

**PARENTAL ALIENATION:
SYNDROME OR SYMPTOM**

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Author for Psychology and Family Law, 1988 "Sex Abuse Allegations & Admissible Evidence in Custody Cases"
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Author/Speaker, 1999 Advanced Family Law Drafting Course, State Bar of Texas, "Hardware and Software to Assist the Family Law Practice"

Speaker, South Texas College of Law, Advanced Marital Property Class, "Net Enhancement," February 16, 2000

Author/Speaker, South Texas College of Law, "Indigestion and the Internet, Including Ethical Issues about Lawyer Advertising On the Web and E-Mail Confidentiality Issues", February 17, 2000

Author/Speaker, Houston Bar Association, Family Law Section, "Economic Contribution and Reimbursement 2001", October 3, 2001 Monthly Luncheon

Author/Speaker, University of Houston, New Family Law Statutes, October 2001

Author/Speaker, Family Law Conference for the General Practitioners and Legal Assistants, South Texas College of Law, "Creative Discovery Techniques, February 7-8, 2002

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PARENTAL ALIENATION: SYNDROME OR SYMPTOM

I. INTRODUCTION

Most judges, lawyers, and mental health professionals will agree with Supreme Court Justice Potter Stewart's conclusion contained in Jacobellis v. Ohio, 378 U.S. 184 (1964), a pornography case, with regard to the issue of parental alienation, when he stated:

“I know it when I see it.”

Upon investigating the subject of “parental alienation” and its related classification “Parental Alienation Syndrome” also known as “PAS,” the clarity of the diagnosis becomes less certain, and thus, the more uncertain the treatment. Therefore, this article addresses the subject of Parental Alienation on two major fronts; first, a review of the literature regarding Parental Alienation and PAS (a distinction which we will later examine); and, second, the case law in which PAS has been examined or called into question.

II. HISTORICAL BACKGROUND

With Anna Freud's work in the 1970's “Beyond the Best Interest” and Wallerstein's work in the early 1980's courts, lawyers and mental health professionals began to more closely examine the effect of divorce and separation on children. This coupled with “no fault divorce,” “no preference based on gender of parent,” rejection of the “tender years doctrine” and the duality of both parents working a new paradigm has begun for American children and families in the process of divorce and post divorce existence.

III. THE MAN AND THE MYTHS

The term “Parental Alienation Syndrome” originated in 1985 by Dr. Richard A. Gardner. Since 1985 the term “Parental Alienation Syndrome” has spread rapidly throughout the realm of custody litigation. Dr. Gardner is a clinical professor of child psychiatry at Columbia University, College of Physicians and Surgeon. Dr. Gardner's additional credentials can be found in his Curriculum Vitae which is attached hereto as Appendix I, or at www.rgardner.com.

Dr. Gardner has not been shy about his positions or his defense to criticism of Parental Alienation Syndrome. Notwithstanding the public persona of Dr. Gardner, it would be a mistake to

ignore his work or to dismiss him as an individual without a solid educational, forensic, and mental health background. While a “vitae” doesn't make an expert, based on Daubert v. Merrell-Dow Pharmaceuticals, 113 S. Ct. 2786 (1993) and DuPont v. Robinson, 923 S.W.2d 549 (Tex. 1995) it doesn't hurt to have substantial credentials if you want the expert or his theories to make it into testimony or evidence.

IV. DEFINITION: SYNDROME AND SYMPTOMS

Dr. Gardner has defined Parental Alienation Syndrome as:

The parental alienation syndrome (PAS) is a childhood disorder that arises almost exclusively in the context of child-custody disputes. Its primary manifestation is the child's campaign of denigration against a parent, a campaign that has no justification. It results from the combination of a programming (brainwashing) parent's indoctrinations and the child's own contributions to the vilification of the target parent. When true parental abuse and/or neglect is present, the child's animosity may be justified and so the parental alienation syndrome explanation for the child's hostility is not applicable.

See, *The Parental Alienation Syndrome* (Second Edition), by Dr. Richard A. Gardner, 1998, Creative Therapeutics, Inc., at xx.

As Gardner points out, the definition of “parental alienation syndrome” is not the same as “brain-washing” because parental alienation syndrome calls for the programming by one parent coupled with the child's denigration of the other parent. Dr. Gardner's first description of Parental Alienation Syndrome can be found in his 1985 work entitled, “*Recent Trends in Divorce and Custody Litigation*,” *American Forum*, 29(2):3-7.

Many have suggested that the origins of Parental Alienation Syndrome began with Dr. Judith Wallerstein's work, *Surviving the Breakup*, by Dr. Judith Wallerstein and Dr. Joan Kelly, Basic Books, 1980, in which Dr. Wallerstein discussed with Dr.

Kelly the alignment of a child with a parent. In *Surviving the Breakup*, Dr. Wallerstein and Dr. Kelly state:

A very important aspect of the response of the youngsters in this age group (ages 9 to 12) was the dramatic change in the relationship between parents and children. These young people were vulnerable to being swept up into anger of one parent against the other. They were faithful and valuable battle allies in efforts to hurt the other parent. Not infrequently, they turned on the parent they had (previously) loved and been very close to prior to the marital separation. (p.77).

The medical definition of “syndrome” is a cluster of symptoms, occurring together, that characterize a specific disease. The term “syndrome” shares many and varied symptoms. Disorders as used in DSM-IV are clinically observable and have set criteria that are used in order to make the specific disorder diagnosis.

A syndrome can have components of a disorder which adds to the confusion when the terms “syndrome” and “disorder” are used interchangeable. In the area of PAS because DSM IV has not described the symptoms and clinically observable conditions as a disorder, the questions is continuously asked, “Whether PAS is a mental emotional condition verifiable and scientifically proven or even provable? DSM IV will not likely be replaced by DSM V until 2006 at the earliest. Most mental health professionals as this point would say more scientific work needs to be done in order to classify PAS as a DSM disorder. See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 10 (1999).

Experts disagree about how to label and treat PAS; however most experts do agree that alienated children share certain traits and behaviors which have been identified by Dr. Richard Gardner. Whether your client is the target of attempts to alienate the child’s affection or your client has been accused of making such attempts at alienation, it is important to be familiar with the characteristics of PAS. See, Washak, 39-40.

As Dr. Gardner states, “the PAS is characterized by a cluster of symptoms that usually appear together in the child, especially in the moderate and severe types. These include:

1. A campaign of denigration
2. Weak, absurd, or frivolous rationalizations for the deprecation
3. Lack of ambivalence
4. The “independent-thinker” phenomenon
5. Reflexive support of the alienating parent in the parental conflict
6. Absence of guilt over cruelty to and/or exploitation of the alienated parent
7. The presence of borrowed scenarios
8. Spread of the animosity to the friends and/or extended family of the alienated parent

Typically, children who suffer with Parental Alienation Syndrome will exhibit most (if not all) of these symptoms. However, in the mild cases one might not see all eight symptoms. When mild cases progress to moderate or severe, it is highly likely that most (if not all) of the symptoms will be present. See, *The Parental Alienation Syndrome* (Second Edition), Richard A. Gardner, M.D., 1998, Creative Therapeutics, Inc., xxv.

The term PAS refers only to the situation in which the parental programming is combined with the child’s own scenarios of disparagement of the vilified parent. See, Gardner, *The Parental Alienation Syndrome* (1998) xx.

V. TEXAS CASES AND PARENTAL ALIENATION SYNDROME

The only reported Texas case in which Dr. Gardner’s opinions are cited is Ochs vs. Martinez, 789 S.W. 2d 949, San Antonio, May 16, 1990. In the Ochs v. Martinez case the San Antonio Court of Appeals struggled with whether a psychologist could express an opinion regarding an alleged victim of child abuse veracity or truthfulness. The Court of Appeals concluded that the trial court had erred “in admitting expert opinion testimony as to the child’s truthfulness.” at 958. In reviewing the literature in this area the Court of Appeals cites Dr. R. Gardner’s work “*Sexual Abuse Legitimacy Scale*” and further cites in footnote 4 the following: “For a detailed treatise on sexual abuse allegations in child custody litigation, See R. Gardner, *The Parental Alienation Syndrome and the Differentiation between Fabricated and Genuine Child Sex Abuse* (1987). An excellent resource on the use of psychological testing to resolve custody disputes allegations is M. J. McCurley & M. McCurley, *Psychological Testing*, State Bar of Texas Professional Development Program Marriage

Dissolution Course (May 1987) at M29-35.” While the *Ochs v. Martinez* case deals with sexual abuse it does at least offer authority that Gardner’s work has been cited in Texas Courts.

VI. WHAT TO LOOK FOR

For the lawyer, one of the keys for finding Parental Alienation Syndrome is described in Dr. Gardner’s book, *The Parental Alienation Syndrome (Second Edition)* (1998) under Chapter Four entitled *Clinical Manifestations of Parental Alienation Syndrome in the Child*. *Id* at 73. Here Dr. Gardner gives the signs of PAS and what clinicians should scrutinize in order to make a PAS diagnosis. The following is a list of the criteria which Dr. Gardner labels the “eight cardinal symptoms of parental alienation syndrome”:

A. The Campaign of Denigration

This symptom is characterized by “hatred” of a parent which the child advocates without embarrassment or guilt. *See*, R. Gardner, 77. It is important to remember that it is not only the parent’s campaign of negativity about the other parent, “the litany,” but the child’s manifestation of the input with his or her own child contributions.

