectations for the child

Have the ability to create an environment that helps child

Relocation Issues:

Loss of parental relationship for youngest child

Stress of move: loss of neighborhood, school, and community

Parental Availability (time and energy) of Mom after Move:

Job

Care of Grandmother

Time with new man

CURRICULUM VITA

HARRIETTE ELIZABETH KING, Ph.D., P.C.
2045 Peachtree Rd., Suite 150
Atlanta, GA 30309
(404) 352-4348

Licensed Applied Psychologist, State of Georgia
License # PSY000356 (November 1973 - present)

National Registry of Health Service Providers in Psychology
(July 1975 - present)

EDUCATION

- B.A., Emory University, June 1964 - June 1967
- M.S., University of Georgia, September 1967 - June 1970
- Ph.D., University of Georgia, September 1968 - August 1971
(Conferred June, 1972)

PROFESSIONAL EXPERIENCE

EMPLOYMENT

Peachtree Psychological Associates, Atlanta, Georgia. 1987 - present.

- Psychologist, Private Practice

Morehouse School of Medicine, Atlanta, Georgia. 1985-1992.

- Professor, Clinical Psychiatry (Psychology)
- Director, Behavioral Science

Committees: Institutional Review Board, 1985-1992.
Research Developmental Committee, 1985-1992.

Emory University School of Medicine, Department of Psychiatry (Psychology). 1972-1981.

- Associate Professor of Psychiatry (Psychology). May, 1978-August, 1981
- Chief Psychologist, Department of Psychiatry, Emory University School of Medicine, Grady Memorial Hospital. May 1978-August 1981.

- Chief Psychologist, Department of Psychiatry, Grady Memorial Hospital. November 1977-August 1981.
- Director of Internship Training, Emory University School of Medicine. September 1975-July 1980.
- Director, Pediatric Psychology, Emory University School of Medicine. 1974-1981.
- Assistant Professor of Psychiatry (Psychology), Emory University School of Medicine. September 1972-May 1978.
- Co-Director, Pediatric Consultation & Liaison Service, Division of Child and Adolescent Mental Health, Central Fulton Community Mental Health Center, Grady Memorial Hospital. 1974-1979.
- Consulting Psychologist, Child and Adolescent Mental Health Division, Grady Memorial Hospital. September 1972-July 1974.
- Staff Psychologist, Child and Adolescent Mental Health Division, Grady Memorial Hospital. September 1972-July 1974.
- Acting Director, Rape Crisis Center, Grady Memorial Hospital. 1974.

Committees: Affirmative Action Committee, 1978-1981.
Admissions Committee, 1978-1981.
Technical Standards Committee, 1978-1979.
Committee to Review Standards for Promotions, 1979-1980.
Research Committee, 1976-1981.
Residency Education Committee, 1975-1976.
Psychology Education Committee, 1975-1981.

University of Oregon Medical School, Portland, Oregon. September 1971-September 1972.

- Resident in Pediatric Psychology.

Portland State University, Portland, Oregon. February 1972-June 1972.

- Instructor in Department of Psychology, Division of Continuing Education.

William S. Hall Psychiatric Institute, Columbia, S.C. September 1969-September 1970.

- Intern in Clinical Psychology.

ADJUNCT APPOINTMENTS

Emory University School of Medicine.

- Clinical Associate Professor of Psychiatry (Psychology). 1981-present.
- Instructor, Department of Pediatrics. 1974-1980.

Emory University.

- Adjunct Professor, Department of Psychology. 1979-1981.

Georgia State University.

- Adjunct Associate Professor, Department of Psychology. 1979-1981.

Morehouse School of Medicine.

- Associate Professor, Department of Community Medicine, 1979-1984.

PROFESSIONAL ORGANIZATIONS:

American Psychological Association

- Member, Division 12, Division of Clinical Psychology (1972-present).
- Member, Division 54, Division of Child Clinical Psychology
 - Section 1, Division 12.
 - Executive Committee, 1978-1979.
 - Chairman, Liaison Committee, 1976-1979.
- Member, Division of Pediatric Psychology
 - Advisory Board, 1980-present.
 - Past-President, 1979-1980.
 - President, 1978-1979.
 - President Elect, 1977-1978.
 - Council Member, 1974-1977.
- Member, Division 37, Division of Child, Youth and Family Services (1972-present).

Association for the Advancement of Psychology

- Member, January 1976-present.

Georgia Psychological Association

- Member, January 1976-present.
- Chairperson, Liaison Committee to Pediatrics, January 1976-February 1978.

Southeastern Psychological Association

- Member, 1973-present.

Association of State and Provincial Psychology Boards

- Certificate of Professional Qualification in Psychology, 2001.

Psi Chi, National Psychology Student Honorary Fraternity.

