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# Assessing and responding to parental alienation cases: Does gender matter in Canadian court decisions?

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A thesis submitted in partial fulfillment of the requirements for the degree in Master of Arts

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Assessing and responding to parental alienation cases:  
Does gender matter in Canadian court decisions?  
(Thesis format: Monograph)

by

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Graduate Program in Education

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts

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## **Abstract**

The present study examined gender bias within Canadian court cases citing parental alienation. This bias was investigated through close examination of the role of gender of parents (i.e., differences between mothers and fathers), children, legal professionals (i.e., judges) and mental health professionals (i.e., custody evaluators) in identifying the presence of parental alienation and using that information as a factor in final court decisions. A sample of 100 Canadian court cases citing parental alienation between 2010 and 2012 were extensively reviewed and coded for extensive predetermined criteria related to gender including, but not limited to: gender of judge, custody evaluator, alienating parent, alienated parent, and children implicated. Therefore, in describing the current trends in parental alienation, the present study investigated three components: (1) whether legal and mental health professionals are using the term, either as a diagnosis, 'Parental Alienation Syndrome' or 'Parental Alienation Disorder' or are referring to the behaviors presented as parental alienation but not recognizing them as the components of a syndrome or diagnosis, (2) who, in terms of gender, is more likely to be the alienating parent (perpetrator) and the alienated parent (victim), and (3) whether there currently exists evidence of gender bias within the court itself, through differential findings based on gender of parent and gender of judge.

*Keywords:* gender, gender bias, parental alienation, debate, high conflict divorce

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## Chapter 1

### 1 Introduction

Parental alienation (PA), the term originally coined by Richard Gardner (1985; 1987; 1992), occurs most often during a separation or divorce where one parent denigrates the other parent to their child with intent to cause this child to alienate the targeted parent. The product of this alienation is the rejection of the targeted parent by the child through various means. These means include but are not limited to: refusal to talk, visit or interact with the targeted parent, and if an interaction does occur it may be distant in nature, or in the form of the belittling and disparaging of the victimized parent. It is because of the negative ramifications presented above that parental alienation is an increasing concern for those parents and children involved.

Since PA was conceptualized, researchers have debated infinite notions of the attributes of this clinical phenomenon, such as who is more likely to commit parental alienation, how it affects children and what can be done to ameliorate the relationships that have deteriorated due to PA. A plethora of research concerned with the effects of divorce has revealed a substantial amount of findings demonstrating the various negative impacts of divorce on children of all ages (Wadsby & Svedin, 1996; Johnston, 2003; Amato & Cheadle, 2008). The majority of these studies have established the notion that the higher the conflict occurring within the divorce, the more distressing the repercussions for the child(ren) involved (Johnston, 1994; Lampel, 1996; Ayoub, Deutsch & Maraganore, 1999; Fabricius & Luecken, 2007; Bing, Nelson III, & Wesolowski, 2009). Since PA has been identified as most often occurring in high conflict divorce proceedings, the negative backlash for the child(ren) so commonly implicated in high conflict divorce is of particular concern for those involved in parental alienation (Johnston, 2003; 2005).

Due to the nature of familial contention present during high conflict divorce and parental alienation, attachment theory has recently been posited as the preferred framework to describe and intervene with the malicious dynamics involved in this hostile phenomenon. Garber (2004) suggests that, “attachment theory helps to establish baselines, reliable and valid assessment measures, and successful intervention strategies” (p. 64) for working with individuals implicated in the processes of parental alienation. While attachment theorists

maintain the notion that, barring any pathological situations, children would benefit the most to maintain a relationship with both parents following divorce; they also recognize the potential for this to go awry (Bowlby, 1988; Rutter, 1995; Lowenstein, 2007; 2010). Garber (2004) states that, “healthy family systems routinely and spontaneously communicate aligning messages in the process of defining who is “in” and alienating messages in the process of defining who is “out,” these dynamics enhance mutual safety and security and lay the foundation for a child’s growing identity,” (p.64). Therefore, it is when these otherwise constructive tools of alignment and alienation are used against parents that parental alienation is able to occur.

Much research supports this notion that otherwise healthy family functions become mutated during parental alienation cases, which leads to extreme versions of these once adaptive traits. Rybicki (2001) supports this by stating that, “PAS and other forms of alienation are part of a larger set of... family system dynamics that may become pronounced in times of marital conflict, separation, or divorce,” (p. 2). Thus, marital conflict could easily present a breach in function of either alignment or alienation, which could lead to a maladaptive variation in the intended use of these otherwise constructive tools. As cited by Rybicki (2001) above, during periods of high conflict during familial dissolution, parents may employ otherwise constructive tools such as alignment and alienation as weapons to work against their intended purpose and deconstruct the bonds between a child and the targeted parent.

Despite the provision of this framework in working with those implicated in parental alienation, there remains a large debate surrounding the nature of how to manage parental alienation and its’ reverberating effects within the court and clinical settings. This debate has continued to grow exponentially over the past three decades and many involved in the field have inquired as to how parental alienation is measured, and if it is measurable, whether or not it should be a diagnosis.

One side suggests that an actual syndrome would quantify the symptoms of parental alienation and enable those who are victims of parental alienation to gain a valid diagnosis for their behaviors and feelings (Gardner, 2002; Clawar & Rivlin, 1991; Warshak, 2001; 2003; Bernet, Von Boch-Galhau, Baker & Morrison, 2010). The other side feels that, “PAS terminology has led to widespread confusion and misunderstanding in judicial, legal and

psychological circles,” (Johnston & Kelly, 2001, p. 250) and it therefore needs to be reevaluated and newly conceptualized in such a way that practitioners and judicial staff alike are able to use the concept of parental alienation without labeling, and potentially therefore limiting, a child with the diagnosis of a mental illness (Bruch, 2002; Walker & Shapiro, 2010; Jaffe, Harris, & Aujla, 2013).

These clashing perspectives are creating a large fissure within the investigation, presentation and verification of parental alienation. Therefore, research pertaining to parental alienation is forced to align itself with one side or the other of this largely contested debate. It is within this heated debate that one critical factor is repeatedly mentioned: the perpetrating parent. Parental alienation is not immune to the controversial discussion of gender with many researchers and professionals asking questions akin to, is it mothers or fathers who commit parental alienation more often than the other?

### **1.1 Literature Review**

A further investigation of the societal and legal factors involved in parental alienation is required to analyze the controversial topics of contemporary diagnosis and gender trends within Canadian courts. This literature review will investigate two components inherent to parental alienation in the court: (1) the likelihood of judges and legal professionals to employ the term ‘parental alienation’ in custody or divorce cases, or furthermore diagnosing the situation that has unfolded with a diagnosis of ‘Parental Alienation Syndrome,’ and (2) the historical gender-bound trends regarding which parents are more often alienating parents and which parents are the alienated parents. These factors are inherent in informing hypotheses pertaining to the use of diagnosis and gender trends in current Canadian court cases.

### **1.2 Labeling and Diagnosing Parental Alienation**

The debate surrounding whether parental alienation should be a diagnosis or a descriptive term has been investigated and debated among mental health and judicial professionals; however, whether or not judges and other legal professionals are employing the diagnosis within judicial decisions is an avenue less explored (Rand, 2011). While parental alienation as a diagnosis has not been accepted for diagnostic entry into the upcoming edition of the *Diagnostic and Statistical Manual of Mental Disorders (DSM-V)*, (American Psychiatric

Association, 2013), there remains many legal and mental health professionals that have and continue to describe it as such. This leads to much confusion pertaining to the properties and attributes of the employment of the term ‘parental alienation’ within the courtroom. Clarkson & Clarkson (2007) express this sense of confusion regarding the use of parental alienation as they state, “...courts are having trouble dealing with the question of the scientific status of PAS because the more evidence that they hear, the more questions about the scientific basis of the whole of mental health arise.” (p. 268). Clarkson and Clarkson (2007) are certainly not alone in these feelings of confusion surrounding parental alienation and its credibility in court. Johnston (2003) discusses the “virtual absence of empirical support for the reliable identification of PAS as a diagnostic entity and the determination of its correlates and causes,” (p. 159). The lack of empirical evidence supporting parental alienation is of significant concern for many researchers and professionals as they express the confusion with regard to how to handle parental alienation in court (Bernet, 2008; Kandel, 1994; Williams, 2001; Ziogiannis, 2001; Warshak, 2003). Thus, judges’ and professionals’ perspectives on parental alienation in the court are sometimes limited and seemingly confused, plagued by questions of scientific support of parental alienation (Wood, 1994).