B. Weak, Frivolous, and Absurd Rationalization for the Depreciation

Dr. Gardner relies on anecdotal examples to explain this component. One such example is the child who stated he did not want to visit his father because “He showed up at the Christmas play and he wasn’t supposed to”. What we see under this criteria is not only a child’s rationalization of absurd reasons for denigration of the other parent but the other parent confirming the rationalization.

C. Lack of Ambivalence

This category is really self explanatory. The child has no question that the bad (victimizing) parent is all bad and the good (indoctrinating) parent all good. *See*, R. Gardner, 94.

D. The “Independent-Thinker” Phenomenon

This symptom is characterized by the child who in order to protect the indoctrinating parent the child refers to the parent’s expressions as his own and not emanating from that parent. This is coupled with the programmer’s stating “see this is what the child thinks, not me.” An example is the mother who criticizes the other parent in front of the children for not recognizing their feeling when they don’t want

to visit the other parent because they don’t like him. *See*, R. Gardner, 97.

E. Reflexive Support of the Alienating Parent in the Parental Conflict

Even when in joint sessions with both parents the child may assume that the indoctrinating parent is always right and the victimized parent is always wrong. When the child said that his parent gave no money to the other parent and was shown the canceled checks he responded that they must be “forged.” *See*, R. Gardner, 99.

F. Absence of Guilt over Cruelty to and/or Exploitation of the Alienated Parent

The child does not show any guilt or remorse for his expressions and no appreciation or gratitude for gifts, or expressions of affection from the victimized parent. *See*, R. Gardner, 100.

G. Presence of Borrowed Scenarios

This is characterized by rehearsed litanies but coupled with terms not commonly used by children of that age. *See*, R. Gardner, 101. My favorite example of this occurred when I, personally, interviewed a child and when asked why she was angry at one of her parents, she explained “He broke his wedding vows.” When I asked which one she stated, “He committed adultery.” Often times, when detecting programming, an interview of the child will give the lawyer or mental health professional a clear picture of the conflict between the parents as the child will have incorporated the parent’s position as his or her own and act like the injury the parent sustained was his or her own.

H. Spread of Animosity to the Extended Family of the Alienated Parent.

Like a virus, PAS can spread and contaminate the entire extended family units. Aunts, uncles, cousins, nephews, and grandparents who once had a good relationship are now viewed as “obnoxious” and there is no or little desire to associate with them. *See*, R. Gardner, 107. Note that Dr. Gardner didn’t include stepparents whose relationship with a child may be problematic by definition, rather than by a parent.

VII. THE THREE DEGREES OR TYPES OF PAS

In support of his *Clinical Manifestations of PAS in the Child*, Dr. Gardner has described three types of PAS and given weight factors to each

group. The significance of a differential diagnosis is that it calls for different treatment as to each condition of severity of PAS. The 3 types are mild, moderate and severe. The following is Dr. Gardner’s table indicating the differential diagnosis of the three types of PAS. See, R. Gardner at Table 1, Figure 1.

DIFFERENTIAL DIAGNOSIS OF THE THREE TYPES OF PARENTAL ALIENATION SYNDROME (PAS)

	MILD	MODERATE	SEVERE
The Campaign of Denigration	Minimal	Moderate	Formidable
Weak, Frivolous, or Absurd Rationalizations for the Deprecation	Minimal	Moderate	Multiple Absurd Rationalizations
Lack of Ambivalence	Normal Ambivalence	No Ambivalence	No Ambivalence
The Independent-Thinker Phenomenon	Usually Absent	Present	Present
Reflexive Support of the Alienation Parent in the Parental Conflict	Minimal	Present	Present
Absence of Guilt	Normal Guilt	Minimal to no Guilt	No Guilt
Borrowed Scenarios	Minimal	Present	Present
Spread of the Animosity to the Extended Family and Friends of the Alienated Parent	Minimal	Present	Formidable, or Visit not Possible
Transitional Difficulties at the Time of Visitation	Usually Absent	Moderate	Formidable, or Visit not Possible
Behavior During Visitation	Good	Intermittently Antagonistic and Provocative	No Visit, or Destructive and Continually Provocative Behavior Throughout Visit
Bonding with the Alienator	Strong, Healthy	Strong, Mildly to Moderately Pathological	Severely Pathological, Often Paranoid Bonding
Bonding with the Alienated Parent Prior to the Alienation	Strong, Healthy, or Minimally Pathological	Strong, Healthy, or Minimally Pathological	Strong, Healthy, or Minimally Pathological

For a complete table on one page, please see Appendix II.

As can be seen, there are four additional categories that Dr. Gardner examines beside the aforementioned, which are, (1) Transitional Difficulties at the Time of Visitation; (2) Behavior During Visitation; (3) Bonding with the Alienator; and (4) Bonding with the Alienated Parent Prior to the Alienation. All 12 of these conditions are then assessed for the purpose of making a mild, moderate or severe differential diagnosis of PAS. In mild cases of PAS the child has little difficulty in making a transition from one parent to the other; however, in the moderate cases there are problems but the child continues to go with the parent. See, R. Gardner, 120-121. In the severe category the child either will not go or is so hostile as to make the other parent’s home a living hell. In severe cases a condition known as Shared Psychotic Delusion (Folie À Deux) DSM IV 297.3 may occur where there is a merger of the programming parents psychosis with the child. DSM IV points out that this is a rare condition and is described as (1) the delusion develops in an individual in the context of a close relationship with another person(s), who has an already-established delusion; (2) the delusion is similar to that of the person who already has the established delusion; and (3) the disturbance is not better accounted for by another Psychotic Disorder or Mood Disorder with Psychotic Features and is not due to the physiological effects of a substance or general medical condition.

“In general, it is the intensity of the reported alienation and the quality of the relationships between the child and each parent that differentiates families between mild, moderate and severe alienation.” See, Philip M. Stahl, *Complex Issues in Child Custody Evaluations*, Sage Publications, 1999, 2 - 3.

VIII. NOW WE HAVE IT DIAGNOSED, HOW DO WE TREAT IT?

The treatment is not as clear as the diagnosis. Notwithstanding this issue, Dr. R. Gardner presses on with treatment based upon the severity of the PAS. Here again is Dr. Gardner’s table of treatment based on his differential diagnosis. In the foregoing definition, PAS now has different levels from mild to moderate to severe and as a result Dr. Gardner implements a differential treatment plan based on the severity of the condition, for legal and psychotherapeutic approaches.

DIFFERENTIAL TREATMENT OF THE THREE TYPES OF PARENTAL ALIENATION SYNDROME (PAS)

APPROACHES	MILD	MODERATE	SEVERE
Legal Approaches	Court ruling that primary custody shall remain with the alienating parent.	<p><u>Plan A (Most Common)</u></p> <p>1. Court ruling that primary custody shall remain with the alienating parent. 2. Court appointment of PAS therapist. 3. Sanctions a. Post a Bond b. Fines c. Community Service d. Probation e. House Arrest f. Incarceration</p> <p><u>Plan B (Occasionally Necessary)</u></p> <p>1. Court ruling that primary custody shall be transferred to the alienated parent. 2. Court appointment of PAS therapist. 3. Extremely restricted visitation by the alienating parent, monitored to prevent indoctrinations</p>	<p>1. Court ruling that primary custody shall be transferred to the alienated parent. 2. Court-ordered transitional site program.</p>
Psychotherapeutic Approaches	None usually necessary	<u>Plans A and B</u> Treatment by a court-appointed PAS Therapist.	Transitional site program monitored by court-appointed PAS therapist.

For a complete table on one page, please see Appendix III.

In severe cases, Dr. Gardner advocates what has been called “Parentectomies.” Dr. Stahl in his work states that he believes “a more balanced time-share” approach in which equal time blocks with each parent over a longer period of time (2 week blocks or most of summer) may be more beneficial to the child. *See, Stahl, 18.*

IX. WHY DIFFERENT DIAGNOSIS AND TREATMENT

Why has Gardner gone to such lengths to differentiate the diagnosis and treatment regime for PAS? The answer is as close as DSM IV. In DSM

IV and its predecessors you will find mental disorders with differential factors necessary to make a diagnosis. For instance let’s examine borderline personality disorder and see how DSM IV describes it:

1. Diagnostic criteria for 301.83 Borderline Personality Disorder

A pervasive pattern of instability of interpersonal relationship, self-image, and affects, and marked impulsivity beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:

1. frantic efforts to avoid real or imagined abandonment. **Note:** Do not include suicidal or self-mutilating behavior covered in Criterion 5.
2. a pattern of unstable and intense interpersonal relationships characterized by alternating between extremes of idealization and devaluation
3. identity disturbance markedly and persistently unstable self-image or sense of self
4. impulsivity in at least two areas that are potentially self-damaging (e.g. spending, sex, substance abuse, reckless driving, binge eating). **Note:** Do not include suicidal or self-mutilating behavior covered in Criterion 5.
5. recurrent suicidal behavior, gestures, or threats, or self-mutilating behavior
6. affective instability due to a marked reactivity of mood (e.g. intense episodic dysphoria, irritability, or anxiety usually lasting a few hours or only rarely more than a few days)
7. chronic feelings of emptiness
8. inappropriate, intense anger or difficulty controlling anger (e.g. frequent displays of temper, constant anger, recurrent physical fights)
9. transient, stress-related paranoid ideation or severe dissociative symptoms

As indicated above, the diagnosis for Borderline Personality Disorder is based upon specifically enumerated factors. Hence, Dr. Gardner has approached his research on Parental Alienation Syndrome with the idea of meeting the legal, medical and forensic challenges that PAS is not recognized in DSM IV. If under Daubert/Robinson, PAS can not be offered as scientific work, because it is not found in DSM IV, then Dr. Gardner has been forced to re-examine and carefully construct factors, or criteria for PAS to meet this challenge. Much has been written about the failure to include PAS in DSM IV. Dr. Gardner is aggressively meeting this challenge by delineating criteria to enhance his position and mollify his critics. Dr. Gardner even touts a position for the inclusion of PAS in DSM IV.

