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Smoothing out legal co-parenting pitfalls during holidays

Elisa M. Reiter & Daniel Pollack | December 13, 2021



Your client, a divorced parent, is planning their first holiday season under new co-parenting arrangements. As an attorney, the single best piece of advice you can give your client is this: If the client anticipates a

legal dispute or disagreement with their former partner, try to iron it out now. Importantly, be realistic about what issues are truly legal ones and what issues are more psychological ones. Hurt feelings and poor communication abound. While the psychological issues will take time to resolve — if ever — the legal ones may need to be addressed immediately or should be strategically delayed.

Judges are besieged by requests for emergency relief at holiday time. Does your client have an emergency, or simply trepidation about their child's first extended period away? Will the judge tend to view a request for emergency relief filed in the holiday corridor between Thanksgiving and Christmas as credible, or as an end-run to block otherwise justified access?

Pointers to share with clients:

1. Plan early.
2. Blended families need to develop new routines.
3. Children should feel at home in each house.
4. A great first holiday present: toiletries, a family picture, and basic attire to simply leave at the other parent's home so that the child's security is enhanced.
5. Be calm. Family gatherings can be times of both joy and chaos. Embrace the celebration. Don't contribute to discord.
6. Keep to the planned schedule. If there are unforeseen complications, keep communications to the prior spouse short and to the point. Do not engage in verbal wrangling, particularly when your child is looking over your shoulder and can read what you are typing. The same applies to phone conversations.
7. There is a domino effect to schedule changes. The child's other home likely has blended family issues to deal with too.
8. Lean on your support system — grandparents and other extended family members.
9. Miss traditions you had prior to divorce? Now is a perfect opportunity to blend old and new ones.

10. Make thoughtful gestures. Having the children make a heartfelt card or gift can go a long way toward mending fences. Projects need to be completed well in advance of the holiday to assure delivery. Don't play "the mall was closed" game. How will you teach your child to be courteous to their future partners if you do not model behavior now? You don't need to buy your former spouse a Ferrari for the child to deliver to that parent, but a small good faith gesture can help buy peace down the road.
11. Do not opine on holiday extravagance, or presents that take up too much room in your home. Smile benignly.
12. Say thank you.
13. Empty nest for the holiday? Go do something nice for someone. Volunteer.
14. Embrace change. Life is all about change, and how we handle new adventures.
15. Be creative. Structure arrangements that are mindful of the needs of the children, the parents, finances, and the genuine desire of maintaining friendly relationships.

If litigation is the only recourse, and there is an emergency, then, yes — fight on!

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