### **1.3 Repercussions of Parental Alienation**

Regardless of whether or not a diagnosis is applied to children exhibiting behaviors akin to parental alienation, the notion that parental alienation elicits negative implications within children remains a concern. Many researchers have investigated the negative consequences elicited in children who experience the strategies employed during parental alienation (Baker, 2005; Sauber, 2006). For instance, Garber (2011) found that parental alienation can lead to severe role corruption within families. Results from his case review indicate that in the process of parental alienation, children are adultified - by serving as a parents partner, parentified - by serving as the parent’s caregiver, and infantilized – when their development is inhibited by a parent who needs to be needed. These roles and the repercussions associated with them are not absolved with the conclusion of the trial.

A study conducted by Ben-Ami and Baker (2012) investigating long-term psychological correlates of experiencing parental alienation revealed differences between those participants who did and did not experience parental alienation. Results indicated significant associations

between experiencing parental alienation as a child and lower self-sufficiency, higher rates of major depressive disorder, lower self-esteem, and insecure attachment styles as adults. Other areas of psychological impact have also been investigated.

Long-term effects of parental alienation are not limited to psychological constructs. Research conducted by Davies, Sturge-Apple, Cicchetti and Cummings (2008) investigated children's physiological reactivity to interparental conflict and found that children's distress responses to interparental conflict were unique predictors of their elevated cortisol reactivity; these findings were particularly pronounced when children were highly involved in these conflicts. Therefore, children who are the implicated in parental alienation not only develop alienating thoughts and behaviors towards the alienated parent, but also become more susceptible to many prolonged physical and psychological health risks. Unfortunately, it is not only the presence of parental alienation that is a concern for many children involved in high-conflict divorce cases. There is a high prevalence of domestic violence and abuse presented within cases citing parental alienation – providing multiple areas of concern.

#### **1.4 Parental Alienation as a Counter Measure for Allegations of Domestic Violence**

The use of the term parental alienation has recently been employed to overshadow allegations of domestic violence. This is becoming more commonplace within the court system as abusive parents claim they are actually the victim of their child's campaign of denigration (influenced by their spouse) known as 'parental alienation' as a means to detract from their allegations (Jaffe, Lemon, & Poisson, 2003).

An early pilot study conducted by the California Protective Parent Association and Mothers of Lost Children found that 91 percent of fathers who were identified by their children as perpetrators of sexual abuse received full or partial unsupervised custody of the children. Furthermore, 54 percent of cases ended in the non-abusing mother placed on supervised visitation (Mothers of Lost Children, 1998).

The proposed rationale for this judicial injustice is due to a recent increase in allegations of parental alienation as counter measures in court cases where domestic violence has been alleged against fathers (Brown, 2008). By accusing mothers of parental alienation, abusive fathers are able to divert judicial focus from their wrongdoings and place mothers in the

spotlight of ‘emotional abuse’ of their child. Through these often times fabricated allegations of parental alienation, abusers can maintain control over their spouses if they gain custody of their children (Fidler & Bala, 2010).

From this, children who are in all actuality seeking protection from their fathers and not being alienated then run the risk of being placed with these fathers who induce fear in them— sometimes even despite substantial evidence of abuse— due to the allegations of parental alienation. Many times, children’s adaptive and positive coping mechanisms of dealing with their symptoms of abuse or witnessing abuse such as refusing contact with the abusive parent or telling stories of their wrongdoings are wrongfully construed as evidence of parental alienation (Bruch, 2001; Hoult, 2007; Meier, 2009). The court has a significant decision to make in such cases: whether to find the physically or potentially emotionally abusive in the wrong.

### **1.5 Parental Alienation in Court**

While describing the burden that parental alienation cases pose for family court, research finds that, “While they may represent as little as ten percent of a court’s caseload, such cases may demand as much as ninety percent of the court’s time,” (p. 3, Hoult, 2007). Therefore, it is these cases citing parental alienation that are monopolizing the court and its resources. Thus, there is a need for legal and mental health professionals working in this field to be aware of their responsibilities in working with such fragile and explosive cases.

During custody and divorce cases judges, lawyers and mental health professionals are responsible for many factors that can largely impact all party’s lives going forth. Perhaps the most poignant issue inherent in high conflict divorce or custody cases is deciding if one or both parents are able to provide and maintain the “best interests of the child”. Instead of pursuing the custodial option that caters to the “best interests of the child,” it has become customary for allegations of parental alienation to be used as legal stratagem. Jaffe, Ashbourne and Mamo (2010) describe the use of ‘alienation’ as what may become a “handy label rather than a more objective clinical term” (p. 140). The use of citing this “handy label” against their spouse has become a means of leverage for individuals, most often fathers, to gain custody in court (Johnston, 2003). Therefore the decision is left with the legal and mental health professionals. This is particularly difficult when legal and mental health

professionals are asked to decide whether a child who refuses to see one of their parents is choosing to do so because of parental alienation, or because of abuse during cases citing parental alienation.

This is an extremely difficult and risky decision to make. On one hand, a child could end up in the custody of an abusive parent who used parental alienation as a counter measure to overshadow their actions. In this situation, children may express a reasonable distrust and unwillingness to interact with this abusive parent and therefore their distant relationship and disclosure of negative comments regarding this parent are justified and not a product of parental alienation (Jaffe, Ashbourne & Mamo, 2010). On the other hand, if allegations of alienation are found to be unsubstantiated when in fact alienation has actually occurred, the child could be placed with the alienating parent. This would further enable the division between the child and the alienated parent, further permeating the intended consequences of the alienating parent (Vassilou & Cartwright, 2001). Otherwise, the alternative is that the child is removed from their home with the alienating parent and cut off from them, while being placed with the alienated parent whom they completely distrust and dislike.

Both of these scenarios present potential dangers to the child(ren) involved as Jaffe, Ashbourne and Mamo (2010) posit by stating, “There is a potential danger of a misdiagnosis leading to a change of custody, and children placed at risk if the rejected parent is abusive or neglectful, inadequate, or a virtual stranger to the child,” (p. 138). It is in the case of the two potential outcomes presented above that the court must take allegations of parental alienation, particularly in court cases involving domestic abuse allegations, seriously.

While it is the responsibility of legal and mental health professionals involved in cases pertaining to parental alienation to be aware of the above circumstances, they are also obliged to have a working knowledge of the term parental alienation and the means in which it has been and should be handled and treated (Jaffe, Ashbourne, & Mamo, 2010; Martinson, 2010). This is due to the fact that there are many different ways in which the term parental alienation can be employed and applying the wrong literature to the wrong case can have severely misguided and devastating implications (Johnston, 1994). An increased knowledge of parental alienation will also lead to an increased understanding of the positive benefits of time efficiency in handling court cases citing parental alienation. Sullivan & Kelly (2001)

explore the need for time efficient trials when handling parental alienation cases by stating, “When there is no access between the child and rejected parent, the child’s resistance to visit often becomes more entrenched. Delays in court hearings and deferred judicial decisions contribute greatly to the problem. Aligned parents often intensify their efforts to obstruct and undermine contact with the rejected parent as the case enters family court” (p. 300).