X. ANOTHER APPROACH FOR TREATMENT

Dr. Richard A. Warshak's book entitled "*Divorce Poison*," Regan Books, 2001, advocates a proactive response when a parent encounters alienating behavior by the other parent. Dr. Warshak has a five point questionnaire to assist parents before criticizing the another parent. I call them the "stop and think" test.

1. What is the real reason for revealing this information to the child?
2. Are my children being harmed by the behavior I am about to criticize? Or are they being harmed by not having the information I am about to reveal?
3. How will it help the children to hear what I am about to tell them?
4. Do the possible benefits of revealing this to the children outweigh the possible risks?
5. If I were happily married to my spouse, and I wanted to protect our children's relationship with him or her, how would I handle the situation?

See, Warshak, 17-18.

Dr. Warshak correctly helps identify misdiagnosis of parental alienation syndrome. The following list is a summary form of Dr. Warshak's factors used in misdiagnosing PAS:

1. Your child occasionally criticizes your ex but does not engage in a campaign of denigration and does not refuse to spend time with the other parent.
2. Your child is antagonistic to both parents
3. Mild occasional badmouthing but not a severe campaign of denigration.
4. You engage in parental alienation but are not successful. As Dr. Gardner points out "The diagnosis of PAS is not made on the programmer's efforts but the degree of success" in the child.
5. Your child's response is appropriate to severe mistreatment by the other parent.
6. You neither foster or influence the child's alienation either overtly or covertly but have tried to maintain a healthy relationship between your ex spouse and the child.
7. Only transitory difficulty (reluctance or resistance) in going from home to home.
8. Your child is selective when he doesn't want to spend time with the other parent like when the new spouse is present.

See, Warshak, 82-83.

The foregoing factors are useful in countering the misdiagnosis of PAS.

I would strongly recommend Dr. Warshak's book for any parent who has undergone alienating behavior by the other parent. It is a helpful and insightful work that has constructive suggestions for coping and responding to alienation.

XI. ANOTHER VIEW OF PAS AND ITS RESULTS

Another leading expert in the area of PAS is Philip M. Stahl. In Dr. Stahl's book, *Complex Issues in Child Custody Evaluations*, Sage Publications, 1999, he points out that it is genuinely assumed that the effects of alienation can possibly result in the splitting of a relationship, difficulties in forming intimate relationships, lack of ability to tolerate anger or hostility with other relationships, psychosomatic symptoms and sleep or eating disorders, psychological vulnerability and

dependency, conflicts with authoritative figures and an unhealthy sense of entitlement for one's rage that leads to social elimination in general. See Stahl, *Complex Issues in Child Custody Evaluations*, 7.

XII. A LEGAL EXAMINATION OF PAS

A. An Analysis of PAS

An analysis of PAS from a legal perspective is contained in an article by Carol S. Bruch, entitled "*PAS and PA: Getting it Wrong in Child Custody Cases*," American Bar Association, Family Law Quarterly, Vol. 35, No. 3, Fall 2001, pages 527-552. While the title certainly indicates what Professor Burch thinks of PAS in a child custody context, the family lawyer will benefit from her analysis. As with any legal, psychological theory it is important to know the subject's strengths and weaknesses.

A summary of Professor Burch criticism is as follows:

1. You don't need PAS to describe a child's reluctance to visit a parent.

A concentration of examining highly conflicted parent relationships and parent-child relationships too readily causes professionals to accept PAS without question. See, Burch at 529-530. As a result Professor Burch concludes: "The overwhelming absence of careful analysis and attention to scientific rigor these professionals demonstrate; however, is deeply troubling. This carelessness has permitted what is popularly termed junk science (pseudo science) to influence custody cases in ways that are likely to harm children." *Id* at 530.

2. Studies indicate a number of reasons for children not visiting including being angry or uncomfortable with the other parent.

The child's developmental response to divorce and high conflict is not a disorder as Dr. Gardner would indicate. His conclusions of identification mental disorders similar to *folie à deux* and *foile à trois* are not supported as these are extremely rare in psychiatric studies. *Id* at 530.

3. Abuse allegations are more often true than false.

Dr. Gardner overstates the frequency of cases of PAS and his assertion of abuse allegations are usually false in divorce cases. There is a conflict with Dr. Gardner's view and the relevant literature showing that such allegations are "usually well founded." *Id* at 531.

4. Wrong end of the microscope.

Utilizing PAS as a platform turns the analysis away from the conduct of the "targeted parent" to the "targeting parent" which will obscure or even drown out a parents concern of dangerous conduct toward the child. In other words the microscope is facing the wrong way. *Id* at 532.

5. Nature cures all, Remedy is too extreme.

Dr. Gardner's conclusion that in severe PAS cases the remedy is custody transfer, isolation from alienating parent and deprogramming is exaggerated to the extent Gardner concludes if these remedial actions are taken the relationship of the parent and child will be irreparably damaged while literature suggests resolution and realignment in adolescence. *Id* at 532-533.

6. Wrong parent gets custody

Utilizing PAS again as a platform can result in custody transfer to an abusive parent and if contact is eliminated with purported "alienating parent" the child is left without parental support. *Id* at page 533-534.

B. Publicizing of PAS

Perhaps Professor Bruch harshest criticism (this is getting personal) for Dr. Gardner and his work is for what she calls "the merchandising of PAS in child custody cases" and is as follows:

1. Dr. Gardner is not a "full professor at a prestigious university." *Id* at 534-535. (I am sure it is the full professor issue and not Columbia University which she is pointing out.) See Justice R. James Williams, *Should Judges Close the Gate on PAS and PA?* 39 Fam. Ct. Rev. 267 (2001) (referring to "Dr. Richard Gardner, a psychiatrist at Columbia University.")

2. Dr. Gardner is mostly self published. See *People v. Fortin*, 706 N.Y.S.2d 611, 612 (Crim. Ct. 2000) (reporting that Gardner's company had published and marketed all but one of his books since 1978.)

3. Dr. Gardner's work lacks scientific rigor.

4. Dr. Gardner's works are not found in most university and research libraries. (On April 2001 an electronic search of the Research Libraries Information Network (RLIN), a

database that includes the holdings of over 160 major reference libraries, revealed that only 9 of those libraries hold one or both editions of Gardner's book, *The Parental Alienation Syndrome.*) (I told you this was getting personal.)

5. Dr. Gardner has his own website and gets referrals from other websites of "fathers organizations." See Appendix V for web sites dealing with PAS.
6. Dr. Gardner packages educational courses for other professionals.
7. Dr. Gardner presents or suggests PAS is consistent or endorsed and accepted by other professionals.

Id at 535-536.

C. Legal Cases of PAS

An electronic examination of reported cases from 1985 to 2001 for the word PAS produced "48 cases from 20 states, including the highest courts in six states." *Id* at 587. When Dr. Gardner testified his testimony was "usually" excluded for one of two reasons. (1) Dr. Gardner's conclusions as to the truth or falseness of a witness was excluded as invading the province of the trier of fact. (2) PAS is not generally accepted among professionals and does not meet the applicable test of scientific reliability. *Id* at 538.

In perhaps one of the most telling criticisms of Dr. Gardner, Professor Bruch quotes Dr. Paul J. Fink, past president of the American Psychiatric Association and President of the Leadership Council on Mental Health Justice and the Media as follows:

"PAS as a scientific theory has been excoriated by legitimate researchers across the nation. Judged solely on his merits, Dr. Gardner should be a rather pathetic footnote or an example of poor scientific standards." *Id* at 539.

D. Admitted Cases of PAS

Dr. Gardner counter punches with his own list of cases where PAS has been admitted, which is attached as Appendix IV.

E. Maybe It's a Misnomer

Professor Bruch points out that some professionals reject PAS but have adopted the term "estrangement" which is similar to alienation but use the term to "refer to difficulties in a noncustodial parent's relationship with a child that can be traced to that parent's characteristic or behavior. "Alienation" in their usage refers to difficulties stemming from the child's misappropriate, persistent and unreasonable negative feelings toward a parent." *Id* at 542.

