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## The Power of Words

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It has long been recognized that the meaning of words influences human behavior. In fact, the Bible says, "Reckless words pierce like a sword, but the tongue of the wise brings healing." (Bible, Proverbs 12:18 (NIV)). If two people had endured similar traumatic events and one were labeled a "victim" and the other a "survivor," would they be perceived the same? Please keep in mind that they would both have been both "victims" and "survivors." Verbal insults, verbal abuse, and the power of words to affect your emotions and actions are well demonstrated in science. For example, scientists have found that just hearing sentences about elderly people led research subjects to walk more slowly. In other research, individuals read words of 'loving kindness' showed increases in self-compassion, improved mood, and reduced anxiety." As they say, "the pen is mightier than the sword."

Within the context of family law, the following terms have been found to negatively influence people's behavior: divorce, child custody, visitation, access, sole, and primary. In an effort to gain a better understanding for the reasoning behind the response, it is important to consider the meaning of those terms.

Let's start with the process itself. Divorce means "the legal separation of man and wife, effected, for cause, by the judgment of a court, and either totally dissolving the marriage relation, or suspending its effects so far as concerns the cohabitation of the parties." Dissolution is defined as "the dissolution of a contract is the cancellation or abrogation of it by the parties themselves, with the effect of annulling the binding force of the agreement, and restoring each party to his original rights." The legal distinction between a divorce and dissolution of marriage involves fault. No-fault divorce is known as "dissolution of marriage." Please note that fault based divorce does not and never has addressed the underlying feelings and emotions. Rather, it merely requires proof of the existence of such fault before a divorce will be granted. As a result, fault-based divorce tends to be even more contentious than no-fault based divorce. How would that impact any familial relations stemming from the marriage? Is it any wonder why along with the elimination of fault, many jurisdictions changed the name of the proceeding to dissolution of marriage?

Historically, when such proceedings involved minor children, they involved issues pertaining to child custody and visitation. Child custody is "the term applied to the support and control of a child that is determined by the court when the parents of the child are divorced or separated." Since minor children are not legally competent to enter into contracts or otherwise give consent for themselves, parents have the right to make decisions relating to their health, education and welfare. When parents are no longer a "unit," so to speak, this authority is frequently referred to as "legal custody" and the timeshare is referred to as "physical custody."

Child custody is a "fighting term" associated with power, control and ownership of the child by one of the parties." Sole custody is defined as "the care, control, and maintenance of a child, which a court may award to one of the parents following a Divorce or separation proceeding." Primary custody "refers to the parent with whom a child lives after both parents separate or divorce." Joint custody is "a court order whereby custody of a child is awarded to both parties. In joint custody **both parents are 'custodial parents'** and neither parent is a non-custodial parent; or, in other words, the child has two custodial parents." The term "joint custody" is a fighting term in that one parent typically wants it and the other does not.

Unfortunately, unless the parents have joint custody, one will have visitation, which is defined as "the right of a parent to visit a child who is in the custody of the separated or divorced spouse or a guardian." Not surprisingly, the term "visitation" acquired "connotations" that left non-custodial parents feeling tangential, limited, peripheral, and involved in an awkward and even unnatural relationship with their children.... In attempts to minimize the negative connotations of the term 'visitation,' visiting parents increasingly went back to court to request joint custody.... With such a designation, these parents felt at least equally empowered in their legally designated role, even if not in their actual scheduled time with their children." Rather than using the term "visitation", some jurisdictions use the term "access," which

means "the ability, opportunity, permission, or right to approach, communicate, enter, pass to and from, or view without interference or obstruction." The term "access" does not appear to be any less offensive to a parent than the term "visitation." In other words, terms such as "custody," "visitation," and "access" have become known as "fighting words" and led to what we frequently refer to as "custody battles," wherein parents battle over possession of their children, as if they were chattel or pawns in a game of chess. Don't such terms, by definition, create "win/lose" dynamics?

"When we look at what hideous things people do to one another in order to prevail in the fight over child custody - to win custody as the prize - and at how devastated the party is who loses and is instantly relegated in a day or half-day of trial (for let's face it: most courts do not think this coin-toss is very important) to the dehumanized status of ex-parent; when we see how badly traumatized and permanently warped the minds of children are after participating in the custody litigation and being actively recruited by one side or both to do so...."

Brené Brown, Ph.D., LMSW, is a research professor at the University of Houston Graduate College of Social Work and has spent the past decade studying vulnerability, courage, worthiness, and shame. During the course of her research, Dr. Brown discovered the following twelve categories of shame: (1) appearance & body image; (2) money & work; (3) motherhood/fatherhood; (4) family; (5) parenting; (6) mental & physical health (including addiction); (7) sex; (8) aging; (9) religion; (10) speaking out; (11) surviving trauma; and (12) being stereotyped & labeled. Do you realize that when dealing with the dissolution of relationships where families are involved, at least 3 categories of shame can potentially come into play? Under those circumstances, is it any surprise that no parent wants to be relegated such that they merely have "visitation" or "access" to their children? After all, unless you win the prize of custody, the terminology itself causes a parent to experience shame. This therefore frequently results in a "win at all costs" mentality.

In an effort to change the "win/lose" dynamic and hopefully put an end to the parental fighting caused by emotionally charged terms, many jurisdictions have eliminated them entirely. They have been replaced with more neutral and conciliatory terms such as "parenting plan," "time-sharing," "parental responsibility," "parenting arrangements," "parenting time," "residential time," and "contact." These changes have occurred in England, Wales, Australia, and in many states in the U.S. "California, unfortunately, for complex political reasons, has been a staunch hold-out on these changes legislatively, but many enlightened practitioners use the new language, nonetheless." In fact, if you look at my 1-Sheet, you will see only neutral and conciliatory terms and no "fighting words." Unfortunately, however, since people's internet searches involve the use of "fighting terms," my website itself does contain them.

Do you think that a larger timeshare "victory" has the same cachet as taking home the custody prize? Does the parent with less of a timeshare feel shamed as a parent? Words are powerful.... Think about it.

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