Therefore, it is the responsibility of the court – predominantly lawyers and judges—to realize this unique factor in dealing with parental alienation cases and take the appropriate measures to limit the time spent in court.

In addition to being knowledgeable about the varying definitions and aspects of parental alienation and handling the proceedings in a timely manner, the court and those involved in the case are also responsible for being aware of gender biases implicated in the court process, particularly surrounding such a gender-bound topic as parental alienation.

## **1.6 A Gendered Debate**

The history of the gender debate as it pertains to parental alienation is speculated to have begun in the late twentieth century sparked by the courts’ decision to forgo the “Tender Years Doctrine” (a maternal presumption) in favor of a more gender-neutral “best interests of the child” approach in custody cases (Kaslow & Schwartz, 1987; Palmer, 1988). Although this approach claimed to be more gender-neutral, these regimes effectively enhanced father’s rights in relation to their children as this legislative change elicited a shift in the social reality that most children lived with and were cared for by their mothers after separation and divorce (Boyd, 2004). Gardner (1999) proposed that in retaliation of this judicial decision, mothers fell back on alienation tactics to secure custody in their favor. This led to what some researchers have labeled the “demonizing of mothers” (Boyd, 2004).

During this period of time, many felt that mothers were almost exclusively the perpetrators of alienating behaviors – this trend gave fathers (generally the ‘victimized’ parent), ammunition in custody battles. The use of this ammunition in court escalated and began to be criticized by women as men who were abusive and committed domestic violence began exploiting the term alienation as a means to draw focus away from their abusive behaviors and shift it to the ‘alienating behaviors’ of their spouse (Bruch, 2001; Katz, 2003; Adams, 2006).



## 1.7 Gender Trends in Parental Alienation

A preliminary descriptive study ventured to empirically validate and describe the gender trends in parental alienation presented above by collecting data from 84 cases (Kopetski, Rand & Rand, 2006). With a sample of 49 alienating mothers, 31 alienating fathers and 4 alienating relatives or stepparents, the authors tracked data spanning 14 years to investigate temporal trends in parental alienation. All data was clustered into three time frames, each spanning 5 years. These results demonstrate a significant increase of cases of parental alienation from 1976 to 1990, with a rapid acceleration within the last epoch (1986-1990). Kopetski, Rand and Rand (2006) found that the proportion of alienating mothers to alienating fathers was 2 to 1, across all three time frames. Although the amount of alienating fathers increased from 1976, the rate of alienating mothers also increased at the same rate rate, maintaining the doubled ratio of mothers who commit parental alienation to fathers. This finding was also evidenced in many other studies conducted at that time and beyond (Wallerstein & Kelly, 1980; Dunne & Hendrick, 1994; Gardner, 2001a; Burrill, 2001). Despite the overwhelming data supporting the notion that mothers are far more likely to commit parental alienation than fathers, Kopetski and colleagues (2006) suggest that this finding is not due to gender bias. Instead, they suggest that parental alienation is not a gender determined occurrence, advancing that cultural attitudes and social climate may be responsible for the gender difference found in those that commit parental alienation.

Other researchers have suggested that historically, mothers have been the predominant choice in terms of child rearing, and it was rare that fathers were awarded custody. Due to this gender discrepancy in being awarded custody, fathers had to supply sufficient evidence to demonstrate that they were the better option for the custody of their child(ren) and thus, in retaliation to this it became an instrumental tool for mothers to derogate the opposite parent – the father— in an effort to gain or maintain custody (Gardner, 2002). Therefore, this may be responsible for the gender difference found in those that commit parental alienation. Despite this convincing finding, other studies have proposed otherwise. Unfortunately, some researchers and authors following parental alienation literature investigated this gender phenomenon as well and found that mothers were the culprits of malicious behavior towards fathers.

## **1.8 Malicious Mothers, Fathers or Parents?**

Turkat (1995) coined the term, “Malicious Mother Syndrome” in response to Gardner (1989) after conducting a study of clinical examples. He proposed that mothers are responsible for unjustifiably punishing their divorcing/ divorced husband, denying her children communication with their fathers, and maliciously acting towards their husbands by lying to children and others and violating the law. Turkat discusses the notion that a bias against men in family law proceedings exists citing a statement by one family law Judge, “I ain’t never seen the calves follow the bulls, they always follow the cow; therefore, I always give custody to the mamas,” (Commission on Gender Bias in the Judicial System, 1992, p.741). This suggests that society is naturally predisposed to favor mothers when rewarding custody; it is perhaps for this reason that other research suggests that fathers are also responsible for committing parental alienation.

After proposing the “Malicious Mother Syndrome” just four years earlier, Turkat expanded his research to include fathers as potential perpetrators, and not solely victims, of parental alienation (Turkat, 1999). After finding subsequent research that demonstrated that parental alienation does occur in both mothers and fathers, Turkat changed the name of his formerly coined syndrome to “Malicious Parent Syndrome” in an effort to include both mothers and fathers (Turkat, 2003). This syndrome classifies parents as alienators when they unjustifiably punish their divorcing/ divorced spouse, specifically attempts to deny the children contact with the other parent and other malicious acts towards the opposite parent. The newly founded notion that parental alienation was not limited to mothers (Gardner, 2001b; 2004) led researchers to investigate why there remains to be a significant discrepancy between mothers and fathers as perpetrators for parental violence. If gender is not the cause of the difference in prevalence - then what is?

## **1.9 Gender Bias in Legal Professionals and the Court**

Another aspect of gender bias that is inherent to the discussion surrounding parental alienation through the scope of gender, is gender bias involved within the court and those professionals working for the court. In family court matters there are many professionals involved in managing and presenting cases including, lawyers, mental health professionals (i.e., custody evaluators), and judges. In a recent study that surveyed legal and mental health

professionals' views about parental alienation as a potential diagnosis in the upcoming DSM-5, Jaffe, Harris and Aujla (2013) found that female respondents were significantly more likely to report unintended negative consequences if parental alienation were to be included in the DSM-5. In contrast, less than 20% of these women believed that there would be many unintended negative consequences if parental alienation were not included in the DSM-5.

As has been briefly discussed above, many judicial professionals (i.e., judges, lawyers, custody evaluators) are biased in evaluating the mother as the better candidate for custody based solely on her gender. Leving (2006) suggests that the traditional conceptualization of gender inadvertently sabotages court cases involving parental alienation by undermining the gender neutrality that is required to make a fair decision.

In an earlier article, Leving (1997) discusses the relationship between women being awarded custody increasingly and the paralleled likelihood of them to commit parental alienation by stating, "the daily access inherent in sole custody allows a mother to control, manipulate, and if she wishes, destroy the father-child relationship. Largely because of pro-mother bias, legal protection against these offenses is expensive and ineffective" (Leving, 1997, p.43).

Another study that investigated this notion of gender bias in legal professionals, with a particular focus on lawyers, found a similar occurrence in custody courts. A content analysis of lawyers' affidavit material presented to the court in custody and visitation cases revealed that the gender of the lawyer defined the nature, length, and emotional content of the argument to the court. This was found to be particularly true in cases surrounding domestic violence (Hinds & Bradshaw, 2005).

A more recent study investigating the implications of parental alienation for gender fairness in Minnesota legal proceedings found that due to the increasing accusation of parental alienation, mothers may be wrongfully restrained from attaining custody of their children. This study advocated for judges to consciously work to eradicate anti-mother gender bias within their family court proceedings as to provide increasingly fair grounds during custody proceedings, (Berg, 2011; Gildea, 2011).