Professor Bruch then examines a California phenomenon of a court appointed special master to lead a therapeutic team approach to resolving issues of estrangement and alienation as suggested in an article by Johnston and Kelly in Guest Editorial Notes, 39 Family Ct Review 246, 246 (2001). *Id* at page 542-545. As Professor Bruch points out there are significant legal and financial issues far beyond the scope of this paper for this approach.

F. Final Notes from Bruch

Finally and perhaps deserving more detail than provided, Professor Bruch undertakes to look at the origin issues surrounding PAS. Bruch returns the reader to Dr. Wallerstein's and Dr. Kelly's work on alignment of 9-12 yr old children, who often blame a parent for the breakup and align with whom they feel is the innocent parent. See Wallerstein and Kelly, *Surviving the Breakup, - How Children Cope with Divorce* (1980). *Id* at 547. Bruch suggests that Dr. Gardner's "reliance" on this observation was misplaced. Dr. Wallerstein is quoted as saying that issues of alignment are transient and self resolving within one or two years and all by the age of eighteen.. *Id* at 547. Therefore, Dr. Gardner's recommendation of dramatic removal and displacement are unnecessary as a means of resolution of PAS. Dr. Wallerstein compares PAS to the flu and not a cancer requiring radical surgery. *Id* at 548.

Further quoting Johnston, Bruch states:

It has been our experience that forcibly removing ...children from the aligned parent and placing them in the custody of the rejected parent, as recommended by Gardner (1987) is a misguided resolution; it is likely to be not only ineffective but actually punitive and harmful because it intensifies the problem. See, Johnston, Children Who Refuse to Visit, at 132.

XIII. ADMISSIBILITY OF PAS

The admissibility of PAS in a Daubert/Robinson challenge can be messy. Fortunately, there is assistance through the State of Texas, Family Law Section, Expert Witness Manual. See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 (1999).

A. Common Issues and Critical Analysis

To establish a new syndrome, the symptoms must warrant a separate diagnosis and cannot be reasonably subsumed under a previously existing category. The continuing issue is whether a PAS diagnosis would provide any significant benefit. Professionals differ greatly as to the label when a child or children in a divorce develop extreme animosity toward one parent that is not justified by that parent's behavior and is supported, to some extent, by the other parent. Dr. Wallerstein avoids the term "PAS" and instead uses the explanation of an "overburdened child" who must attend to the needs of a disturbed parent at the expense of the child's own psychological development. See, J. Michael Bone & Michael R. Walsh, *Parental Alienation Syndrome: How to Detect It and What to Do About It*, 73 *The Florida B.J.* 44-48 (1999). Also see, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 10 (1999).

Dr. Johnson uses the reference "strong alignment" to describe a situation where a child has allied with one parent in denigrating the other, stating that such a child merges psychologically with an emotionally disturbed parent. See J. Michael Bone & Michael R. Walsh, *Parental Alienation Syndrome: How to Detect It and What to Do About It*, 73 *The Florida B.J.* 44-48 (1999). However, in Dr. Johnson's most recent book, she does reserve the label "PAS" for a group of children who are "extremely aligned" with a parent. Also see, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 10 (1999).

Until 1985, there was only the occasional mention of children alienated from, or rejecting a parent in divorce research literature. It should be recognized that the PAS label has proved useful in facilitating communication among judges, lawyers, clinicians and literature on such subject. Also see,

State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 11 (1999).

B. Dependability and Authenticity

No standard exists to guide different examiners, with the same data, on the presence or absence of PAS. The validity of PAS is a very complex question. Gardner's description of PAS has been recognized by divorcing parents, attorneys, and mental health professionals, whom all agree that unjustified parental alienation sometimes accompanies custody battles and that the favored parent sometimes contributes to the alienation. There are volumes of articles on the appropriate identification and treatment of children suffering with a PAS problem. Because of the frequency of reports in clinical literature, and the similarities of reported cases, Dr. Gardner's descriptions of PAS lend a strong support to its validity. See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 12 (1999).

Leona M. Kopetski authored two reports on severe PAS, by using a sample of 413 court-ordered custody evaluations conducted by the Family and Children's Evaluation Team in Colorado. The Colorado team identified 84 cases of severe alienation which led them "independently to conclusions that were remarkably similar to Gardner's conclusions regarding the characteristics of the syndrome." See, Leona M. Kopetski, *Identifying Cases of Parental Alienation Syndrome-Part 1*, 29 (2) *The Colorado Lawyer* 65-68 (1998). John Dunne and Marsha Hedriek found Dr. Gardner's criteria useful in differentiating 16 cases of severe PAS from other cases with other post-divorce. The PAS concept has helped mental health professionals organize their impressions of alienated children. Also see, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 12 (1999).

The American Bar Association sponsored a large scale study conducted by Stanley S. Clawar and Brynne V. Rivlin with the hopes of providing empirical support for the validity of PAS. Because this study was conducted so early, it only reinforces the need for additional research. See, Stanley S. Clawar & Brynne V. Rivlin, *Children held hostage: Dealing with Programmed and Brainwashed Children* (American Bar Ass'n 1991). Also see,

State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 13 (1999).

There is a lack of research that validates the specific cluster of symptoms that characterizes PAS. Currently, no specification of which symptoms and how many are necessary for the diagnosis exists as a guide for professionals. *See*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 13 (1999).

The argument exists that Gardner's theory of the cause of PAS oversimplifies the situation and places too much blame on the alienating parent. Even if this argument is correct, it only questions the validity of Gardner's idea of the etiology of PAS, it does not attack the validity of the PAS phenomenon. Even Dr. Gardner realizes that PAS is a concept which is in the early stages of development and that said concept needs to be refined and elaborated in the future. *See*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 12 (1999).

C. Does PAS Unfairly Blame One Parent?

By applying Gardner's definition of PAS, alienated parents are innocent of any behavior that justifies their children's total alienation from them. Therefore, under Gardner's theory, if a parent's behavior does not explain the children's alienation, it is not a case of PAS, but rather a more general case of parental alienation. For the case to be classified as PAS, both the alienating parent and the child have to be responsible. Because of this gap in Gardner's principal belief of PAS, some critics argue that Gardner's position on PAS is incomplete, simplistic and perhaps erroneous. *See*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 13 (1999).

D. Testimony on PAS

At least 30 cases in the United States, Canada and Australia have admitted testimony on PAS. *See*, State Bar of Texas Family Law Section's Expert Witness Manual, Part 3, Chapter 3-32 by Dr. Richard A. Warshak. In the Texas case, Ochs v. Martinez, 789 S.W.2d 949 (Tex. App.—San Antonio 1990, writ denied), the Court of Appeals noted, "Some decisions excluding credibility testimony indicate that testimony about general characteristics

of child victims is admissible, or that experts might be permitted to testify that a child sexual abuse victim's behavior is consistent with the behavior of other such victims." The Court of Appeals continued to add that Richard A. Gardner, M.D. "Has identified certain criteria as being valuable in differentiating between genuine and fabricated sex abuse when interviewing a child. These criteria include alienation from the child's parents...." *Id.* at 958. *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 17 (1999).

In the case of In the Interest of TMW, 553 So.2d 260 (Fla. App. 1989) the Florida Court of Appeals compared PAS evidence to the once popular tort of spousal alienation of affection, and held that PAS is not admissible, because holding one parent more responsible than the other for a child's alienation would require proving that the alleged alienating conduct "is so significant to outweigh the combined effort of all other causes." *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 17 (1999).

A different view exists in the cases of Perreault v. Cook, 114 N.H. 440 (1974) and Howard v. Howard, 124 N.H. 267 (1983) in which the Court held, "The deliberate alienation by one parent of the other, unmodified by the numerous interventions described above, is psychologically harmful to the child within the meaning and intent of the Perreault standard of a "strong possibility of harm." *See*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 17 (1999).

Any expert should be prepared to deal with the criticism that PAS does not appear in DSM-IV. Dr. Gardner's argument to such criticism, "The PAS is a relatively discrete disorder and is more easily diagnosed than many of the other disorders in DSM-IV." *See*, Gardner, *The Parental Alienation Syndrome* xxiv (1998). PAS does not necessarily lose its validity because it is not listed in DSM-IV. In order for a proposed syndrome to be included in the DSM, the American Psychiatric Association requires an extensive accumulation of empirical research. For example, the APA did not include the developmental autism condition known as Asperger's Syndrome in the DSM for 30 years after its proposal. Dr. Gardner further argues that, "To

say PAS does not exist because it is not listed in DSM-IV is like saying in 1980 that AIDS does not exist because it is not listed in standard diagnostic medical textbooks.” See, Gardner, *The Parental Alienation Syndrome* xxiii (1998). The trial attorney may also want to elicit testimony that the DSM-IV was not developed for use in court. *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 23 (1999).

