

Knobel Mediation Services

111 Sharpe Street
Anderson, South Carolina 29621
phone 864.226.3500 fax 864.226.3544
barry@knobelmediationservices.com
www.knobelmediationservices.com

ON MY MIND

“Children of the Family Court”

Barry W. Knobel
Family Court Judge (retired)
Certified Family Court mediator

*“Children are born loving their parents...
After a time they begin to judge them...
Never do they forgive them.”*

I wish I could remember who penned these poignant words. I did not. However, during my years as a South Carolina family court judge I would frequently quote them to hundreds of fathers and mothers who appeared before me.

I want to share some insight with you that you will find neither comforting nor validating. To be candid, I hope you find it unsettling.

After over thirty-five years of practicing family law (as an attorney, a judge and now as a family court mediator) I have witnessed firsthand the anger, bitterness, hurt and sadness experienced by wives and husbands, and fathers and mothers going through the anguish of a divorce and custody fight involving their children. From my unique vantage point as a judge I was able to view some of society's more disturbing human traits.

Let me share this with you. If you are scheduled to appear in a family courtroom, this is what happens (the sequence of events is not necessarily essential):

- Your case may be scheduled for one day of trial. Actually, that means, at best, you will be inside the courtroom for six hours only (family courts typically run from 9:30 AM – 12:30 PM, and then from 2:00 PM to 5:00 PM).
- Your attorneys will call your witnesses to testify, and you will testify, and each side will be subject to questions from your spouse's attorney. The ultimate objective of your spouse's attorney is to paint you, as a spouse and a parent, in the

worst light possible. The experience can be excruciating and humiliating, with strangers being made privy to your family's most private moments.

- A guardian ad litem who is court-ordered to represent your children's interest will most often testify; however, depending on the age of your children, they, too, may be called as a witness to testify.
- At the conclusion of your case, and perhaps several months after the trial has ended, the family court judge will enter his or her decision. And your lives and the lives of your children will then become governed by the order or decree of your family court judge, which most certainly will impact your family for many years to come.

After parents and their attorneys had entered and been seated inside my courtroom, I would make these remarks to them:

"For whatever reason you're here in my courtroom today, please know that I'm truly sorry you're sitting here; and I have to believe that you'd rather be anywhere on the face of this earth than sitting here listening to me. But you must understand that I didn't invite you here...you brought your case to us, and by sheer serendipity (the luck of the draw), your case was placed on my trial docket to be heard by me today.

I also know that custody of your children remains an issue that you haven't been able to resolve. So today, you must realize that I'm the parent of your children, because you're asking me to make those parenting plan decisions for you. It's not my choice...it's yours. But I promise you this – I will pay close and careful attention to your testimony, and I will make the best possible decision I can make for your children based on what you tell me today from this witness stand. Then I will forget your names and go on to another case tomorrow.

If that sounds harsh, I apologize. I'm trying to be truthful with you both. But I also need to remind you, as I have to remind myself every day, that in the lives of our children, when this day comes to an end, this day will be gone from our collective lives forever. So if your children spent yesterday, or even this morning, upset and concerned over their parents' divorce, and if your children went to sleep last night fearful of what their own lives would be like after tomorrow, then we have all robbed your children of these days...forever. Shame on us.

I'm saying this to you right now because before I begin your trial I want to recess your case and let you step outside my courtroom with your attorneys, and I want you to take a step back from this brink, and re-think whether you want to be your children's parents today or would you prefer that they become, for lack of a better description...children of the family court."

Often, and fortunately, these comments would serve as the catalyst to the parents' settlement, which included their agreement as to how they chose to co-parent their children in their post-divorce world.

If it sounds comforting to you that these parents ultimately realized the risks involved with a stranger making their own child's parenting decisions, not so fast. That's only part of this difficult equation – that part dealing with the parent-versus-parent relationship. What about the even thornier and ultimately more complex relationship of children-versus-parents?

While a child's parents were locked in the throes of their own personal turmoil, what questions were these parents asking regarding how their child or children were coping with their own pain and anguish? Please carefully re-read the words at the very beginning of my comments, and you'll find your answer.

Children, perhaps those even in their pre-teen years, whose parents are going through this marital anguish, become the unknowing (and perhaps even more disturbing, the knowing) victims of their parents' dysfunction. A parent will often seek their child's allegiance in a variety of cunning ways, depending on the age of the child, in order to gain some advantage in the "custody wars". Children then quickly realize they have no input, no voice, no control in the decisions which will affect them, and they are forced into a no-win position: "choose" one parent over the other and the child feels instant repercussions from this decision, which, most prominently, amounts to the child's overwhelming sense of guilt in conveying a not so subtle message that he or she loves one parent more than the other. The effects are devastating, long-lasting, and many times, permanent.

I could go on, but this seems to me to be a good stopping point for now. However, I need to leave you with one last thought to ponder.

The author, Pat Conroy, wrote these haunting lines in his novel, "The Prince of Tides" –

"If your parents disapprove of you, and are cunning with their disapproval, there will never come a new dawn when you can become convinced of your own value. There is no fixing a damaged childhood."