Commentary on gender bias existing within the court was provided by the Chief Justice of Canada, Beverley McLachlin, when she outlined her conceptualization of what makes a good

judge in stating that decision makers must know the law and apply it, but that knowing the law is not enough. McLachlin states that the law must be applied with “informed impartiality” which she states “requires: an understanding that there are subjective elements to judging; the ability to be introspective, open and empathetic, and an appreciation of the social context within which the matters at issue arose” (p.3, Martinson, 2013). She further proposes that there are two points that are particularly important to consider in judging within the legal framework relating to family violence, (1) the importance of the legal requirement for reasons being given for decisions reached, and (2) limitations on the ability of decision makers to assess credibility generally, and the particular gender equality issues that arise when decision makers assess the credibility of women who make allegations of family violence (p. 3, Martinson, 2013). Due to the correlation between cases citing alienation and domestic violence, as discussed above, this demonstrates the need to further investigate gender bias within judicial decisions, particularly with regard to gender of judicial professionals when finding parental alienation.

### **1.10 A Canadian Perspective on Parental Alienation**

Bala, Hunt and McCarney (2010) conducted a study of all reported Canadian court cases between 1989 and 2008 that investigated claims of “alienation” of children within the scope of parental separation and divorce. The study found 175 cases that adhered to the above criteria and where the court decided whether or not these claims of “alienation” were substantiated (i.e., a finding of whether alienation was or was not made) - alienation was found by the court in 106 (61%) of those cases. Those cases included in Bala, Hunt and McCarney (2010) were only those that went to trial and were reported. Therefore, the 175 cases reported within the study provide an extremely conservative estimate of those cases citing “alienation,” as cases involving alienation that settled before going to trial or those that underwent mediation were not included in the sample.

Despite the conservative estimative nature of this sample, this data remains extremely informative as it demonstrates the finding that the use of the concept, “alienation” has exponentially increased over the two decades encompassed by the breadth of the study. Equally interesting is the finding that the mother was found to be the alienating parent in 72 cases (68%), whereas the father was the alienating parent in 33 cases (31%). Therefore, the

gender phenomenon that was reported before the turn of the century still persists, although, not without cause.

The authors provide reasoning for this gender gap by explaining that, “While mothers were significantly more often the alienating parent, mothers much more frequently have sole custody of children, or are the primary resident parent in joint legal custody cases,” (Bala, Hunt & McCarney, 2010, p. 166). By this logic, mothers are more likely to be the alienating parent as they are more likely to have a more influential relationship with the child as the custodial parent. This reasoning was supported by the finding that the alienating parent had sole custody of the child(ren) in 89 cases (84 percent). The study unfortunately does not break down the alienation cases by year and gender as to examine whether the gender divide within the context of parental alienation is increasing or decreasing. This is an extremely important factor that remains to be investigated.

### **Part I Research Question**

What are the trends in terminology of judicial decisions surrounding finding parents culpable of parental alienation – are the number of cases citing parental alienation increasing, how often do judges employ a diagnosis, in comparison to referring to the concept of parental alienation?

### **Hypotheses Part I**

There will be a tendency towards judges identifying or finding parental alienation behaviors. However, the previous literature suggests that judicial professionals will avoid employing the label of ‘Parental Alienation Syndrome’ or ‘Parental Alienation Disorder’ due to the lack of empirical evidence to support these notions.

### **Part II Research Question.**

Is there a gender difference between mothers and fathers who commit parent alienation?

### **Hypotheses Part II.**

Based on the previous literature and trends, mothers are hypothesized to be responsible for committing parental alienation more often due to societal norms in custody which lead them

to be statistically more likely to commit parental alienation due to the fact that they are custodial parents more often and therefore have an increased relationship and access to commit parental alienation (Bala, Hunt & McCarney, 2010).

### **Part III Research Question**

Is there a gender difference between female and male legal and mental health professionals and their likelihood to identify parental alienation? If so, is this gender difference influenced by gender of parent?

### **Hypothesis Part III.**

Drawing from related literature on gender bias in custody evaluations and domestic violence cases, it is hypothesized that there will be gender differences in the way in which female judges make findings pertaining to family law cases citing parental alienation in comparison to the means in which male judges do. Female legal and mental health professionals are hypothesized to be more sensitive to domestic violence issues which may make them more hesitant to apply parental alienation labels since the victim concerns about the other parent have a basis in fact (i.e., not poisoning but rather protecting). Previous research has demonstrated that female legal and mental health professionals are significantly more likely to report unintended negative consequences if parental alienation is included in the DSM-V (Jaffe, Harris & Aujla, 2012).

## Chapter 2

### 2 Method

The current study employed a retrospective quantitative case review of 100 Canadian court cases citing parental alienation with judicial decisions dated between January 1, 2010 and December 31, 2012. Replicating the methodology described in Bala et al. (2010), the current study utilized two major commercial Canadian databases of judicial decisions, Westlaw Canada (Thomson) and Quicklaw (LexisNexis) to conduct its search for court cases. Both databases were searched using the search terms “parental alienation,” “alienated child,” “alienated,” “alienating parent” and the truncated term “alienat\*” (searching for where parent or child were within 10 words of alienat\*), the terms identical to those used in the search conducted by Bala et al. (2010). See Appendix A for search terms and results.

#### 2.1 Participants

The inclusion criteria for cases yielded from the initial search included cases where “parental alienation” was cited in any of the above forms. Cases where judicial decisions were made regarding the presence of parental alienation, either approved or denied, were the target of the search. It is important to note that as Bala, Hunt and McCarney (2010) state, “the reported case law does not reflect the total number of cases in which alienation issues arise,” (p. 165) as many cases do not reach litigation due to the alienating parent ‘giving up’ as a product of a sense of hopelessness in dealing with a hostile situation, and a byproduct of lacking both the emotional and financial resources to continue litigation.

Therefore, cases that settle are not the focus of the current study, although they are cited to be similar to those cases that are the focus of the current study - those that go to trial and are reported (Bala, Hunt, & McCarney, 2010). Admittedly, there may be aspects of those cases that go to trial that are qualitatively different than those that settle, however – the current study contributes an important illustration of the current judicial situation that parents confront while engaged in litigation to the literature.

Additionally, excluded cases were those that did not use the term “alienation” within the scope of the study; those cases that did not report a clear decision; for example when the

judge deferred the case to a later date for assessment; those cases that involved same sex couples; involved grandparents ( $n=1$ ); were in French, cases that were sealed, arbitration decisions and other unreported cases, and oral decisions. Similar exclusions have been made by previous researchers (Bala, Hunt & McCarney, 2010).

## 2.2 Measures

**Overview of the parental factor definitions for the chi square analysis.** The major parental factors investigated were gender, which parent is ordered to be primary caregiver, alienating behaviors employed by alienating parent, allegations of domestic violence, child abuse or both against alienating parent, and findings of domestic violence, child abuse or both against alienating parent. Allegations of domestic violence, child abuse or both against the alienated parent, and findings of domestic violence, child abuse or both against the alienated parent were also measured. These are crucial factors to measure due to their capacity to reflect on the current gendered situation in court cases pertaining to parental alienation with specific interest in gender of both parents compared to each of the above factors. See Appendices A and B for coding processes and operational definitions of parental factors.

**Overview of the judicial and case factor definitions for the chi square analysis.** Judicial factors evaluated were gender of judge, judge orders custody and access assessment, judge identifies parental alienation, and judge makes finding of parental alienation. The sole legal factor evaluated was the presence of a custody and access assessment. These are important factors to investigate due to their ability to inform the current use of parental alienation in Canadian court cases (i.e., using a diagnosis, describing, using synonymous terms, etc.).

To be clear, there were three levels of possible court outcome for the cases presented. The first level of possible outcome was whether or not the judge neither identified nor made findings of parental alienation and therefore saw the allegations of parental alienation as unsubstantiated.

The second level of possible outcome was whether or not the judge identified parental alienation (i.e., when the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence).



The third level of possible outcome was coded as whether or not the judge made findings of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan). An example of this outcome can be seen in the *L.M.A.M. v. C.P.M* Manitoba court decision in March of 2011 where Justice Thompson stated “Based on the totality of the evidence I have heard, I have concluded, beyond a reasonable doubt, that the verbal abuse of, and overt disrespect shown to, the petitioner before and immediately following the date of separation continued in the presence of his children thereafter, and that through both overt and subtle means... he engaged in an ongoing effort to alienate the children from the petitioner and to weaken and destabilize, if not destroy, their relationship with her.” (p.1160).