While the PAS label has been useful in communications between professionals, the actual term “PAS” may not be advantageous due to its susceptibility to criticism usually voiced against new ideas and the lack of extensive research performed. To avoid objections to the admissibility of a PAS situation, the trial lawyer may choose to have the expert testify about the manifestations of alienation in the child, showing that said manifestation has no basis in the target parent’s treatment of the child, and identify the other parent’s contributions to the disturbance, rather than actually using the term “parental alienation syndrome.” See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 24 (1999).

Another way around the objection to the admissibility of PAS is that many children suffering from PAS, along with the contributing parent, have symptoms which can be found in other DSM-IV diagnoses, such as Shared Psychotic Disorder (Folie à Deux), Separation Anxiety Disorder, Adjustment Disorder, Parent-Child Relational Problem, or Relational Problem Not Otherwise Specified, Dissociative Disorder Not Otherwise Specified, and Factitious Disorder Not Otherwise Specified. See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 24 (1999).

In order to aid the Court’s ability to determine the amount of credence to give to a child’s specifically stated preferences and testimony regarding each party, it would be prudent to introduce an expert who is able to discuss the strategies that parents utilize to support alienation and the extent to which children can be manipulated to reject or denigrate a parent, and/or how susceptible children are to suggestions from one parent about the other parent. See, Stephen J. Ceci & Maggie Bruck, *Jeopardy in the Courtroom: A*

Scientific Analysis of Children’s Testimony (American Psychological Association 1995). The expert’s testimony should address that a child’s statement of preference, whether in affidavit form or otherwise, does not reflect the history of that child’s relationship with the non-preferred parent, especially when the child is totally rejected or is estranged from the other parent. *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 25 (1999).

C. H. Sanders, an attorney who represents parents who are victims of PAS, advises that a psychological expert be retained who has the ability to educate the court on the issues of PAS, otherwise the court orders are likely to lack the strength necessary to address the alienation. See, C.H. Sanders, *When You Suspect the Worst: Bad-Faith Relocation, Fabricated Child Sexual Abuse and Parental Alienation*, 16 Family Advocate 54-56 (1993). *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 25 (1999).

When a custody evaluation is mainly based on the stated preferences of a child who has been manipulated, check to see if the evaluation was conducted by a professional who is familiar with the influences of parental programming and the steps required to reverse the effects of such programming. If this is the case, expert testimony should then be introduced which disputes the evaluation and educates the trier of facts on symptoms and effects of PAS. The evaluation may also be challenged on the grounds that the professional failed to utilize methods to circumvent the effects of programming on the child’s expressed preferences. *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 25 (1999).

E. Opposing Admissibility

As previously pointed out, one argument against PAS is the fact that the syndrome is not included in the DSM-IV, and therefore, PAS is not recognized by mental health professionals as valid and reliable. However, be aware that opposing counsel will likely use the vast numbers of literature being printed on the subject to counter this argument. *Also see*, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 25 (1999).

Despite extensive clinical recognition of PAS, and the printed research which identifies and describes the syndrome, there are not any studies which establish a consistent reliable set of diagnosis. This means, that two professionals, working with the same set of circumstances, may not arrive at the same diagnosis. In other words, there are no clear-cut guidelines regarding which symptoms, and how many, are necessary to form a conclusive diagnosis of PAS. Until such guidelines exist, experts will continue to argue about whether the child's alignment with a parent should warrant the PAS label or would be better described as an adverse reaction to divorce, which could or could not be short-term and may or may not be treated through conventional psychotherapy. As with other diagnoses, PAS is easier to diagnose in its most severe form. In the case of borderline cases, it is much harder to reach a diagnosis of PAS. It might be argued that the point at which a personality trait becomes a personality disorder relies on more subjective judgment than does the determination of whether or not a child suffers from PAS. See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 25 (1999).

Dr. Warshak indicates that if the expert labels your client with PAS, consider whether any of the following diagnostic errors might have been made:

1. Was the PAS diagnosis reached because of the child's criticism of a parent, but the child does not engage in a campaign of denigration and does not refuse to spend time with the alleged parent? Gardner criticizes evaluators who confuse normal criticisms with a PAS campaign of denigration, stating "The examiner may entirely misdiagnose the children and claim that they are in the severe category even though they are happily visiting and do not even show manifestations of a mild PAS." See, Gardner, *The Parental Alienation Syndrome* xxix (1998).
2. Was the PAS diagnosis made on the basis of the client's occasional criticism of the other parent, which are criticisms that fall short of a severe campaign of denigration. Some experts fail to distinguish adequately between mild occasional bad-mouthing and systematic efforts to turn children against loved ones.
3. Although the evidence indicates that the client is trying to indoctrinate the children against the other parent, the child does not participate in the denigration and does not exhibit the other symptoms of PAS. If the expert labels the child who lacks PAS symptoms as suffering from PAS, this indicates that the expert does not have a good understanding of the diagnosis. If the expert has endorsed Gardner as an authority on PAS, the expert can be confronted on cross-examination with Gardner's statement: "the diagnosis of PAS is not made on the basis of the programmer's efforts but the degree of 'success' in each child." See, Gardner, *The Parental Alienation Syndrome*, 246 (1998).
4. The child's alienation is a realistic and appropriate response to severe abuse from the parent whom the child is estranged. This situation does not meet the criteria for PAS.
5. The PAS diagnosis is made in spite of the fact that the evidence indicates that the client neither overtly nor covertly contributed to, influenced, or supported the child's alienation at any point in time and has made considerable efforts to foster a healthy relationship between the other parent and child.
6. The PAS diagnosis is given to a child who exhibits temporary resistance or reluctance to see a parent or make the transition between parental homes. Such behavior does not reach the level of parental rejection necessary for a PAS diagnosis. It may, instead, reflect temporary anxiety, unwillingness to cease an enjoyable activity, or manipulation on the part of the child.
7. The PAS diagnosis is made on the basis of the child's refusal to spend time with a parent in

the presence of the parent's new partner. Some children, particularly adolescents, may be reluctant to spend time in the company of a parent's new lover or spouse; however, they do not denigrate the parent or refuse to see the parent outside the presence of the new partner. Thus, this situation does not warrant a PAS diagnosis.

See, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 26 (1999).

XIV. THE FUTURE

PAS will continue to be used and abused. Whether the underlying behavior of parents and children should be called alienation, alignment or just responses to parents separating or divorcing will continue for many years to come. The family practitioner and family law judges will be on the forefront of challenging and/or corroborating this condition regardless of nomenclature. Most family law practitioners and judges have observed inappropriate parental conduct with children with regard to the other parent. And many family law practitioners have observed children distancing themselves from one parent or the other in the context of divorce and modification suits. A single act by a parent could constitute an act of parental alienation but not be labeled PAS. It is extremely important to focus on the conduct and response regardless of names and we should all be concerned that a name or syndrome not produce a preordained result.

XV. CONCLUSION

After a comprehensive review of the clinical and research literature relevant to PAS, Dr. Rand concludes:

Whether or not one chooses to use Gardner's terminology, the problems posed by these cases to families, professionals and the courts are very real. Reluctance to consider Parental Alienation Syndrome by name, along with the diagnostic [sic] and interventions it entails, tends to contribute to the perpetuation of the problem in a variety of ways. Like any other label, that of PAS had the potential to be misapplied and misused... An appropriate diagnosis of

PAS, including level of severity as Gardner recommends, can make the difference between allowing a case to go beyond the point of no return or intervening effectively before it is too late.

See Deirdre C. Rand, *The spectrum of Parental Alienation Syndrom (Part 1)*, 15 American Journal of Forensic Psychology 23-52 (1997). Also see, State Bar of Texas, Family Law Section, *Psychological Syndromes: Parental Alienation Syndrome*, by Dr. Richard A. Warshak, Chapter 3-32 at 11 (1999).

APPENDIX I.

DR. RICHARD A. GARDNER

- Born:** April 28, 1931, Bronx, N.Y.
- High School:** Bronx High School of Science, Bronx, N.Y., 1948
- College:** Columbia College, New York City, A.B., 1952
- Medical School:** State University of N.Y., College of Medicine at New York City, M.D., 1956
- Internship:** Montefiore Hospital, Bronx, N.Y., 1956-57
- Residencies:** Adult Psychiatry: N.Y. State Psychiatric Inst./Columbia-Presbyterian Med. Ctr., 1957-59
- Child Psychiatry:** N.Y. State Psychiatric Inst./Columbia-Presbyterian Med. Ctr., 1959-60, 1962-63
- Psychoanalytic Training:** William A. White Psychoanalytic Institute, 1959-60, 1962-66
Cert. in Psychoanalysis, 1966
- Military Experience:** Captain, U.S. Army Medical Corps 1960-62
Director of Child Psychiatry, U.S. Army Hospital, Frankfurt am Main, Germany, 1960-62
- Board Certifications:** Certified in Psychiatry, American Board of Psychiatry and Neurology, 1963

Certified in Child Psychiatry, American Board of Psychiatry and Neurology, 1966

Diplomat of the American Board of Forensic Medicine
- Past Academic Appointments:** Faculty, William A. White Psychoanalytic Institute, New York City, 1966-83

Visiting Professor of Child Psychiatry
University of Louvain, Belgium, 1980-82

Visiting Professor of Child Psychiatry
University of St. Petersburg
St. Petersburg, Russia, 1989-1997
- Present Academic Appointment:** Clinical Professor of Psychiatry
Division of Child Psychiatry, Columbia University, College of Physicians and Surgeons, Faculty, 1963 - present

Hospital

Appointment: Attending Psychiatrist, Presbyterian Hospital, New York City, Hospital Staff, 1963 - present

Private Practice: Adult and Child Psychiatry
Forensic Psychiatry
1963-present

Professional Societies:

Life Fellow: American Psychiatric Association
Fellow: American Academy of Child and Adolescent Psychiatry
Fellow: American Academy of Psychoanalysis
Member: American Medical Association
Member: American Society of Psychoanalytic Physicians
Member: American Academy of Psychiatry and the Law

Miscellaneous: Biographical Listing in:

- Who's Who in the World
- Who's Who in America
- Who's Who in the East
- Contemporary Authors

Sigmund Freud Laureate - 1993, American Society of Psychoanalytic Physicians

Linda M. Weissman Memorial Lecturer - 1996, The Pennsylvania Hospital, Philadelphia

Editorial Board – The American Journal of Family Therapy

Editorial Board - The Journal of Divorce and Remarriage

APPENDIX II.

