



# **South Carolina Bar**

Continuing Legal Education Division

## **2026 SC BAR CONVENTION**

### **Family Law Section**

“Family Law CLE”

**Friday, January 23**

*SC Supreme Court Commission on CLE Course No. 260138*

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# South Carolina Bar

Continuing Legal Education Division

## Nip it in the Bud: Identifying, Stopping and Healing Alienation and Alienating Behaviors Before All is Lost

*Dr. Yvonne Parnell*  
&  
*Leslie Armstrong*

No Materials Available



# South Carolina Bar

Continuing Legal Education Division

Tell Me What I Want, What I Really, Really  
Want...:When Does The Court Need an Expert  
Witness?

*The Honorable Mindy Zimmerman*

"I'LL TELL YOU WHAT I WANT,  
WHAT I <sup>♥</sup> REALLY,  
REALLY  
WANT..."

## Mindy W. Zimmerman, Judge

The Family Court of the Eighth Judicial Circuit  
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## "Forget My Past"

Let's Forget What We Think We  
Know About Alienation

"Parental alienation occurs when a child refuses to have a relationship with a parent due to manipulation, such as the conveying of exaggerated or false information, by the other parent. The situation most often arises during a divorce or custody battle, but it can happen in intact families as well."

- Psychology Today Online

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## “Forget My Past”

Let’s Forget What We Think We Know About Alienation

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While neither term is defined in the DSM-5, expert witnesses will often distinguish between the terms

Parental Alienation  
And  
Alienating Conduct

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## “Forget My Past”

Let’s Forget What We Think We Know About Alienation

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“The psychological community does not recognize parental alienation as a diagnosable condition. However, brainwashing a child to hate a parent does occur and is recognized by the courts (provided there’s robust evidence). Unfortunately, there are also instances of false allegations of alienation for custody or financial purposes.”

- Psychology Today Online

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## “Forget My Past”

Let’s Forget What We Think We Know About Alienation

“The psychology community does not recognize parental alienation as a condition. However, because it can occur and cause harm, a parent does not have to wait until there’s robust evidence that there are instances of alienation for custody or financial matters.” — Psychology Today Online

**No official diagnostic criteria**

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## “Forget My Past”


Let’s Forget What We Think We Know About Alienation

So, if you want an evaluation, what kind of evaluation do you want?

Alienation Assessment  
Or  
Psychological Evaluation

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## “Forget My Past”

Alienation Assessment  
Or  
Psychological Evaluation


What if there is a mental health disorder, like  
Narcissistic Personality Disorder (301.81)

---

OR

What if there is another issue, such as Parent-Child  
Relational Problem (V61.20), Child Affected by  
Parental Relationship Distress (V61.29), High  
Expressed Emotion Level Within Family (V61.8), or  
any other number of problems that may need  
clinical attention or affect diagnosis or treatment.

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## When, In The Life Of The Case, Should You Request The Evaluation?

- ♪ At the initial temporary?
- ♪ After the GAL investigates?
- ♪ After mediation?
- ♪ Approaching 365?

“Better Make It Fast”

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# “Now Don’t Go Wasting... My Precious Time”

Do we even need an expert at all?

- ♪ Severe Mental Health Conditions
- ♪ Physical or Sexual Abuse
  - ♪ Forensic Interviewers
  - ♪ Psychosexual Evaluators
- ♪ Parental Fitness
- ♪ Alienation
- ♪ Attachment



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# “Now Don’t Go Wasting... My Precious Time”


**STOP!**

Maybe they are just  
regular  
Family Court  
Crazy!



10

“Get Your Act Together We Could Be Just Fine”



**WHAT THE APPELLATE COURTS HAVE SAID**

*Divine v. Robbins*, 385 S.C. 23, 683 S.E.2d 286 (2009)

- ♪ Court of Appeals made it clear that questions of credibility and weight of evidence, even with regards to experts, will be left in the discretion of the Family Court Judge.
- ♪ Expert described mother as “defensive, argumentative, and evasive.”
- ♪ “Mother had a narcissistic personality disorder.”
- ♪ Expert indicated “this disorder could be a liability to parenting.”
- ♪ Expert opined that mother “appeared to have no concept of how to maintain a cooperative co-parenting relationship with father.”

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“Get Your Act Together We Could Be Just Fine”



Divine makes it clear that we do NOT have to accept whatever the expert says!

Here are three examples where I used my discretion to disregard the expert.....

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## “You Have Got To Give...”

Expert validated alienating conduct based upon an assumption that the other parent was abusive despite clear evidence to the contrary.



