

## Reunification Therapy: The Legal Angles

The purpose of this article is not to take sides. Rather, it is to investigate what may lead to the need for reunification therapy.

By **Elisa Reiter and Daniel Pollack** | November 18, 2020 at 04:51 PM



Aside from cases of abuse or neglect, divorcing parents are usually awarded maximum time with their children. In some cases, one or both parents, and even members of their extended or blended families, attempt to alienate or estrange their children's affections from the other parent. Such estrangement can sometimes be the result of malice by one of the parents, creating legal implications as well as necessitating psychodynamic interventions. Every family is different. Each one is complex in its own way. Whether alienation or estrangement, acts or omissions that lead to the need for reunification therapy include:

- Children aligning with one parent against the other parent at every front;
- An aligned parent constantly calling and emailing the children during the other parent's periods of possession, with the intent of creating an appearance that there is something for the children to fear while in the possession of the rejected parent;
- Being consistently negative over a long period of time toward a rejected parent;
- Condoning a child cutting off personal, email or telephonic contact with the rejected parent;
- Empowering young children to make adult decisions, such as giving them permission to criticize, use physical force, or to behave inappropriately when in the rejected parent's possession;
- Encouraging a child to lie or to keep secrets;
- Engaging in black and white thinking in lieu of coming to terms on issues as co-parents should;
- Inability to behave civilly toward the other parent in the children's presence (phone calls, exchanges of possession, or at shared venues such as the children's extracurricular activities); and
- Spitefully being at cross purposes regarding the children's education, health and welfare.

Some have [lauded](#) and some have [lambasted](#) *reunification therapy* as a process to assist the parent-child relationship be reestablished and rebuilt. The purpose of this article is not to take sides. Rather, it is to investigate what may lead to the need for reunification therapy.

In [Divorce Poison](#), Dr. Richard Warshak opines that lies should be confronted as quickly as feasible to avoid creating false memories that may prove difficult to expunge from the minds of young, impressionable children.

Alienation is difficult to codify. In the [Eddins](#) case, the trial court criticized Jalane for viewing her behavior as appropriate. Jalane sent vulgarity laden texts to her former husband, and used such language in the presence of the children and a private investigator hired by the children's father. The trial judge summarily removed the

children from their mother’s care at a temporary hearing, despite no pleadings then being on file to allow for such relief, placing them with their father, granting mother only supervised, restricted access, and mandating counseling. The Fifth District Court of Appeals held in the initial *mandamus* that:

At most, the evidence showed a dysfunctional relationship between Mark and Jalane, violations of the divorce decree's communication provisions, inappropriately angry and negative exchanges between Mark and Jalane, sometimes in front of the children, and conduct that the trial court viewed as Jalane alienating the children from Mark but about which no witness, not even the children's counselor, expressed that opinion. Indeed, Mark asserted that there were only two instances where he was unsuccessful obtaining the children at an exchange. This record is insufficient to support the wholesale change in custody made here and changing the parent with the right to designate the children's primary residence. In re C.S., 264 S.W.3d at 874-75; In the Interest of C.G., 2014 WL 3928612, at \*3. Based on this record, we conclude the trial judge abused her discretion in issuing the temporary orders.

Was this case appropriate for reunification therapy? [Eddins](#) is what family lawyers refer to as a “lifetime” case, with repeated rounds of litigation over many years, involving multiple lawyers, collateral cases, and third party professionals, including counselors, visitation supervisors, and competing experts hired to opine on what does or does not constitute parental alienation.

When is there a need for reunification therapy? Advocates would say, like pornography, “you know it when you see it.” What can be done via the judicial system to avoid the rigors of court ordered reunification therapy?

1. Injunctive relief:
  1. Prohibiting the parents from taking the children to any counselor who has not been court appointed;
  2. Keeping the aligned or favored parent from scheduling activities that occur during the rejected parent’s periods of possession;
  3. Establishing a neutral means of communication such as through [Our Family Wizard](#), including implementation of “Tone Meter” technology.
2. Establishing appropriate orders regarding:
  - a. Specifics of when, and under what conditions, the rejected parent may have access to and possession of the children;
  - b. Mandating neutral exchange sites for possession transfers;

- c. Placing restrictions on a parent's conduct or access;
- d. Appointment of a [Parenting Facilitator](#) and/or Parenting Coordinator;
- e. Scheduled reports to the Court regarding the progress of the parties and their children;
- f. Clarifying what, if any, penalties may be imposed by the Court for failure to adhere to the Court's orders.

Like a custom-tailored garment, every parent-child relationship is unique. As complex and sensitive as each parent-child relationship situation is, it can be especially challenging when compounded by equally complex legal factors. Against this backdrop, how can attorneys, mediators, parent coordinators and social workers work together effectively without necessitating reunification therapy? There is little empirical research regarding the success rate of reunification therapy. In cases where such therapy may theoretically seem warranted, the family dysfunction may have grown to such levels that there is little hope of rectifying brainwashing and years of one parent's attempt to estrange the other parent from their children. Texas judges need to stand ready to do everything possible to help families from needing the interventional extremes of [reunification therapy](#).

Elisa Reiter is Board Certified in Family Law and Child Welfare Law by the Texas Board of Legal Specialization. Contact: [elisareiter@msn.com](mailto:elisareiter@msn.com); 214-219-9800.

Daniel Pollack is an attorney and professor at Yeshiva University's Wurzweiler School of Social Work. He can be reached at [dpollack@yu.edu](mailto:dpollack@yu.edu); 646-592-6836.