CONSULTING EDITOR:

Journal of Pediatric Psychology, 1977-1984.

Journal of Clinical Child Psychology, 1976-1984.

CIVIC ORGANIZATIONS

State Bar of Georgia

- Commission on Family Courts, January 1995 - Present
- State Disciplinary Board, Citizen Member, 1997 - Present

KidsCope, Inc.

- Co-Founder, Board of Directors, March 1994 – Present

Leadership Georgia Foundation, Inc.

- Member, 1980 - Present

Jacque's Notes:

- Interviewing children
 - Speak to parents first individually
 - § Advise parents that you will be meeting with the children
 - § Have each parent describe each child and each child's interests/needs
 - § Ask parents what they have told the children about the case and your involvement
 - First visit outside of attorney office
 - § Meet with children jointly.
 - § Do not discuss case
 - Meet at Parks, McDonald's, Burger King, anywhere the children will be comfortable
 - Get down to child's level play games, sit on the floor, don't wear a suit
- Assessing and advocating children's wishes
 - Conflicting wishes
- Child development
 - Attorney qualification to speak to this issue
- Children's interactions with judges
 - Generally opposed

Jacqueline M. Valdespino

Jacqueline M. Valdespino is a partner with Valdespino & Associates, PA a law firm founded in 1992 and specializing in Family and Matrimonial Law in Florida's Circuit and Appellate Courts and Civil Appellate Law. She is a Fellow of the American Academy of Matrimonial Lawyers. The firm provides expert litigation services in contested matters such as dissolution of marriage, child support, child custody, adoption, property distribution, paternity, support unconnected with dissolution, visitation, enforcement, and modification of pre-marital and post-marital agreements.

Ms. Valdespino's forte is her personalized and caring approach to traumatic family life events. Because of her caring approach, Ms. Valdespino received the G. Kirk Haas Humanitarian Award, presented by the Florida Bar President to the lawyer that posses the unique human quality of respect and caring for other.

The firm's strength lies in its proven ability to counsel clients to determine objectives, strategies and tactics, all with a view towards achieving cost efficient results. The firm encourages all clients, in accordance with the local rules, to engage in settlement discussions as early as possible, to reduce the emotional and financial costs as well as the risk of litigation. The firm takes pride in providing its clients with aggressive, practical, quality legal representation. Clients are kept apprized of the progress of their cases on a regular basis; phone calls are returned promptly and work is performed in a timely manner.

Judges and other lawyers use Ms. Valdespino as a mediator in family law matters. Furthermore, in contested custody cases, judges routinely appoint her as a guardian *ad litem* to represent the child's best interest. In 2003 Ms. Valdespino received the Tobias Simon Award, the highest honor bestowed on a Florida Lawyer by the Florida Supreme Court for her pro bono work with children. In August 2003, at the Annual Meeting of the ABA Ms. Valdespino received the Ann Leichty Child Custody Pro Bono Award.

Ms. Valdespino's speaking engagements include: February 2004, "Gay Marriages", on the Maria Elvira Salazar Television Program; November 2003, *Nuts and Bolts of Divorce*, Dade County Bar Association; July 2003, ABA Annual Meeting, *Hot Tips from the Experts*; April 2002, ABA Family Law Section, Spring Meeting, Providence Road Island, "Stock Options: Issues Facing the Attorney".¹ October 2001, ABA Family Law Fall Meeting, Vancouver, BC, Producer & Moderator, "What to do when you are the target of an Ethics Complaint"; April 2001, ABA Family Law Spring Meeting, Kansas City, MO , Producer & Speaker, of 3 Day Program: "How to Handle a Relocation Case". Presented Written Materials *How to Win a Motion in Limine based on Daubert v. Merrell Dow*, 509 US 579 (1993); November 2001, Put Something Back, Miami-Dade County, Lecturer, "Role of the Guardian Ad Litem" 9/21/00 Expert on Grand-parental Custodial Rights on the nationally televised "Cristina Show"; 2000 Co-Lecturer at

full day CLE Seminar on "*Child Custody & Visitation In Florida*"; 1999 Co-Lecturer at full day CLE Seminar on "*Child Custody & Visitation*"; 1999 "*Women in Transition: Divorce*" sponsored by Smith Barney; 1999 Lecturer on Dissolution of Marriage and Domestic Violence, Florida International University. She is active in the ABA Family Law Section where she has served on the CLE Committee since 2001. She is a member of the Florida Bar Family Law Section, The First Family Inns of Court; and the Concerned Matrimonial Lawyers.

Ms. Valdespino earned her J.D. degree from the University of Miami, completed a Non-Degree History Graduate Program in Florence, Italy with the University of Michigan, and holds a BA degree in American Studies from Georgetown University. She is fluent in Spanish and Italian.