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## “You Have Got To Give...”

Stop!

Your Expert should be aware of the facts and allegations.


Your Expert must get more than one perspective for me to consider them credible



14



Expert confirmed that the children had been alienated after only meeting once with the accusing party

“Taking Is Too Easy...”

15

Stop!

Your Expert cannot credibly diagnose a patient he/she has never seen.




“Taking Is Too Easy...”

16

## “But That’s The Way It Is!”

Expert testified that  
“Mothers are always  
the primary caregivers  
and should always be  
given priority for  
custody.”



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## “But That’s The Way It Is!”

Stop!

Don’t let your  
expert say stupid  
things



18

“... Oh, What Do You Think About That?”



## Draft A Good Order!



*Divine v. Robbins*, 385 S.C. 23, 683 S.E.2d 286 (2009)

- Court of Appeals made it clear that questions of credibility and weight of evidence, even with regards to experts, will be left in the discretion of the Family Court Judge.

“thirty-two  
page final  
order”

“In a very thorough final  
order, the family court  
made numerous in-depth  
findings to support its  
decision”

“properly weighed  
[expert’s] testimony  
against all the other  
evidence presented”



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“Now You Know How I Feel...”



## Draft A Good Order!



*Whitesell v. Whitesell*, 431 S.C. 575, 848 S.E.2d 588 (2020)

Court of Appeals **affirmed** the trial court but also discussed the importance of order drafting.

“We agree that witness credibility can be important and that nobody – not the parties, a reviewing court, or anyone else – should be left to grope in the dark for the reasons a family court made a decision.”

“Rule 26(a) of the [SCRFC] speaks to this by requiring the family court to support its decision with specific findings of fact and conclusions of law.”

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# “Are You For Real?”

## WHAT THE APPELLATE COURTS HAVE SAID

### *Greene v. Greene*, 439 S.C. 427, 887 S.E.2d 157 (2023)

Court of Appeals found “the circumstances of this case – including but not limited to Child’s attachment to both parents, Mother’s reactions to recommendations she finds unfavorable, and Mother’s potential for unhealthy enmeshment with Child – constitute exceptional circumstances warranting the family court’s award of joint custody.”



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### *Greene v. Greene*, 439 S.C. 427, 887 S.E.2d 157 (2023)

An affidavit from the child’s second forensic interviewer included the following:

“[Child] is **not an alienated child as she demonstrates attachments to both parents**; however, unhealthy family dynamics and **mental health professionals that are not qualified to provide balanced and objective treatment** for children in court-related cases have placed [Child] at high risk to become alienated or estranged; without provision of appropriate forensically informed treatment services for [Child] and her parents, she is at high risk for inhibited development and emotional dysfunction such as is currently demonstrated by her parents. In my opinion, [Child] is best diagnosed as [a] Child Affected by Parental Relationship Distress or CAPRD. This diagnosis is defined in the DSM-5 as “negative effects of parental relationship discord (i.e., high levels of conflict, distress, or disparagement) on a child in the family, including effects on a child’s mental or other medical disorders.”

“I Won’t Be Hasty”



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## “If You Really Bug Me, Then I’ll Say Goodbye”

If you are asking to stop visitation,

I opine that the  
treatment  
criteria should  
be.....

Have your  testify as to what  
is needed in order to restart it.



23

“Here’s the  
Story from”



*Glinyanay v. Tobias,*

436 S.C. 137, 871 S.E.2d 193 (2022)

- ♪ While the COA recognized the significant role that mental health professionals play, it made clear that “deciding issues related to the best interests of children, including visitation, is the exclusive authority and responsibility of the family court, not third parties.”
- ♪ Thus, the COA reversed the FC’s decision to grant visitation only when and if the counselors deemed it appropriate.

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“Here’s the  
Story from”



Avoid the problem altogether:  
Why not create a treatment plan?

Specify set criteria that will earn increased  
interaction, with the help of the expert.

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“Here’s the  
Story from”



*Glinyanay v. Tobias*,  
436 S.C. 137, 871 S.E.2d 193 (2022)  
but the big takeaway has to do with  
hearsay.....

Court of Appeals agreed that a child’s out of court statements made to a therapist or other mental health counselor can fall within the hearsay exception outlined under Rule 803(4), SCRE, as statements made for the purpose of medical diagnosis and treatment so long as the statement meets the following criteria:

- ♪ Made for the purpose of and be reasonably pertinent to medical diagnosis or treatment;
- ♪ Describe the patient’s medical history, past or present symptoms, pain or sensations, or the inception or general character of their cause of external source; and
- ♪ Reasonably relied upon by the medical professional.