Findings of parental alienation syndrome (PAS) were also coded and were intended to represent a fourth level of possible outcomes; however, due to a small sample size (n=2) these incidences were not analyzed. See Appendices A and B for coding processes and operational definitions of judicial and legal case factors.

**Overview of the mental health professional factor definitions for the chi square analysis.** The mental health professional factors investigated were gender, and identification of parental alienation. These were important factors to examine due to their contribution to gender bias within the identification and findings of parental alienation in court. See Appendices A and B for coding processes and operational definitions of mental health professional factors.

**Overview of the child factor definitions for the chi square analysis.** The child factors investigated were gender, age, number of children and the presence or absence of twenty-five of the top alienating behaviors demonstrated by children as is outlined by the literature. These were vital factors to examine due to their ability to reflect upon the correlation between gender of child and their chosen alienation tactics, as well as the influence their same-sexed and opposite-sexed parent had over them in terms of alienation strategies. See Appendices A and B for coding processes and operational definitions of child factors.

If any of the above factors were missing or omitted, they were coded as not present (i.e., no information) in the court case reports.

## **2.4 Procedure**

**Coding system.** Each of the 100 court cases were independently reviewed and coded by two separate reviewers (both graduate students at the University of Western Ontario), using a coding data sheet created based on those criteria outlined in Bala et al. (2010) and updated by the current authors to investigate the present study's aims (see Appendix B for Coding Data Sheet). In preparation for coding, both reviewers coded 20 pilot cases as to evaluate inter-rater reliability and assess the data-coding sheet for test-retest reliability. Once a high positive kappa reliability score (of 0.9 or higher) was achieved, the reviewers coded the remaining 80 court cases. Inter-rater reliability was re-assessed overall by randomly selecting 20 cases, therefore yielding an overall kappa reliability score of inter-rater reliability.

## **2.5 Data Analysis Plan**

All identified factors were analyzed at the univariate level using chi-square analyses. Some individual factors were analyzed a multiple levels to investigate the relationship between the factor and other layers of factors (i.e., gender and level of alienation).

## Chapter 3

### 3 Results

#### 3.1 Descriptive Characteristics of the Parents

In the majority of the cases, the alienating parent was allegedly female (65%), with only 35% of fathers allegedly alienating their children. Fathers were more often the alienated parent (65%), whereas mothers were alienated parents 35% of the time. Nearly three-quarters (73.5%) of parents obtained legal representation, whereas slightly over a quarter of parents chose to self-represent (26.5%). In those cases where alienating parents chose to self represent, judges identified alienation in 18 cases; in instances where alienating parents chose to seek legal counsel, judges identified alienation in 52 cases.

From those cases where income was reported, there was a wide range of socio-economic status in the sample ranging from an annual income of \$10,000 to \$200,000, with the majority of the cases (28.3%) falling between \$25,000 and \$99,000 per annum.

The level of conflict between the parents in the sample was nearly always “high” (92%), with only 8% of parents fitting into the “medium” conflict group and no parents meeting the criteria of “low conflict”. From this, allegations of domestic violence against the alienating parent were present in 33% of the cases and these allegations were substantiated in a finding of domestic violence in 6% of these cases. Allegations of domestic violence against the alienated parent were present in 38% of the cases, and these allegations were substantiated in a finding of domestic violence in 9% of the cases.

Allegations of child abuse against the alienating parent were found in 22% of the cases, with these allegations substantiated in 2% of the cases through criminal charges laid. Allegations of child abuse against the alienated parent were found in 44% of the cases, with none of these allegations resulting in a criminal charge (see Appendix C for operational definitions of terms).

In 16% of the cases in the sample, the alienating parent displayed psychological problems or was diagnosed with a psychological disorder. In 15% of the cases, the alienated parent displayed psychological problems or was diagnosed with a psychological disorder.

### **3.2 Descriptive Characteristics of Judges and Cases**

There were 100 cases reviewed in the present study. These cases involved decisions made by male judges in 49% of the cases; female judges in 37% of the cases; and there was at least one female judge and at least one male judge in 5% of the cases. In 9% of the cases the judge's gender was unable to be identified. See Appendix D for a graph representation of the distribution of presiding judge gender.

The jurisdictions in which the judges made these decisions were: Ontario (46%), British Columbia (22%), Nova Scotia (7%), Alberta (6%), Manitoba (5%), Newfoundland (5%), Saskatchewan (3%), New Brunswick (2%), Quebec (2%), Prince Edward Island (1%), and Northwest Territories (1%). Quebec cases are underrepresented in this study due to the fact that many of the cases which cited parental alienation in Quebec were in French and this met criteria for exclusion in this study.

Judges ordered custody evaluations in 61% of the cases, and there was a custody evaluation completed for 66% of the cases involved in the sample. In those cases where judges did not order a custody evaluation, each of the parties' counsel may have agreed in advance to obtain an assessment independently of court order.

Allegations of parental alienation were unsubstantiated in 30 (30%) of the cases, judges identified parental alienation (i.e., when the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence) in 39 (39%) cases, made findings of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan) in 29 (29%) cases and made findings of parental alienation syndrome in 2 (2%) of the cases.

### **3.3 Descriptive Characteristics of Mental Health Professionals**

Cases in the sample were likely to involve at least one mental health professional (79%) and have involvement of Child Protective Services (59%). In 46% of the cases a mental health professional identified parental alienation. Additionally, the Ontario Children's Lawyer (OCL) was involved in 35% of the cases.

### 3.3 Descriptive Characteristics of the Children

The children in these families ranged from 2 to 22 years of age at the time the decisions were made, with a mean age of 12 years (SD=4.59) for all children in the study, 8.78 years (SD=3.85) for the youngest child in the family, and 13.50 years (SD= 4.95) for the oldest child in the family. The number of children in the families that were involved in the case ranged from one to four, with a mean number of 1.72 children (SD=0.75). There was one child in 45% of the cases, two children in 39% of the cases, three children in 15% of the cases and four children in 1% of the cases.

### 3.4 Chi Square Analysis of Parent Factors

Mothers were alleged as the alienating parent in 65 (65%) of the cases, whereas fathers were alleged as the alienating parent in 35 (35%) cases. Gender of alienating parent significantly impacted the judges' likelihood of identifying parental alienation. Mothers were identified as the alienating parent in 41 (58.6%) cases, whereas fathers were identified as the alienating parent in 29 (41.4%) cases  $\chi^2(1, N=99)=4.24, p<.05$ . However, due to the fact that there were more alienating mothers in the sample, when looking at the likelihood for parents to be identified as the alienating parent within their gender, there is a different outcome: of the cases where the mother faced allegations of parental alienation before the court, she was identified by the judge as an alienating parent in 41 out of 65 (63.1%) cases; whereas of the cases where the father faced allegations of parental alienation before the court, he was identified by the judge as the alienating parent in 29 out of 35 (82.9%) cases. Table 1 illustrates an overview of the identification of parental alienation in the context of gender of alienating parent in this study.

Table 1

*Frequencies & Total Percentages of Identification of Parental Alienation in Context of Gender of Alienating Parent*

	Parent Gender		$\chi^2$
	Mothers n	Fathers n	
Judge identified parental alienation			4.24*
Yes	41	29	
Percent within judge identified parental alienation	58.6%	41.4%	
Percent within alienating parent gender	63.1%	82.9%	
No	24	6	
Percent within judge identified parental alienation	80.0%	20.0%	
Percent within alienating parent gender	36.9%	17.1%	

Note: \* $p < .05$ , \*\* $p < .001$

Mothers alleged as alienating parents were given primary caregiving status of their children in 23 (35.4%) of the cases, whereas allegedly alienating fathers were designated as primary caregiver in only 7 (20%) of cases  $\chi^2(2, N=98)=3.28, p > .05$ . Findings around primary caregiving of alienated parents reflected significant findings. Alienated mothers were designated as primary caregiver in 22 (62.9%) cases, whereas alienated fathers were given the primary caregiving role of their children in only 24 (36.9%) cases  $\chi^2(2, N=98)=6.42, p < .05$ .

