

TEN TIPS FOR SUCCESS IN RESOLVING PARENTING DISPUTES

THE THEME OF THIS BOOK IS MATURITY. I believe the key to resolving parental disputes is for parents to behave in a civilized, reasonable, mature way with each other. Throughout the previous twelve chapters, I have attempted to show how mature behaviour can help you navigate your way through the family justice system. I have also pointed out some of the dire consequences that can result from immature behaviour.

If you are like many people who appear in my court, you will be thinking, “This is all well and good, but you don’t know my ex-partner. I am doing all the right things. My ex-partner is the one creating all the problems.” Believe me, I understand what you are thinking, but if you are truly trying to take a mature approach to your situation, you need to understand and accept the following important points:

- 1) There are two sides to every story. Each of you has a version of what happened in your relationship, and each of you firmly believes that your own versions are correct. No

amount of discussion or argument will change your opinion about the accuracy of your memories, and the same applies to your ex-partner. Ultimately, there is no way for anyone else to know for sure what actually happened and who did what to whom. More importantly, it isn't necessary to be right about what happened in the past in order to have a civilized co-parenting relationship with your ex-partner in the future. You can each agree to disagree about who was right and who was wrong and leave it at that.

- 2) Each of you probably identifies as the victim in the relationship. Whatever blame you want to cast at your ex-partner, he/she is very likely assigning at least as much blame to you. Instead of concentrating your energies on which ex-partner victimized the other most, you must focus on how to make sure your children are not victimized by your breakup. Their well-being matters more than yours. You and your ex-partner can go on to find new partners, but your children are not going to find new biological parents.
- 3) Finding a way to assign blame does nothing to solve your problems. Except in extreme cases, you are still going to have to deal with each other and the children for many years. You can each spend the rest of your lives trying to be vindicated for all that you have suffered, but in the meantime your children will be growing up in whatever atmosphere you and your ex-partner create for them. In the end, they will assess their childhoods not by deciding which parent was more blame-worthy in the family breakdown but rather by how well their parents protected them from their conflicts.
- 4) You cannot change your ex-partner, and he/she cannot change you. You are who you are — the same applies to your ex-partner. You chose to bring a new life into the world together — with all of your combined good qualities and faults. All the mudslinging, name-calling, and court proceedings in the world will not change that simple truth. However, you *can* change your own attitude, perspective, and behaviour. Only you can decide how you choose to react to your ex-partner's conduct. Even if in your opinion your ex-partner is behaving irresponsibly, you have an opportunity to

respond in a solution-oriented way rather than a vengeance-oriented way. You can deal with the issue at hand without necessarily escalating the conflict. This does *not* mean that you must accept abuse or put yourself or your children at risk of harm; it means that you can take the appropriate steps recommended by your lawyer, counsellor, and any other professionals you have turned to, without descending to your ex-partner's level. The expression "an eye for an eye, a tooth for a tooth" may have some relevance in a discussion of criminal justice, but it has absolutely no place in a discussion of co-parenting following separation. Good parenting is about raising healthy, happy children, *not* about getting even.

The above four points are, in my opinion, the fundamental cornerstones of mature parental behaviour following a separation. So here is my answer to the person who says, "I'm the good one. My ex-partner is the bad one": even if this is true, you still have an obligation, for your child's sake, to behave maturely and reasonably. This means at the very least getting legal advice from a family law lawyer before taking important steps affecting your ex-partner. It can also mean getting counselling to help you reinvent yourself from being a disappointed ex-partner to becoming a responsible co-parent. Counselling can also help you develop skills to respond appropriately to your ex-partner's conduct. If you respond the right way in each situation, you might be surprised at the effect this will have on your ex-partner. When you behave in a civilized and mature way with someone, you are, in a sense, role modeling for that person. I have seen many cases in which one parent's steadfast refusal to descend into the arena of retaliation and backstabbing literally shamed the other parent into improving his/her behaviour.