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“Here’s the  
Story from”



In *Glinyanay*...

The COA acknowledged “Rule 803(4) is subject to overextension (almost anything a mental health patient says could be “reasonably pertinent” to the diagnosis), and the wise judge will, when appropriate deploy his discretion ‘to admit the statements only as proof of the patient’s condition and not as proof of the occurrence of the recited events.”

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“Here’s the  
Story from”



This does not open the door for everything said in therapy. For example, this opinion makes reference to the holding in *State v. Simmons*, 423 SC 552, 564-65, 816 S.E.2d 566, 573 (2018), where the identity of an abuser was excluded as inadmissible hearsay, since that identity was not made for the purpose of medical treatment.

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“Here’s the  
Story from”



Consider the difference in a  
FC case where the person  
identified is a parent of the  
patient.

Could that relationship be  
“reasonably pertinent to  
medical diagnosis or  
treatment?”

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“Here’s the  
Story from”



Consider the difference  
between a Court Ordered  
Evaluation  
And  
An Assessment for  
Purposes of Treatment.....

Remember for the Hearsay Exception to  
apply, it must be made for the purpose of  
and be reasonably pertinent to medical  
diagnosis or treatment

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## *Halsema v. Earley*, Unpublished (2023)

- Parties signed an agreement – Mother unsuccessfully moved to set it aside – Father moved to enforce.
- After the execution of a mediated agreement, Mother took the child for a psychological evaluation, without telling Father or the GAL, and only turned over the report approximately a month before the approval hearing (with the supporting documents being handed over the weekend before).
- Court suppresses the report and testimony from that psychological evaluation.
- Court of Appeals held “the family court abused its discretion in excluding [expert’s] testimony and psychological report as a discovery sanction without first allowing Mother to proffer [expert’s] testimony or reviewing the proffer of [expert’s] psychological report and supporting documents.”




“You Gotta Listen Carefully.”

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Make a good record  
and  
ask for the proffer!



I opine.....

(To the  in the room – take the time and allow the proffer.)



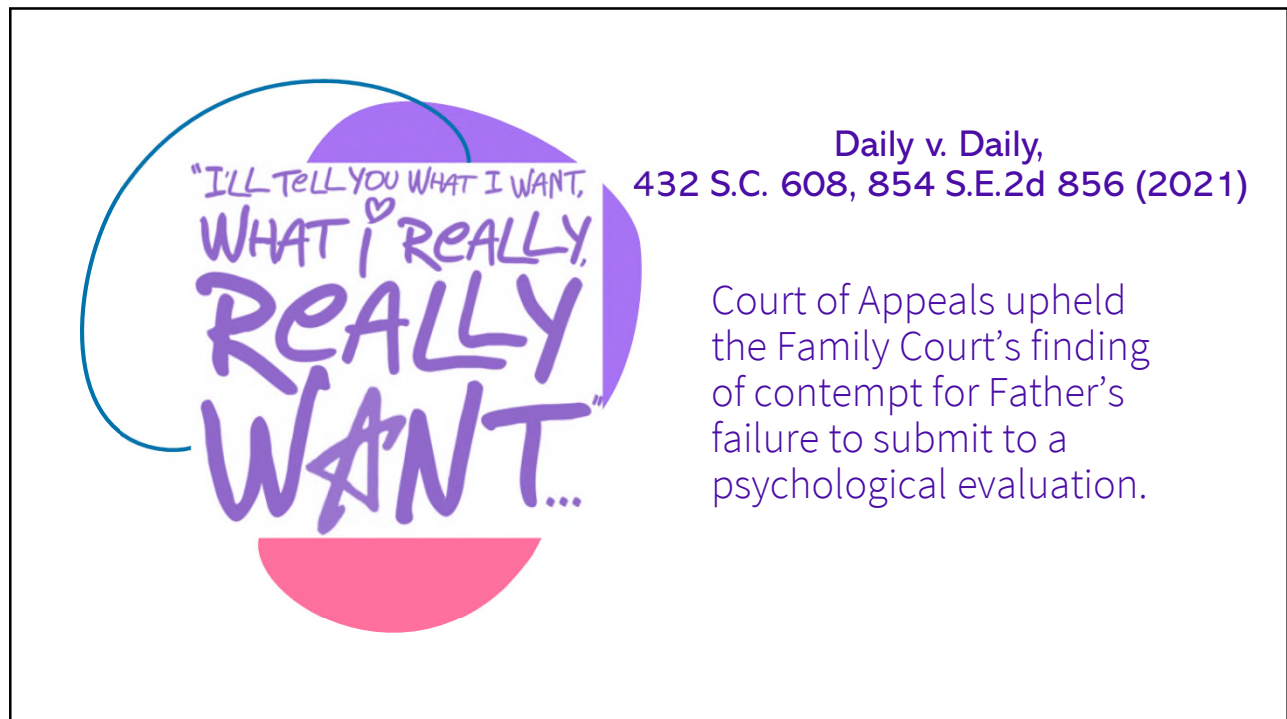
“You Gotta Listen Carefully.”

