

Judge Blasts Parents For Using Family Court To 'Attack' One Another

[By Vesselin Mitev](#)

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A Family Court judge has issued an unusually blunt rebuke to two parents - one a former doctor and the other a lawyer - engaged in a "vitriolic and venomous" dispute over child custody and visitation.

"The parties fit the profile of that breed of litigant that the family court tends to encounter all too often; the career or habitual litigant," wrote Judge Conrad D. Singer of Nassau County. "The moving documents in this current proceeding alone dispense such vitriolic and venomous allegations as to make it clear that the parties, the parents, while each claiming to be the true protector of the children's best interests, simply appear to be using the Court as a vehicle to attack and demean one another."

Practitioners and observers say that Family Court proceedings often engender great emotion and sometimes no-holds-barred combat. Children are frequently caught in the middle.

"The adversary system doesn't fit well with the needs of children," said Andrew Schepard, who heads Hofstra Law School's child and family advocacy fellowship program and writes a column for the Law Journal. "Judges will ask each parent what role they see for the other parent in the kids' lives and often decide for the parent who is able to recognize that they can't shut the other person out."

For a legal practitioner, such cases can be extremely delicate to litigate, said Mr. Schepard.

"Lawyers are under pressure by their clients to say what their clients want them to say, when a lot of times they want to say, 'You are hurting your children, if you want me to take this position in court, I will, but the best thing to do would be to go to therapy or a parent education class,'" he said.

In this case, Judge Singer denied a petition by the mother, Daria M. Sullivan, a lawyer, to scale back visitation granted to the father, Steven S. Plotnick, a former doctor. Mr. Plotnick, in turn, asked the court for sole custody of the two children, ages 10 and 7. The couple never married.

In his ruling, [D.M.S. v. S.S.P. and S.S.P. v. D.M.S.](#) Judge Singer noted the parties had become familiar faces in the court, airing out their dispute before three different judges in three years.

The decision will be published Thursday.

According to the decision, a court-ordered Department of Social Services investigation of both parties produced two reports - one dated July 1, 2007, and another Sept. 5, 2007 - that were only disclosed to the litigants' attorneys. Relying on counsel to explain to the parties the "heart-wrenching" impact the proceedings were having on the children, Judge Singer chastised the parents for reappearing in court.

"A reading of all the moving documents in this case make it clear the parents have lost sight of the true purpose of these proceedings long ago and appear to be solely interested in ripping the other to shreds," said the judge.

The mother's accusation that the father was a "pathological liar" was not reason enough to modify the visitation agreement Ms. Sullivan had accepted, ruled the judge, noting the label was tossed about freely by both sides.

"Even assuming the father does regularly lie to the children and others, the mother does not assert that this is a new situation and something she was unaware of," Judge Singer wrote. "While the Court does not pretend to be an expert in this particular 'pathology,' it is hard to believe that the pathology suddenly arose and did not exist prior to either of the two previous orders being entered into on consent."

Nor, said the judge, did visitation by their father at "inconvenient" times rise to the level of a change in circumstance and warrant scaling back the visitations to alternate weekends. The judge also declined to grant a "right of first refusal" to Ms. Sullivan in the event Mr. Plotnick sought a child-care provider when he cares for the children.

'Offensive Mudslinging'

Among the allegations lobbed by Mr. Plotnick in support of his custody application was that his former wife led a lesbian lifestyle, forced him to use a punch-clock when dropping off the children and violated attorney-client privilege.

"This offensive mudslinging has bordered on the bizarrely comical when the father, a former doctor, accused the mother, a lawyer, of violating attorney-client privilege by addressing some of the father's legal problems in her petition papers," wrote the judge.

"To point out how inappropriate this was, the father then gave an example that, as her doctor, he would violate doctor-patient privilege by discussing some of the mother's medical history."

The discussion of Ms. Sullivan's medical history did not sway the court to take Mr. Plotnick's side. However, allegations of interference with visitation, a history of drug abuse and fiscally irresponsible behavior by Ms. Sullivan could, if proven true, change the custody arrangement, Judge Singer said.

As a final warning, before setting the matter down for trial that was set to take place last week, Judge Singer warned both sides to stick to the issues.

"The Court will not be used as a forum for the parties to attack one another. An attempt by either party to do so will be dealt with harshly," said the judge.

After the decision was issued, Mr. Plotnick withdrew his petition for custody, said his attorney, Robert C. Mangi of Mineola. Mr. Mangi said the decision was made after taking into account the mood of the proceedings.

"The judge was not thrilled with either of the parties," Mr. Mangi said. "Often, in Family Court when a judge opens a file and sees a perennial litigant they'll say, 'Here we are again.' Judges get tired of it and sometimes they express that displeasure."

Mr. Mangi said that custody remained with Ms. Sullivan and that Mr. Plotnick retained his visitation rights.

"It's in the best interest of the children," he said, acknowledging the case may have gotten "ugly" if it had continued. "The judge took the time to write in his decision how he felt about that [the children's interests] and it was very important part of this case."

Russell I. Marnell of East Meadow represented Ms. Sullivan. Robert I. Kurtz of Garden City was appointed law guardian for the children.

Long-time practitioner Sari M. Friedman, who is not involved in the case, agreed the judge's decision was designed to send a message.

"The judge was saying that he'd had it with these people and he was intending to punish any further bad-faith litigious behavior," said Ms. Friedman, of Long Beach. "As a lawyer, you have to say to your client that it may be better to figure this out [out of court] rather than put their faith in the hands of an angry judge."

Family Court practitioner Patricia M. Latzman, of Port Washington, agreed.

"It's a positive thing that he gives the attorneys a bit of a guideline as to what they can expect at trial," said Ms. Latzman, adding that the judge was right on the law.

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