Mothers alleged as the alienating parent were significantly less likely to have committed domestic violence, than fathers who were facing allegations of alienation  $\chi^2(1, N=99)=6.55, p < .05$ . Significantly fewer allegations of domestic violence were made against alienated mothers than alienated fathers  $\chi^2(1, N=99)=9.92, p < .01$ . Furthermore, alienated mothers faced significantly fewer findings of domestic violence than alienated fathers  $\chi^2(1, N=99)=5.32, p < .05$ .

Although not statistically significant, the data suggests an interesting relationship between a judges' finding of alienation (i.e., used alienation as one of the reasons for the final decision

and parenting plan), ( $n=31$ ) and primary caregiver status post-trial. When judges found mothers to be the alienating parents, the mother was ordered primary caregiver by the judge 22.2% of the time, whereas when judges found the father to be the alienating parent, the father was never (0%) deemed the primary caregiver,  $\chi^2(1, N=99)=3.28, p>.05$ . Table 2 illustrates an overview of the parental factors in context of gender of parent in this study.

Table 2

*Frequencies & Total Percentages of Parental Factors in Context of Gender of Parent*

	Parent Gender		$\chi^2$
	Mothers n (%)	Fathers n (%)	
Alienating Parents	65 (65)	35 (35)	
Alienated Parents	35 (65)	65 (65)	
AP Primary Caregiver			3.28
Yes	23 (35.4)	7 (20.0)	
No	41 (63.1)	28 (80.0)	
Non-AP Primary Caregiver			6.42*
Yes	22 (62.9)	24 (36.9)	
No	13 (37.1)	40 (61.5)	
Allegations of Domestic Violence Against AP			1.08
Yes	19 (29.7)	14 (40.0)	
No	45 (70.3)	21 (60.0)	
Findings of Domestic Violence Against AP			6.55**
Yes	1 (1.5)	5 (14.3)	
No	64 (98.5)	30 (85.7)	
Allegations of Domestic Violence Against Non-AP			9.94**
Yes	6 (17.1)	32 (49.2)	
No	29 (82.9)	33 (50.8)	
Findings of Domestic Violence Against Non-AP			5.32*
Yes	0 (0.0)	9 (13.8)	
No	35 (100)	56 (86.2)	
Allegations of Child Abuse Against AP			0.13
Yes	15 (23.1)	7 (20.0)	
No	50 (76.9)	28 (80.0)	
Findings of Child Abuse Against AP			0.20
Yes	1 (1.5)	1 (2.9)	
No	64 (98.5)	34 (97.1)	



Allegations of Child Abuse Against Non-AP			3.45
Yes	11 (31.4)	33 (50.8)	
No	24 (68.6)	32 (49.2)	
Findings of Child Abuse Against Non-AP			
No	35 (35.0)	65 (65.0)	

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Note: \* $p < .05$ , \*\* $p < .001$

None of the sixteen alienating behaviors evaluated were found to be statistically significant when considering parental factors and gender of alienating parent (i.e., mothers or fathers). There was no statistically significant difference in an alienating mother's versus alienating father's use of making negative comments about the other parent,  $\chi^2(1, N=99)=0.706, p > .05$ ; making negative comments about the alienated parent's extended family,  $\chi^2(1, N=99)=0.122, p > .05$ ; limiting contact with the alienated parent,  $\chi^2(1, N=99)=0.00, p > .05$ ; withholding or blocking messages from the other parent,  $\chi^2(1, N=99)=0.224, p > .05$ ; making communication with the other parent difficult,  $\chi^2(1, N=99)=2.041, p > .05$ ; indicating discomfort about the other parent,  $\chi^2(1, N=99)=1.298, p > .05$ ; displaying negative affect when child(ren) shows affection toward the other parent,  $\chi^2(1, N=99)=0.022, p > .05$ ; making the child choose between parents,  $\chi^2(1, N=99)=0.817, p > .05$ ; saying the alienated parent was unsafe,  $\chi^2(1, N=99)=3.490, p > .05$ ; confiding in the child about adult matters,  $\chi^2(1, N=99)=0.457, p > .05$ ; requiring favoritism by child,  $\chi^2(1, N=99)=0.005, p > .05$ ; asking the child to spy or withhold information from the alienated parent,  $\chi^2(1, N=99)=1.099, p > .05$ ; requesting the child to refer to alienated parent by first name,  $\chi^2(1, N=99)=0.943, p > .05$ ; encouraging the child to disregard alienated parent's values, rules and authority,  $\chi^2(1, N=99)=3.781, p > .05$ ; making the child feel guilty about spending time with the alienated parent,  $\chi^2(1, N=99)=2.527, p > .05$ ; and by making the child feel guilty about spending time with the alienated parent's extended family,  $\chi^2(1, N=99)=0.00, p > .05$ . Table 3 illustrates an overview of frequencies of alienation behaviors in the context of gender of parent in this study.

Table 3

*Frequencies of Alienating Behaviors in Context of Gender of Parent*

	Gender <sup>1</sup>	
	Mothers	Fathers
	<i>n</i> (%)	<i>n</i> (%)
Made negative comments about alienated parent	45 (69.2)	27 (77.1)
Made negative comments about parent's extended family	6 (9.2)	4 (11.4)
Limited contact	41 (63.1)	22 (62.9)
Withheld or blocked messages	14 (21.5)	9 (25.7)
Made communication difficult	26 (40.0)	9 (25.7)
Indicated discomfort about alienated parent	28 (43.1)	11 (31.4)
Displayed negative affect when child(ren) shows affection for other parent	10 (15.4)	5 (14.3)
Made child choose between parents	7 (10.8)	6 (17.1)
Said other parent was unsafe	27 (41.5)	8 (22.9)
Confided in child about "adult matters"	27 (41.5)	17 (48.6)
Required favoritism of child	20 (30.8)	11 (31.4)
Asked child to spy or withhold information from other parent	5 (7.7)	5 (14.3)
Requested child to refer to alienated parent by first name or refer to new partner as mom or dad	5 (7.7)	1 (2.9)

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Encouraged child to disregard other parent's values, rules, authority	7 (10.8)	9 (25.7)
Made child feel guilty about spending time with other parent	11 (16.9)	2 (5.7)
Made child feel guilty about spending time with other parent's extended family	0 (0)	0 (0)

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Note: \* $p < .05$ , \*\* $p < .001$