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**FOLLOW  
COURT  
ORDERS!**

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**Daily v. Daily,**  
432 S.C. 608, 854 S.E.2d 856 (2021)


Court of Appeals upheld  
the Family Court's finding  
of contempt for Father's  
failure to submit to a  
psychological evaluation.


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"I'LL TELL YOU WHAT I WANT,  
WHAT I REALLY  
REALLY  
WANT..."

### PRO TIP

If your client is non-compliant,  
put it in !  
Make sure your client knows  
the risk of violating an order!

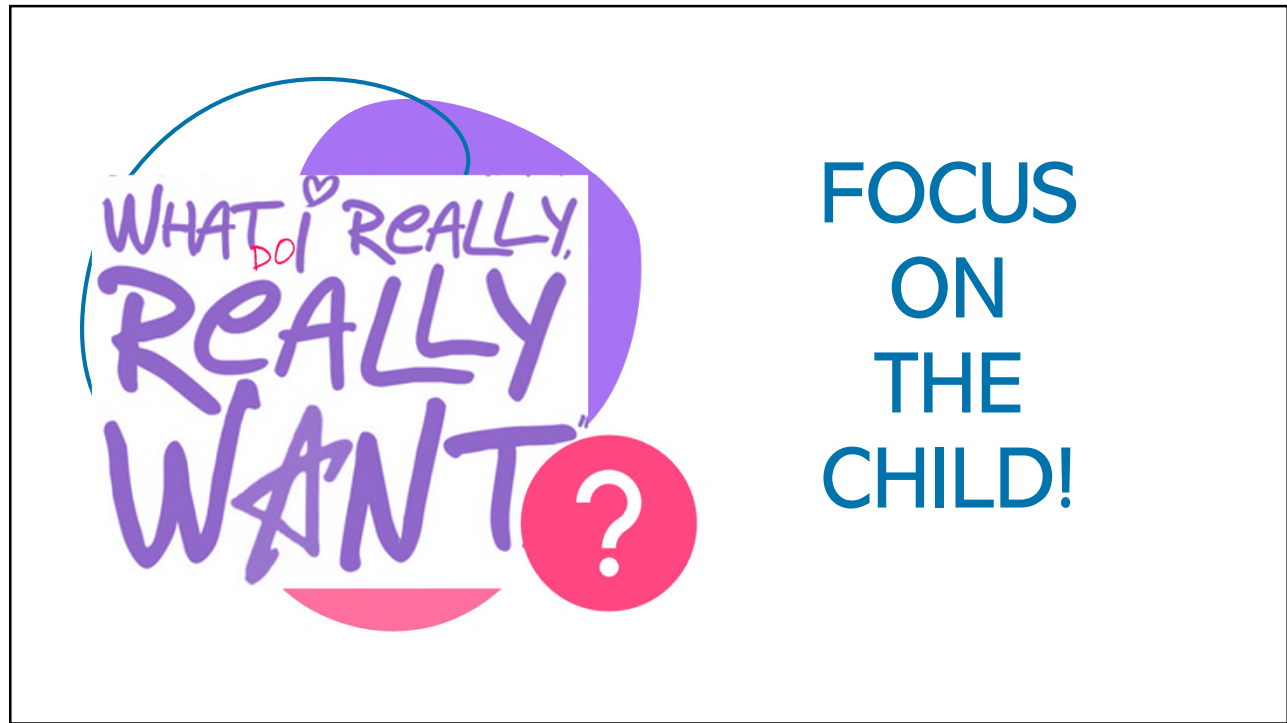
If the other side is  
non-compliant,  
file the Petition  
and seek 

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WHAT I <sup>DO</sup> REALLY,  
REALLY  
WANT?

## MAKE IT MAKE SENSE!

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FOCUS  
ON  
THE  
CHILD!



# South Carolina Bar

Continuing Legal Education Division

## Legislative Updates

*Representative David Martin*  
&  
*Representative Bruce Bannister*

No Materials Available