DIFFERENTIAL DIAGNOSIS OF THE THREE TYPES OF PARENTAL ALIENATION SYNDROME (PAS)

	MILD	MODERATE	SEVERE
The Campaign of Denigration	Minimal	Moderate	Formidable
Weak, Frivolous, or Absurd Rationalizations for the Deprecation	Minimal	Moderate	Multiple Absurd Rationalizations
Lack of Ambivalence	Normal Ambivalence	No Ambivalence	No Ambivalence
The Independent-Thinker Phenomenon	Usually Absent	Present	Present
Reflexive Support of the Alienation Parent in the Parental Conflict	Minimal	Present	Present
Absence of Guilt	Normal Guilt	Minimal to no Guilt	No Guilt
Borrowed Scenarios	Minimal	Present	Present
Spread of the Animosity to the Extended Family and Friends of the Alienated Parent	Minimal	Present	Formidable, or Visit not Possible
Transitional Difficulties at the Time of Visitation	Usually Absent	Moderate	Formidable, or Visit not Possible
Behavior During Visitation	Good	Intermittently Antagonistic and Provocative	No Visit, or Destructive and Continually Provocative Behavior Throughout Visit
Bonding with the Alienator	Strong, Healthy	Strong, Mildly to Moderately Pathological	Severely Pathological, Often Paranoid Bonding
Bonding with the Alienated Parent Prior to the Alienation	Strong, Healthy, or Minimally Pathological	Strong, Healthy, or Minimally Pathological	Strong, Healthy, or Minimally Pathological

APPENDIX III.

DIFFERENTIAL TREATMENT OF THE THREE TYPES OF PARENTAL ALIENATION SYNDROME (PAS)

APPROACHES	MILD	MODERATE	SEVERE
Legal Approaches	Court ruling that primary custody shall remain with the alienating parent.	<p style="text-align: center;"><u>Plan A</u> (Most Common)</p> <ol style="list-style-type: none"> 1. Court ruling that primary custody shall remain with the alienating parent. 2. Court appointment of PAS therapist. 3. Sanctions <ol style="list-style-type: none"> a. Post a Bond b. Fines c. Community Service d. Probation e. House Arrest f. Incarceration <p style="text-align: center;"><u>Plan B</u> (Occasionally Necessary)</p> <ol style="list-style-type: none"> 1. Court ruling that primary custody shall be transferred to the alienated parent. 2. Court appointment of PAS therapist. 3. Extremely restricted visitation by the alienating parent, monitored to prevent indoctrinations 	<ol style="list-style-type: none"> 1. Court ruling that primary custody shall be transferred to the alienated parent. 2. Court-ordered transitional site program.
Psychotherapeutic Approaches	None usually necessary	<p style="text-align: center;"><u>Plans A and B</u></p> <p>Treatment by a court-appointed PAS Therapist.</p>	Transitional site program monitored by court-appointed PAS therapist.

APPENDIX IV.

PAS CASELAW

The following is Dr. Gardner's cites to cases in which PAS has been admitted:

“Testimony Concerning the Parental Alienation Syndrome Has Been Admitted in Courts of Law in Many States and Countries”

Richard A. Gardner, M.D.

(Document last updated 5/31/02: 70 items)

UNITED STATES

Alabama

Berry v. Berry, Circuit Court of Tuscaloosa County, AL, Case No. DR-96-761.01. Jan 06, 2001

Alaska

Pearson v. Pearson, Sup Ct. of AK., No. S-8973, No. 5297, 5 P.3d 239; 2000
Alas. Lexis 69. July 7, 2000.

Arkansas

Chambers v. Chambers, Ct of App of AR, Div 2; 2000 Ark App. LEXIS 476, June 21, 2000.

California

Coursey v. Superior Court (Coursey), 194 Cal.App.3d 147,239 Cal.Rptr. 365
(Cal.App. 3 Dist., Aug 18, 1987.

John W. v. Phillip W., 41 Cal.App.4th 961, 48 Cal.Rptr.2d 899; 1996.

Valerie Edlund v. Gregory Hales, 66 Cal. App 4th 1454; 78 Cal. Rptr. 2d 671.

Colorado

Oosterhaus v. Short, District Court, County of Boulder (CO), Case No. 85DR1737-Div III.

Connecticut

Case v. Richardson, 1996 WL 434281 (Conn. Super.,Jul 16, 1996).

Metza v. Metza, Sup. Court of Connecticut, Jud. Dist. of Fairfield, at Bridgeport, 1998 Conn. Super. Lexis 2727 (1998).

Florida

Schutz v. Schutz, 522 So. 2d 874 (Fla. 3rd Dist. Ct. App. 1988).

Blosser v. Blosser, 707 So. 2d 778; 1998 Fla. App. Case No. 96-03534.

Tucker v. Greenberg, 674 So. 2d 807 (Fla. 5th DCA 1996).

Berg-Perlow v. Perlow, 15th Circuit Court, Palm Beach County, Fl., Case No. CD98-1285-FC. Mar 15, 2000. (An exceptionally strong family court decision in which five experts testified to the diagnosis of PAS.)

Loten v. Ryan, 15th Circuit Court, Palm Beach County, FL., Case No. CD 93-6567
FA. Dec 11,2000.

Kilgore v. Boyd, 13th Circuit Court, Hillsborough County, FL., Case No. 94-7573, 733 So. 2d 546 (Fla. 2d DCA 2000) Jan 30, 2001.

Boyd v. Kilgore, 773 So. 2d 546 (Fla. 3d DCA 2000) (Prohibition Denied) (Court ruling that the Parental Alienation Syndrome has gained general acceptance in the scientific community and thereby satisfies Frye Test criteria for admissibility.)

McDonald v. McDonald, 9th Judicial Circuit Court, Orange County, FL. Case No. D-R90-11079, Feb 20, 1001.

Blackshear v. Blackshear, Hillsborough County, FL 13th Jud. Circuit: 95-08436.

Illinois

In re Violetta 210 Ill.App.3d 521, 568 N.E2d 1345, 154 Ill.Dec. 896(Ill.App. I Dist Mar 07, 1991).

In re Marriage of Divelbiss v. Divelbiss, No. 2-98-0999 2nd District, Ill.(Appeal from Circ Crt of Du Page Cty No. 93-D-559) Oct 22, 1999.

Tetzlaff v. Tetzlaff, Civil Court of Cook County, Il., Domestic Relations Division, Cause No. 97D 2127, Mar 20, 2000.

Bates v. Bates 18th Judicial Circuit, Dupage County, IL Case No. 99D958, Jan 17, 2002. (Court ruling that the Parental Alienation Syndrome has gained general acceptance in the scientific community and thereby satisfies Frye Test criteria for admissibility.[excerpt])

Indiana

White v. White, 1995 (Indiana Court of Appeals) 655 N.E.2d 523. (Ind. App., Aug 31, 1995).

Iowa

In re Marriage of Rosenfeld, 524 NW 2d 212, 214 (Iowa app, 1994).

Louisiana

Wilkins v Wilkins, Family Court, Parish of East Baton Rouge, La., Civ. No. 90792. Nov. 2, 2000.

Michigan

Spencley v. Spencley, 2000 WL 33519710 (Mich App).

Nevada

Truax v. Truax, 110 Nev. 437, 874 P. 2d 10 (Nev., May 19, 1994). New Hampshire

Lubkin v. Lubkin, 92-M-46LD Hillsborough County, NH. (Southern District, Sept. 5, 1996).

New York

Rosen v. Edwards (1990) Tolbert, J. (1990), AR v. SE. New York Law Journal, December 11:27-28. The December 11, 1990 issue of The New York Law Journal [pages 27-28] reprinted, in toto, the ruling of Hon. J. Tolbert of the Westchester Family Court in Westchester Co.

Karen B v. Clyde M., Family Court of New York, Fulton County, 151 Misc. 2d 794; 574 N.Y. 2d 267, 1991.