**Making negative comments about alienated parent.** Those parents in cases where parental alienation was substantiated were not more or less likely to make negative comments about the other parent than those where parental alienation was not substantiated,  $\chi^2(2, N=98)=0.8.399, p > .01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Making negative comments about alienated parent's extended family.** In those cases where judges substantiated (i.e., identified or made findings) parental alienation, parents were not more or less likely to use negative comments about the alienated parent's extended family as a means of alienating their children  $\chi^2(2, N=98)=5.09, p > .01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Limiting contact with the alienated parent.** In those cases where judges substantiated parental alienation in comparison to those where parental alienation was not substantiated, parents were not more or less likely to limit contact with the alienated parent as a means of alienating their children  $\chi^2(2, N=98)=4.19, p > .01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Withholding or blocking messages from the other parent.** In those cases where judges substantiated parental alienation, parents were not more or less likely to withhold or block messages from the alienated parent as a means of alienating their children than those parents in cases where alienation was unsubstantiated  $\chi^2(2, N=98)=2.27, p > .01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Making communication with the other parent difficult.** In those cases where judges substantiated parental alienation in comparison to those cases where alienation was unsubstantiated, parents were not more or less likely to make communication difficult with the alienated parent as a means of alienating their children  $\chi^2(2, N=98)=1.35, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Indicating discomfort about the other parent.** In those cases where judges substantiated parental alienation, parents were not more or less likely to indicate discomfort about the alienated parent as a means of alienating their children than those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=2.20, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Displaying negative affect when child(ren) shows affection toward the other parent.** In those cases where judges substantiated parental alienation, parents were not more or less likely to display negative affect when their children show affection for the alienated parent as a means of alienating their children in comparison to those cases where parental alienation was unsubstantiated  $\chi^2(2, N=98)=0.85, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Making the child choose between parents.** In those cases where judges substantiated parental alienation, parents were not more or less likely to make the child choose between parents as a means of alienating their children than those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=3.92, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Saying the alienated parent was unsafe.** In those cases where judges substantiated parental alienation, parents were not more or less likely to say the alienated parent was unsafe as a means of alienating their children in comparison to those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=1.35, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Confiding in the child about adult matters.** In those cases where judges substantiated parental alienation, parents were not more or less likely to confide in their child about adult matters as a means of alienating their children in comparison to those cases where judges did

not substantiate parental alienation  $\chi^2(2, N=98)=2.02, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Requiring favoritism by child.** In those cases where judges substantiated parental alienation, parents were not more or less likely require favoritism by the child as a means of alienating their children  $\chi^2(2, N=98)=5.37, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Asking the child to spy or withhold information from the alienated parent.** In those cases where judges substantiated parental alienation, parents were not more or less likely to ask children to spy or withhold information from the alienated parent as a means of alienating their children in comparison to those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=0.648, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Requesting the child to refer to the alienated parent by first name.** In those cases where judges substantiated parental alienation, parents were not more or less likely to request that child refer to the alienated parent by their first name as a means of alienating their children in comparison to those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=0.118, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Encouraging the child to disregard alienated parent's values, rules and authority.** In those cases where judges substantiated parental alienation, parents were more likely to encourage their children to disregard the alienated parent's rules as a means of alienating their children in comparison to those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=9.66, p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Making the child feel guilty about spending time with the alienated parent.** In those cases where judges substantiated parental alienation, parents were not more or less likely to make the child feel guilty about spending time with the alienated parent as a means of alienating their children in comparison to those cases where judges did not substantiate

parental alienation  $\chi^2(2, N=98)=5.32, p<.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

**Making the child feel guilty about spending time with the alienated parent's extended family.** In those cases where judges substantiated parental alienation, parents were not more or less likely to make the child feel guilty about spending time with the alienated parent's extended family as a means of alienating their children in comparison to those cases where judges did not substantiate parental alienation  $\chi^2(2, N=98)=n/a$  (constant),  $p>.01$ . See Table 4 for frequencies and percentages on alienating behaviors and level of alienation.

Table 4

*Frequencies of Alienating Behaviors in Context of Level of Alienation*

	Level of alienation			$\chi^2$
	Unsubstantiated	Identified	Findings	
	<i>n</i> (%)	<i>n</i> (%)	<i>n</i> (%)	
Made negative comments about alienated parent	17 (23.6)	28 (38.9)	27 (37.5)	8.39*
Made negative comments about extended family	1 (10.0)	3 (30.0)	6 (60.0)	5.09
Limited contact with alienated parent	17 (27.0)	30 (47.6)	16 (25.4)	4.19
Withheld messages from alienated parent	4 (17.4)	11 (47.8)	8 (34.8)	2.27
Made communication difficult with alienated parent	8 (22.9)	15 (42.9)	12 (34.3)	1.35
Indicated discomfort about alienated parent	10 (25.6)	14 (35.9)	15 (38.5)	2.20
Displayed negative affect when child shows affection with other parent	3 (20.0)	7 (46.7)	5 (33.3)	0.85
Made child choose between parents	1 (7.7)	6 (46.2)	6 (46.2)	3.92
Said alienated parent was unsafe	8 (22.9)	15 (42.9)	12 (34.3)	1.35

Confided in child about adult matters	10 (22.7)	16 (36.4)	0 (0.0)	2.02
Required favoritism by child for alienating parent	6 (19.4)	11 (35.5)	14 (45.2)	5.37
Asked child to spy or withhold information from alienated parent	3 (30.0)	3 (30.0)	4 (40.0)	0.65
Requested child to refer to alienated parent by first name	2 (33.3)	2 (33.3)	2 (33.3)	0.12
Encouraged child to disregard alienated parent's values	0 (0.0)	11 (68.8)	5 (31.3)	9.66*
Made child feel guilty about spending time with alienated parent	1 (7.7)	5 (38.5)*	7 (53.8)	5.32
Made child feel guilty about spending time with alienated parent's extended family	0 (0.0)	0 (0.0)	0 (0.0)	/

*Note.* Columns will not total to 100 as children could demonstrate more than one alienating behavior.

### 3.5 Chi Square Analysis of Judicial Factors

One of the four judicial factors evaluated was statistically significant. There was no statistically significant difference in a male or female judge's decision to order a custody and access assessment,  $\chi^2(1, N=85)=2.29, p>.05$ . Male and female judges identified parental alienation at approximately the same rate,  $\chi^2(1, N=85)=0.66, p>.05$ . Judges making findings of parental alienation were significantly related to the gender of the judge,  $\chi^2(1, N=85)=5.20, p<.05$ . Table 5 illustrates an overview of the judge related factors in this study.



Table 5

*Frequencies & Total Percentages of Judicial Factors in Context of Gender of Judge*

	Gender <sup>1</sup>		$\chi^2$
	Female Judges <i>n</i> (%)	Male Judges <i>n</i> (%)	
<b>Judge Orders Custody &amp; Access Assessment</b>			
Yes	27 (73.0)	28 (57.1)	2.29
No	10 (27.0)	21 (42.9)	
<b>Identification of Parental Alienation</b>			
Yes	25 (67.6)	37 (75.5)	0.66
No	12 (32.4)	12 (24.5)	
<b>Finding of Parental Alienation</b>			
Yes	6 (16.2)	19 (38.8)	5.20*
No	31 (83.8)	30 (61.2)	

Note: missing data: <sup>1</sup>(n=14); \* $p < .05$ , \*\* $p < .01$

Although there was no statistically significant difference between the amount of cases that female and male judges identified as involving parental alienation (seen above in Table 1), there was a statistically significant difference between gender of the identified alienating parent in cases heard by a male judge compared to those heard by a female judge.

Of the 27 cases that alleged mothers as the alienating parent before a female judge, the judge identified the mother as the alienating parent in 15 (55.6%) of the cases. Comparatively, of the 10 cases where fathers were alleged as the alienating parent before a female judge, the judge identified the father as the alienating parent in 10 (100%) of the cases. Therefore, within the sample, female judges were significantly more likely to identify fathers as the alienating parent than mothers,  $\chi^2(1, N=85)=6.58, p < .05$ .

Conversely, of the 29 cases that alleged mothers as an alienating parent before a male judge, he identified the mother as the alienating parent in 21 (72.4%) of the cases. Whereas, of the 20 cases where fathers were alleged as the alienating parent and were heard by a male judge, the judge identified the father as the alienating parent in 16 (80.0%) of the cases. Statistical

significance for male judges identifying parental alienation by gender was not reached  $\chi^2(1, N=85)=0.37, p>.05$ .

In comparing cases heard by female judges to those heard by male judges in their likelihood to identify mothers versus fathers as alienating parents, the study found female judges as more likely to identify fathers than mothers, whereas male judges were not more likely to identify parents as the alienating parent based on their gender  $\chi^2(1, N=85)=4.86, p<.05$ . Table 6 illustrates an overview of the crosstabulation of judge's likelihood of identifying parental alienation by gender of judge and alienating parent in this study.

