



Parental Alienation: New Jersey Slowly Opens the Door

Posted on Oct 31, 2010 by attorney [Ronald Sarno](#)

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First of all, it is not wise to plead Parental Alienation in New Jersey. Judges differ on whether or not the allegation is acceptable or not and you risk losing the case if your only plea to the court is parental alienation. Most experienced attorneys plead more than one allegation.

There is a new case: *Segal v Lynch* 413 N.J. Super 171 (App. Div., 2010) informs us what will and will not work in NJ.

The facts are as follows: The mother left another jurisdiction and moved the children to NJ where she had them enrolled in school with her last name. She did not inform the father where the children were.

Instead of pleading parental alienation, the father plead instead that the mother had intentionally and recklessly engaged in extreme and outrageous conduct which alienated the natural bond and affection which existed between the father and his children and caused both him and the children emotional distress. He filed this as a tort in the Law Division of the court (where normally personal injury suits are filed) instead of family court.

The trial court dismissed stating heartbalm suits (deliberately causing emotional distress to a loved one) are no longer

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permitted in New Jersey, that NJ's entire controversy document required that the matter be raised in family court where other litigation involving this family was occurring, and in a decision which many fathers would find very hard to accept: that even if the factual allegations themselves were true, they failed as a matter of law to state a cognizable claim for the intentional infliction of emotional distress. Finally, the father was fined his former wife's entire legal bill of \$42,912.50 for filing a frivolous lawsuit. This last is a strong reminder both to family attorneys and pro se litigants to be very cautious when dealing with parental alienation issues in NJ!

The Appellate Division did not accept the trial court's decision. The court believed the father had raised very critical issues. The court also held that it was not proper to place the children of a marriage in a law division case where the litigation could cause great harm to the children. All such issues in NJ were to be filed in family court. A suit for emotional distress by its very nature is inimical and irreconcilable with the best interest of the child.

The Appellate Division, while it would not address the allegation of parental alienation, as used in other states, did allow there were some facts which were so outrageous in character and so extreme in degree so as to go beyond the bounds of human decency and to be regarded as atrocious and utterly irreconcilable in a civilized community. The court gave as examples: prolonged parental abduction where the children were removed to a foreign jurisdiction for the purpose of frustrating the other parent's custodial rights or the intentional false accusation of sexual abuse of the children. The appellate court determined that family court was the best forum for determining these issues and their legal efficacy and the effect on the children of pursuing the matter in court.



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The Court also decided that the targeted parent can bring a tort action in family court precisely on the interference with parental rights, such as custody and visitation, and that the court might consider this to be heard by a jury. The Court also struck the decision to fine the father.

It is important to keep in mind how precise the ruling by the court is and that it deliberately avoids the use of the term parental alienation or even citing from other jurisdictions which use the term and make legal decisions based on it. But NJ is now more open to these types of suits.

Additional resources provided by the author

[Canadian Symposium for Parental Alienation Syndrome](#)

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