Krebsbach v. Gallagher, Supreme Court, App. Div., 181 A.D.2d 363; 587 N.Y.S. 2d 346, (1992).

Karen PP. v. Clyde QC. Sup Ct of NY, App Div, 3rd Dept. 197 A.D. 2d 753; 602 N.Y.s. 2d 709; 1993 N.Y. App. Div. LEXIS 9845.

In the matter of J.F. v. L.F., Fam. Ct. of NY, Westchester Cty, 181 Misc 2d 722; 694 N.Y.S. 2d 592; 1999 N.Y. Misc. LEXIS 357.

Oliver V. v. Kelly V., NY Sup. Ct. Part 12. New York Law Journal Nov. 27, 2000.

Sidman v. Zager, Family Court, Tompkins County, NY: V-1467-8-9-94.

Ohio

Sims v. Hornsby, 1992 WL 193682 (Ohio App. 12 Dist., Butler County, Aug 10 1992).

Zigmont v. Toto, 1992 WL 6034 (Ohio App. 8 Dist Cuyahoga County, Jan 16, 1992).

Pisani v. Pisani, Court of Appeals of Ohio, 8th App. Dist. Cuyahoga Cty. 1998 Ohio App. Lexis 4421 (1998).

Pathan v. Pathan, Case No. 96-OS-1. Common Pleas Court of Montgomery County, OH, Div. of Dom Rel.

Pathan v. Pathan, C.A. Case No. 17729. Ct. of App. of OH, 2d Dist., Montgomery County; 2000 Ohio App. Lexis 119. Jan. 21, 2000

Conner v. Renz, 1995 WL 23365 (Ohio App. 4 Dist., Athens County, Jan 19, 1995).

State v. Koelling, 1995 WL 125933 (Ohio App. 10 Dist., Franklin County, Mar 21, 1995).

Pennsylvania

Popovice v. Popovice, Court of Common Pleas, Northampton Cty, PA. Aug 11, 1999, No. 1996-C-2009.

Texas

Ochs et al. v. Myers, App. No. 04-89-00007-CV. Ct. of App. of TX, 4th Dist., San Antonio; 789 S.W. 2d 949; 1990 Tex App. Lexis 1652, May 16, 1990.

Virginia

Ange, Court of Appeals of Virginia, 1998 Va. App. Lexis 59 (1998).

Waldrop v. Waldrop, in Chancery No. 138517. Fairfax County Circuit Court,(Va., April 26, 1999).

Wisconsin

Janelle S. v. J.R.S., Court of Appeals of Wisconsin, District 4. 1997 Wisc. App. LEXIS 1124 (1997).

Fischer v. Fischer, Ct. of App. of WI, Dist. Two, No. 97-2067; 221 Wis. 2d 221; 584 N.W.2d 233; 1998 Wisc. App. Lexis 1534.

Wyoming

In re Marriage of Rosenfeld, 524 N.W. 2d 212 (Iowa App., Aug 25 1994)

McCoy v. State 886 P.2d 252 (Wyo.,Nov 30, 1994).

McCoy v State of Wyoming, 886 P.2d 252, 1994.

CANADA**Quebec**

Stuart-Mills, P. v. Cher, A.J., Sup. Ct. Quebec, Dist. of Montreal, No. 500-12-184613-895 (1991).

V. (L.) C. H. (E.), 1992 CarswellQue 169; 45 Q.A.C. 100; 1992 R.J.Q. 855; 1992 R.D.F. 316 Cour d'appel du Quebec, Feb 26, 1992.

R.M c. B.R, [1994] A.Q. no 947. DRS 95-09809 No 200-09-000440-948 (200-12-042928-904 C.S.Q.) (Quebec, decision in french only) Oct. 28, 1994

R.F. v. S.P., [2000] Q.J. Np. 3412 No. 500-12-250739-004 Quebec Superior Court (Montreal) Oct. 13, 2000.

Menard v. Menard, Sup. Ct of British Columbia, 2001 CarswellBC 1312; 2001 BCSC 430, Mar 21, 2001.

Alberta

Elliott v. Elliott, A.J. No. 74 DRS 96-05285 Action No. 4806-10272 Alberta Crt of Queen's Bench, Jud. Dist.

of Lethbridge/Macleod, Jan 25, 1996.

Elliott v. Elliott, 1996 CarswellAlta 95, 193 A.R. 177, 135 W.A.C. 177, 27 R.F.L. (4th) 23 Alberta Court of Appeals. Nov 7, 1996 (Affirmed–Appeal Dismissed)

Ontario

Rothwell v. Kisko, 1991 CarswellOnt 1326. Ontario Crt of Just. (Gen'l Div.) Docket# 36429/89, Mar 21, 1991.

Davy v. Davy, Ontario Court of Justice (Gen'l Div)Docket 92-gd-21948. 1993 CarswellOnt 1630;1993 W.D.F.L 1535. Oct 7, 1993.

Fortin v. Major, O.J. No. 3805 DRS 97-01672, Court File No. 49729/94 Ontario Crt of Justice (Gen'l Div: Ottawa), Oct 25, 1996.

Demers v. Demers, Ontario Superior Court, Docket: Kingston 54253/96. 1999 CarswellOnt 2621. June 8, 1999.

Orszak v. Orszak, Ontario Superior Court of Justice Docket: 97-FP-234664. 2000 CarswellOnt 1574. May 5, 2000.

British Columbia

McLelland v. McLelland, British Columbia Supreme Court Docket: Nanaimo 07907. 1999 CarswellBC 1706. July 2, 1999

Nova Scotia

Badakhshan v. Moradi, Nova Scotia Fam Court. 1993 CarswellNS 423;120 N.S.R.(2d) 405; 332 A.P.R. 405. Mar 2, 1993.

New Brunswick

S.O. v. S.C.O., N.B.J. No. 326, Proceeding No. FDSJ-400-98. New Brunswick Crt of Queen's Bench, Family Division-Jud. Dist. of St. John. Jul 28, 1999.

Jefferson v. Jerfferson, New Brunswick Court of Queen's Bench Docket: FDSJ-6408.95. 2000 CarswellNB 15. Jan 18, 2000.

New Foundland

Toope v. Toope, 2000 CarswellNfld 185, 8 R.F.L. (5th) 446, 193 Nfld. & P.E.I.R. 313, 582 A.P.R. 313. New Foundland Unified Family Court June 15, 2000.

AUSTRALIA

Johnson v. Johnson, 4806-11508A. FAMILY COURT OF AUSTRALIA, July 7, 1997.

Johnson v. Johnson, Appeal No. SA1 of 1997 No.AD6182 of 1993, 7 July 1997.

GERMANY

Anonymous v. Anonymous, Case No. 2xv178, Rinteln (Circuit Court) Germany, Apr. 27, 1998.

Sch. v. Sch., Kammergericht KG Berlin. vom 30 Mai 2000 - 17 UF 1413/99.

Fundstelle: Fam RZ 2000, 1606 (Heft 24 / 2000 vom 15. Dezember 2000)

"^{oo} 1671, 1696 BGB: Bedeutung des Parental Alienation Syndroms im
AbΣnderungsverfahren" - Hervorhebungen durch Fettschrift -
Beschluss 17 UF 1413/99 - Volltext der Entscheidung
(136 F11 514/98 AG Berlin (Tempelhof-Kreuzberg Germany))

Anon v. Anon, OLG Ffm vom 13.07.2000 unter Az. 5 WF 112/00,(Germany).

Anon v. Anon, OLG Ffm vom 26.10.2000 unter Az. 6 WF 168/00,(Germany).

GREAT BRITAIN

Re: C (Children) (2002) CA (Dame Elizabeth Butler-Sloss P, Thorpe LJ, Kay LJ)
20/2/2002 COURT OF APPEAL REF: 2001/1642. (Great Britain)

See http://www.rgardner.com/refs/pas_legalcites.html

APPENDIX V.

This page provides a list of resources available on line dealing with Parental Alienation and Parental Alienation Syndrome.