More importantly, when you show calmness, restraint, and fairness in your behaviour, you are also role modeling for your children, who see, hear, and remember much more than you probably realize. Children learn how to behave from their parents. If you truly believe that all of the problems are being caused by the other parent, it is even *more important than ever* that you behave with maturity. After all, it is better for a child to see one parent behaving properly than to see both parents behaving badly.

So, with that in mind, and once again reminding you to consult a lawyer for advice about your individual situation, here are my ten tips for success in dealing with your ex-partner.

1. Be child-focused.

Parents must learn to love their children more than they dislike each other. Children need peace more than their parents need to win. Make your child's well-being the focal point of every discussion you have with your ex-partner. Before taking a position on any issue, ask yourself, How will this affect my child? Ask your ex-partner to do the same. Never let a discussion with your ex-partner be about your needs or his/her needs; it should always be about your child's needs. If you cannot agree on which solution would best meet your child's needs, ask yourself how you and your ex-partner would have decided this issue had you remained together as a couple. In most cases, the answer would be to consult an expert. For example, if you and your ex-partner have a disagreement about your child's health, or educational needs, or extracurricular activities, you should both be meeting with your child's doctor, school, a family counsellor, or parenting coach. There are many professionals with special expertise to help parents resolve their disputes in a child-focused way. The first step to being a mature, responsible co-parent is to always put your children's needs ahead of your own.

2. Learn to distinguish between a bad partner and a bad parent.

The fact that your ex-partner was a bad partner does not necessarily mean that he/she is a bad parent. In my experience, most people who have been unfaithful to their spouses have actually treated their children very well. The way that a person treats his/her spouse in an unhappy relationship *when no children are present*¹ may not be a good indication of how that person treats his/her children. It can be extremely difficult for a parent who has been mistreated by the other parent to accept that the child might see that parent differently and have a good relationship with him/her. Your child is entitled to get to know the other parent in his/her own right and to have a relationship with the other parent that is independent from your own. Even if the other parent is flawed, and even if restrictions or limitations must be placed on his/her contact with the child, your child can still have a

safe and beneficial relationship with that parent. If your feelings about the other parent are standing in the way of your child's relationship with him/her, you should seek help from a counsellor or therapist.

3. Never speak negatively to the child about the other parent.

Your child has a right to a loving relationship with each parent, free of any influence or brainwashing. Moreover, your child needs and deserves emotional permission from you to enjoy his/her relationship with the other parent. It is unfair and cruel to place your child in a conflict of loyalties and make him/her choose between you and your ex-partner, as this deprives the child of an important relationship. Keep your thoughts and opinions about the other parent to yourself; never share them with your child. Never draw your child into your disputes with the other parent. And while I'm at it, you should never criticize the other parent's family, new partner, or friends in front of your child. Nor should you tolerate your relatives, new partner, or friends denigrating or berating the other parent in front of your child. Make it clear to them that your child is to be shielded and protected from adult conflicts. Besides, it makes absolutely no sense to criticize people that your child is going to have a lot of contact with — what exactly do you want a child to do with this information? Most of the time a child will go right to the person who has been criticized and repeat everything you have said! Trust me, I've seen it happen thousands of times. One thing I have trouble understanding is why parents criticize each other's new partners. If you were attracted enough to your ex-partner to have a child with him/her, why does it surprise you that someone else finds him/her attractive? In most cases, a new partner had nothing to do with the breakup and is going to have considerable contact with your child. You gain nothing by making an enemy of that person.

4. Never argue or fight in front of your children.

No exceptions. If you and your ex-partner cannot behave civilly in front of your child, then don't be together in front of your child. It's that simple. I cannot understand why so many parents have trouble pretending to get along with each other for the few minutes it takes to pick up or return a child at access exchanges. It's called acting, and it's not that hard to do! Parents — even those who live together — pretend in front of their children all the time. It is even more impor-

tant to do this after separation, because children need to be reassured that their lives will be happy and stable even though their parents live apart. Why are parents able to behave well in a courtroom in front of a judge (at least the vast majority do) but not in front of their own children? Don't they love their children enough to say "hello," "good-bye," and "have a nice day," and make small talk for the sake of keeping things peaceful and pleasant? Apparently not. This is shameful. There are lots of ways for parents to communicate with each other without the children being present: they can meet in person, or use telephones, faxes, letters, e-mails, and, of course, they can communicate through their lawyers. There is absolutely no good reason for parents to expose their children to their conflict. Parents who continually fail to heed this advice should be prepared to welcome the child protection authorities into their lives. (See Chapter 11.)

5. Listen to the other parent's point of view even if you don't agree with it.

If you are going to communicate directly with your ex-partner, remember that communicating with maturity starts with listening. You must learn to really hear what your ex-partner is saying, and understand his/her point of view. In any disagreement, try repeating back to your ex-partner what his/her position is, and the reasons why he/she is taking that position. I often do this in court and am frequently amazed by many people's inability to correctly repeat back to me what their ex-partners have just finished telling me only a few seconds before! For that matter, I am equally amazed at how often I am accused of saying things I did not say — thank heavens we have transcripts in court that record exactly what was said! The point I am making is that you cannot decide whether you agree with someone if you have not clearly understood what he/she is saying. You must put your emotions aside and listen with your brain. Even if you end up disagreeing with the other parent, you should at least be able to convey to him/her that you have understood his/her point of view. Many times I find that once two people have clearly understood the other's position, they are not as far apart as they first thought they were. Good listening skills are not acquired overnight, but post-separation counselling can be very helpful in speeding up the learning process.

6. Consider mediation before giving the decision-making power to a judge.

Too many parents react in a knee-jerk way to each other's conduct by running to family court without first getting legal advice or considering the impact of starting a court case. It is essential to consult a family law lawyer before taking any steps to resolve a conflict with an ex-partner. Your lawyer will explain your options and advise you on which one will best fit your situation. It may not be necessary to turn the decision-making power over to a judge. With the right help, you and your ex-partner may be able to arrive at compromises that will be better for your family than a court-imposed decision. Many thousands of parents have found mediation to be a beneficial problem-solving mechanism, so it is definitely worth exploring. For all the reasons given in Chapter 2, going to court should be a last resort, except for the special circumstances set out in Chapter 3.

7. Separate your financial issues from your parenting issues.

In any family breakdown, there are two types of issues to be resolved: financial issues and parenting issues. These are completely separate matters and should be dealt with that way. With the exception of the intersection that might occur between access and child support (see Chapter 9), you should not allow your discussions and disagreements over property and money to enter into your co-parenting relationship. Your relationship with your children should have nothing to do with financial transactions or property transfers. Even if your ex-partner's conduct regarding financial matters is making life difficult for you, this should not interfere with his/her role in your child's life. It can certainly be a challenge to behave civilly with someone whom you think is trying to cheat you financially, but the ability to keep parenting issues separate from financial matters is a hallmark of maturity.

8. Be flexible and reasonable in making access arrangements.

By far the greatest area of conflict between separated parents is that of organizing, carrying out, and enforcing access visits. Family courts everywhere are swamped with parents complaining of each other's frequent cancellations, lateness, and a myriad of other misbehaviours. In a great many of these cases, a little common sense and fairness from both parents would have gone a long way toward resolving the prob-

lem. Do your best to follow the four simple tips about access given in Chapter 12. Be flexible and reasonable in accommodating your ex-partner's work schedule and travel concerns, as well as changes in your child's routines. Be considerate when dealing with access on special occasions and during vacation periods. You never know when you might need your ex-partner to extend the same consideration to you. Remember that access schedules must be adjusted to accommodate changes in the parents' and children's lives. This is not only normal but is to be expected, so go with the flow, don't make a big deal out of every minor deviation from your access schedule, and be willing to make compromises for your child's sake.