1. Divorce Source: Parental Alienation
a place for articles and information about divorce and parental alienation syndrome (PAS)
Sites: Divorcesupport.com, Betterdivorce.com

Parental Alienation varies in the degree
<http://www.divorcesource.com/info/alienation/alienation.shtml>
2. Parental Alienation Directory
Comprehensive site with information written by Dr. Dougals Darnall
<http://www.parentalalienation.org/PASdirectory.htm>.
3. Parental Alienation Information Network (PAIN)
Contains articles, links, and experts on Parental Alienation Syndrome.
<http://www.education.mcgill.ca/pain>
4. Welcome to ... PsyCare: Parental Alienation Page. PsyCare will continue updating this web site because of the tremendous response from parents
<http://www.parentalalienation.org/>
5. A Guide to the parental alienation Syndrome
Paper by Stan Hayward; discusses the situation in the United Kingdom
<http://www.coeffic.demon.co.uk/pas.htm>
6. Creative Therapeutics - The Parental Alienation Syndrome
Highlights detailed clinical vignettes, signs and symptoms of PAS in child hysteria, paranoia, & psychopathy. Three types of PAS. Evidence gathering techniques. Clinical manifestations of PAS
<http://www.rgardner.com/pages/32.html>
7. Buchert, Susan
dedicated to the creative arts, the community of Gasquet, my children and Parental Alienation Syndrome
<http://www.geocities.com/wellesley/9204>
8. Symptoms of Parental Alienation Syndrome
Welcome to ... Symptoms of Parental Alienation ... To prevent the devastating efforts of Parental Alienation, you must begin by recognizing the symptoms of PA
<http://www.parentalalienation.com/PASfound3.htm>
9. Divorce Source: Articles: Parental Alienation
links to articles related to divorce, custody, alimony, separation, support and more...
<http://www.divorcesource.com/archives/alienation.shtml>
10. PAS directory
Comprehensive site with information written by Dr. Douglas Darnall
<http://www.parentalalienation.com/PASdirectory.htm>

11. MESA Canada: Parental Alienation
Links from the Men's Educational Support Association of Canada
<http://www.mesacanada.com/alienlnk.htm>
12. Parental Alienation Syndrome: An Age-Old Custody Problem Paper by Michael R. Walsh and J. Michael Bone in the Florida Bar Journal.
<http://www.deltabravo.net/custody/pas-walsh.htm>
13. A Therapist's View of Parental Alienation Syndrome Cases in which a child is resisting contact with a parent may or may not fit Gardner's theory of Parental Alienation Syndrome, which emphasizes the psycho pathology of the "alienating" parent.
<http://www.deltabravo.net/custody/pas-lund.htm>
14. Parental Alienation Syndrome
"Okay Dad, let's level the playing field." Parental Alienation Syndrome.
Brainwashing? Parental Alienation Syndrome? Programming Children?
<http://www.brainwashingkids.com/>
15. Child Custody and Parental Alienation Syndrome Resources Catalog of Publications and Resources for Parents including a child psychological assessment booklet and legal consultation information.
<http://home.att.net/~rawars/index.htm>
16. Click here to buy Divorce Casualties: Protecting Your Children from Parental Alienation and find more books by Douglas Darnall.
<http://www.amazon.com/exec/obidos/ASIN/o878332081/inktomi-bkasin-20>
17. Eltern-Kind-Entfremdung - Parental Alienation Syndrome PAS Endlich, endlich kommt die Diskussion und der Erkenntnisst and aus dem angelsÄ_chsichen Rechtskreis auch nach Deutschland. Herzlich zu danken haben wir den beiden Autoren Arsula O. -Kodjoe und Dr. peter Koeppel, die mit ihrem aktuellen Aufsatz in "Der Amtsvormund" "The Parental"
<http://www.pappa.com/recht/pasinfo.htm>
18. SPIG - Parental Alienation Syndrome - the arguments
Shared Parenting Information Group (SPIG) UK - promoting responsible shared parenting after separation and divorce - Parental Alienation - how to overcome the arguments the child says different
<http://sprig.clara.net/issues/pas-arg.htm>
19. Welcome to ...PsyCare: Parental Alienation Page. PsyCare will continue updating this web site because of the tremendous response from parents.
We are now averaging 1500 hits a month. PsyCare
<http://www.parentalalienation.com>
20. Parental Alienation Syndrome: How to Detect It and What to Do About It by J. Michael Bone and Michael R. Walsh
<http://www.fact.on.ca/Info/pas/walsh99.htm>
21. Stepmom Magazine
For stepmoms, step-parents, and stepchildren. Call for articles on co-parenting, parental alienation, and step parenting.
<http://www.stepmommagazine.com>

22. Custody Resource Catalog - Parental Alienation Syndrome, Relocation, Child Custody Resources - Part 2 Articles on Parental Alienation Syndrome, Relocation, and Overnights. By Richard A. Warshak, Ph.D.
<http://home.att.net/~rawars/shopcart-part2.htm>
23. MSSR Books
We provide alienation book downloads on your credit card. Subjects include technology, parental, school and ethnic, and global.
<http://www.mssrbooks.com>
24. Web sites on Parental Alienation
Links to web sites on parental alienation or parental alienation syndrome
<http://www.mall4us.com/paslinks.htm>
25. Parental Alienation Support Group
Parental Alienation Syndrome - Israel Definition: The parental alienation syndrome (PAS) is a disorder that arises primarily in the context of child-custody disputes.
<http://www.parentalalienation.net/>
26. The Parental Alienation Syndrome: An Analysis of Sixteen Selected Cases by Dunne and Remarriage, Vol. 21, p 21-38 1994 The Parental Alienation Syndrome: An Analysis of Sixteen Selected Cases
<http://www.fact.on.ca/Info/pas/dunne.htm>
27. PAS Main Index
Latest developments in the Parental Alienation Syndrome
<http://www.robbin.no/~dadwatch/pasdir/pasindex.html>
28. Three Types of Parental Alienation Syndrome Families by Richard A. Gardner, M.D.
<http://www.fact.on.ca/Info/as/gardnr01.htm>
29. PAS Aoebersicht
<http://www.vaeterfuerkinder.de/asind.htm>
30. Differentiating Between Parental Alienation Syndrome and Bona Fide Abuse-Neglect by Richard A. Gardner
<http://www.fact.on.ca/Info/pas/gardnr99.htm>
31. Understanding and Collaboratively Treating Parental Alienation Syndrome by Kenneth H. Waldron, PhD.
<http://www.fact.on.ca/Info/pas/waldron.htm>
32. Parental Alienation Syndrome Network Information Source for information, books, links, attorneys, therapists, support groups and other services related to PAS.
<http://www.mall4us.com/pas.htm>
33. Parental Alienation Syndrome, Non-custodial parents survival guide to Parental Alienation Syndrome
http://www.suite101.com/welcome.cfm/parental_alienation_syndrome

34. Parental Alienation Syndrome
Forensic Psychologist, Deirdre Conway Rand, PhD.
<http://millennium.fortunecity.com/sweetvalley/210/pas/pas2/htm>

BIBLIOGRAPHY

- Bone, Michael J. & Walsh, Michael R., *Parental Alienation Syndrome: How to Detect It and What to Do About It*, 73 The Florida B.J. 44-48 (1999)
- Bruch, Carol S., *PAS and PA: Getting It Wrong in Child Custody Cases*, American Bar Association, Family Law Quarterly, Vol. 35, No. 3, Fall 2001
- Ceci, Stephen J. & Bruck, Maggie, *Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony* (American Psychological Association 1995)
- Clawar, Stanley S. & Rivlin, Brynne V., *Children held hostage: Dealing with Programmed and Brainwashed Children* (American Bar Ass'n 1991)
- Gardner, Richard A., *The Parental Alienation Syndrome (Second Edition)*, Cresskill, N.J.: Creative Therapeutics (1998).
- Gardner, Richard A., *The Parental Alienation Syndrome and the Differentiation Between Fabricated and Genuine Child Sex Abuse*, Cresskill, N.J.: Creative Therapeutics, Inc. (1987)
- Gardner, Richard A., *Recent Trends in Divorce and Custody Litigation*, Academy Forum (1985).
- Johnston and Kelly, *Guest Editorial Notes*, 39 Family Ct Review 246 (2001)
- Kopetski, Leona M., *Identifying Cases of Parental Alienation Syndrome-Part 1*, 29 (2) The Colorado Lawyer 65-68 (1998)
- McCurley, M. J. & McCurley, M., *Psychological Testing*, Psychological Testing, State Bar of Texas Professional Development Program, Marriage Dissolution Course (May 1987)
- Rand, Deirdre C., *The Spectrum of Parental Alienation Syndrome (Part 1)*, 15 American Journal of Forensic Psychology 23-52 (1997)
- Sanders, C.H., *When you Suspect the Worst: Bad-Faith Relocation, Fabricated Child Sexual Abuse and Parental Alienation*, 16 Family Advocate 54-56 (1993)
- Stahl, Philip M., *Complex Issues in Child Custody Evaluations*, Sage Publications (1999)
- Wallerstein, Judith, M.D. and Kelly, Joan, M.D., *Surviving the Breakup-How Children Cope with Divorce*, Basic Books (1980)
- Warshak, Richard A., M.D., *Divorce Poison*, ReganBooks: HarperCollins Publishers, Inc. (2001)
- Warshak, Richard A., M.D., *Psychological Syndromes: Parental Alienation Syndrome*, State Bar of Texas, Family Law Section, Expert Witness Manual, Chapter 3-32 (1999)
- Williams, R. James, Justice, *Should Judges Close the Gate on PAS and PA?*, 39 Fam. Ct. Rev. (2001)

CASE LAW

Daubert v. Merrell-Dow Pharmaceuticals, 113 S. Ct. 2786 (1993)

DuPont v. Robinson, 923 S.W.2d 549 (Tex. 1995)

Howard v. Howard, 124 N.H. 267 (1983)

Jacobellis v. Ohio, 378 U.S. 184 (1964)

In the Interest of TMW, 553 So.2d 260 (Fla. App. 1989)

Ochs vs. Martinez, 789 S.W.2d 949, San Antonio, May 16, 1990

People v. Fortin, 706 N.Y.S.2d 611, 612 (Crim. Ct. 2000)

Perreault v. Cook, 114 N.H. 440 (1974)