9. Your children still see you as a family, so communicate!

As I have mentioned, you can be an ex-partner, but you are never going to be an ex-parent. If you truly accept that your children are innocent and bear no responsibility for your separation, then you know that they are entitled to be part of a family and to have their parents *behave* like family members, even though they live apart. Children who have contact with both parents need them to communicate with each other. I have had situations in which a child's health suffered because one parent didn't tell the other about the child's medical problem, so the child didn't get the proper medical attention in the other parent's care. This is unforgivable. When a child is going frequently from one parent's home to the other's, it is vital that each parent know about anything important that has happened to the child while in the other parent's care, especially an illness. It is also important for parents to have each other's addresses and telephone numbers, unless there is a very good reason to not disclose this information — and even in that case, there must be some way for parents to contact each other (for example, through a third party) in the event of an emergency. Parents should have equal rights to obtain information about their children from schools, doctors, and other service providers. Parents should have equal rights to attend important meetings such as parent-teacher interviews or key medical appointments. Both parents should be able to attend special events in the children's lives such as religious ceremonies, school events, sports tournaments, and music recitals. Even if there is a restraining order (or criminal court no-contact order) prohibiting contact, speak to your lawyer

about the possibility of amending the order to permit at least some minimal form of communication regarding your child, even if it is in written form (for example, by using a communication book), or through a third-party intermediary.² Your children need you to know what's happening in their lives even when they're with the other parent. If possible, find a safe and legal way to make this happen.

10. Don't hesitate to get help.

Family breakdown is one of the most stressful and painful experiences anyone can go through. The challenge of overcoming a failed partnership while at the same time developing a good working relationship with an ex-partner can be overwhelming. You do not have to do this alone. There are specialized counsellors and therapists who can help you, your ex-partner, and your child. Many community organizations offer excellent programs to help separated parents and their children make the necessary transition from ex-partner to co-parent. There are social workers and parenting coaches with the expertise to help you and your ex-partner develop a workable parenting plan. There are many books that offer great ideas (see "Suggested Reading"). Speak to your family doctor about a referral to a counsellor or therapist. It's worth attending one meeting just to find out what services might be available to you and your family. Finally, remember that your family law lawyer is there to help you and can refer you to a number of community resources. Family law lawyers, like family court judges, know only too well that post-separation parental disputes are about much, much more than the law. Don't let the legal aspects of your dispute interfere with the critically important *human* aspects. If you do, you may be doing a disservice to your children.

Hope springs eternal in the judicial heart

Every day, my colleagues and I see the emotional carnage that results from high-conflict parental separations. We make the best decisions we can with the evidence we are given, which is often incomplete and almost always conflicting. We seldom find out the consequences of our decisions, and can only hope that the parents and children whose lives we touch have gone on to live happy and healthy lives. Although the work of a family court judge is sometimes discouraging, I am always heartened when I meet ex-partners who have learned to work

together as a team for their children's benefit.

If you and your ex-partner have recently separated, please know that you are not alone. Millions have gone before you and have emerged from their pain as strong, emotionally healthy people. In the weeks and months following a separation, it is human nature to be confused and afraid. This does not always bring out the best in us. However, chances are that in time, your pain, anger, and fear will subside, and you will make great strides in your personal growth. I hope that the suggestions in this book will help speed up that process, so that you and your ex-partner can devote your energies to being the best parents — and co-parents — you can be. Remember, it's all about maturity!

-
- 1 It must be emphasized that parents who commit partner abuse in front of a child are also committing child abuse. It is extremely harmful to a child's emotional well-being to witness domestic violence. Therefore, in cases where domestic violence has occurred in the presence of a child, the perpetrator may well be considered to be lacking in good parenting skills. See Chapters 3 and 6 for more discussion regarding the impact of domestic violence in family law.
 - 2 It is very important to respect the terms of a restraining order or other no-contact order imposed by a family court or criminal court. The circumstances of each case dictate the extent to which contact between the parents should be restricted. In some cases, a parent's right to be safe from abuse and harassment may necessitate a complete severance of communication. Orders that prohibit all forms of contact between ex-partners make it impossible for communication to occur, even if it pertains only to the child. If you are bound by a restraining order or no-contact order and wish to explore the possibility of establishing some means of communication with your ex-partner about your child, consult your lawyer.