Table 6

*Alienating Parent \* Judge Identified Parental Alienation \* Gender of Judge Crosstabulation*

		Judge Identified Parental Alienation		$\chi^2$
		No n (%)	Yes n (%)	
Male	Alienating Parent			0.37
	Mother	8 (27.6%)	21 (72.4%)	
	Father	4 (20.0%)	16 (80.0%)	
Female	Alienating Parent			6.58**
	Mother	12 (32.4%)	15 (55.6%)	
	Father	0 (0.0%)	10 (100.0%)	
Total	Alienating Parent			4.86*
	Mother	20 (35.7%)	36 (64.3%)	
	Father	4 (13.3%)	26 (86.7%)	

Note: missing data: <sup>1</sup>(n=14); \* $p<.05$ , \*\* $p<.01$

A one-way analysis of variance showed a statistically significant difference between group means. There is a statistically significant difference in the mean number of alienating behaviors and between the different levels of substantiation of parental alienation by a judge. The 30 cases in those cases where the judge did not substantiate parental alienation had an

average of 2.90 alienating behaviors ( $SD=2.77$ ); the 40 cases where the judge substantiated parental alienation by identifying it (i.e., when the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence) had an average of 4.18 alienating behaviors ( $SD=3.09$ ); and in the 30 cases where parental alienation was substantiated by the judge through findings of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan) an average of 5.16 alienating behaviors ( $SD=2.91$ ) were present. The effect of level of substantiation of parental alienation by judge, therefore, was significant,  $F(2, 97)=4.452, p=0.014$ . Table 7 illustrates an overview of the one-way analysis of variance conducted.

Table 7

*One-way analysis of variance between level of substantiation of parental alienation and number of alienating behaviors employed by alienating parent*

	<i>n</i>	Mean (SD)	F	Sig.
Level of substantiation of parental alienation by judge			4.452	0.014*
Unsubstantiated	30	2.90 (2.77)		
Identified	40	4.18 (3.09)		
Findings	30	5.16 (2.91)		
	Total	100		

Note: \* $p<.05$ , \*\* $p<.01$

### 3.6 Chi Square Analysis of Mental Health Professional Factors

Custody evaluations were conducted by female custody evaluators in 29 (52.7%) cases, whereas male custody evaluators conducted assessments in 26 (47.3%) of cases. There was no statistical difference between female and male custody evaluators in their likelihood to identify parental alienation,  $\chi^2(1, N=54)=0.08, p>.05$ . See Table 7 for an illustration of frequencies and total percentages of case factors in the context of gender of custody evaluator.

There was no statistical difference between gender of custody evaluators and their identification of parental alienation based on gender of the alienating parent,  $\chi^2(1, N=54)=3.13, p>.05$ . Table 8 and 9 illustrates an overview of the crosstabulation of gender of custody evaluator by custody evaluator's likelihood of identifying parental alienation by gender of alienating parent.

Table 8

*Frequencies & Total Percentages of Case Factors in Context of Gender of Mental Health Professional*

	Gender <sup>1</sup>		$\chi^2$
	Female Custody Evaluator <i>n (%)</i>	Male Custody Evaluator <i>n (%)</i>	
Presence of Custody & Access Assessment			
Yes	29 (52.7)	26 (47.3)	/
Identification of Parental Alienation			
Yes	20 (69.0)	17 (65.4)	0.08
No	9 (31.0)	9 (34.6)	

Note: missing data: <sup>1</sup>(n=6); \* $p<.05$ , \*\* $p<.01$

Table 9

*Alienating Parent \* Custody Evaluator Identified Parental Alienation \* Gender of Custody Evaluator Crosstabulation*

Gender of Custody Evaluator <sup>1</sup>	Alienating Parent	Custody Evaluator Identified Parental Alienation		$\chi^2$
		No	Yes	
		n (%)	n (%)	
Male	Alienating Parent			0.47
	Mother	7 (38.9%)	11 (61.1%)	
	Father	2 (25.0%)	6 (75.0%)	
Female	Alienating Parent			3.15
	Mother	8 (42.1%)	11 (57.9%)	
	Father	1 (10.0%)	9 (90.0%)	
Total	Alienating Parent			3.13
	Mother	15 (40.5%)	22 (59.5)	
	Father	3 (16.7%)	15 (83.3%)	

Note: missing data: <sup>1</sup>(n=6); \* $p < .05$ , \*\* $p < .01$

### 3.7 Chi Square Analysis of Child Factors

One of the four child factors evaluated reflected significant findings between child factors and alienating parent gender (i.e., mothers or fathers). Judges were not more likely to identify or find alienation in families with only female children,  $\chi^2(1, N=99)=2.29$ ,  $p > .01$ , with only male children,  $\chi^2(1, N=99)=0.90$ ,  $p > .01$ , or families with both female and male children,  $\chi^2(1, N=99)=1.57$ ,  $p > .01$ . Judges were less likely to identify or find alienation in families with one child,  $\chi^2(1, N=99)=8.13$ ,  $p < .01$ , than those with two children,  $\chi^2(1, N=99)=8.98$ ,  $p < .01$  whereas in families with three children  $\chi^2(1, N=99)=0.09$ ,  $p > .01$ , or four children,  $\chi^2(1, N=99)=0.43$ ,  $p > .01$ , there was no significant difference. Although not significant, a pattern suggests that families with older children are more likely to have alienation identified. There was no statistical difference between identification or findings of alienation in families with

children who were under six years of age,  $\chi^2(1, N=99)=0.01$ ,  $p>.01$ , six to eleven years twelve months of age,  $\chi^2(1, N=99)=1.46$ ,  $p>.01$ , or those with children who were twelve years of age or older,  $\chi^2(1, N=98)=3.17$ ,  $p>.05$ . Table 10 illustrates the child-related factors in this study.

Table 10

*Total Percentages of Trial Outcome over Child Factors*

	Trial Outcome		$\chi^2$
	Alienation identified/ found	Alienation unidentified	
	<i>n</i> (%)	<i>n</i> (%)	
<b>Gender Children in Family</b>			
Only Female Children	20 (29.0)	13 (44.8)	2.29
Only Male Children	26 (37.7)	10 (34.5)	0.90
Mixed Gender	23 (33.3)	6 (20.7)	1.57
<b>Number of Children</b>			
One Child	25 (35.7)	20 (66.7)	8.13**
Two Children	34 (48.6)	5 (16.7)	8.98**
Three Children	10 (14.3)	5 (16.7)	0.09
Four Children	1 (1.4)	0 (0.0)	0.43
<b>Age of Child</b>			
Under 6	18 (25.7)	8 (26.7)	0.01
6 to Under 12	40 (57.1)	21 (70.0)	1.46
12 and over	32 (45.7)	8 (26.7)	3.17

Note: \* $p < .05$ , \*\* $p < .001$

None of the evaluated alienating behaviors exhibited by the child reflected significant findings between the likelihood of the child to exhibit each alienating behavior due to the gender of the child. Therefore, neither female nor male children were more or less likely to exhibit the listed alienating behaviors below.

There was no statistically significant difference in female children versus male children's use of, speaking negatively about the alienated parent without guilt, remorse or embarrassment,  $\chi^2(2, N=98)=2.02, p>.01$ ; speaking negatively about the alienated parent's extended family without guilt, remorse, or embarrassment,  $\chi^2(2, N=98)=0.092, p>.01$ ; speaking to the alienated parent negatively without guilt,  $\chi^2(2, N=98)=3.052, p>.01$ ; speaking to the alienated parent's extended family negatively without guilt,  $\chi^2(2, N=98)=0.970, p>.01$ ; refusing to visit with the alienated parent,  $\chi^2(2, N=98)=1.858, p>.01$ ; refusing to interact with the alienated parent,  $\chi^2(2, N=98)=1.474, p>.01$ ; physically assaulting the alienated parent,  $\chi^2(2, N=98)=2.880, p>.01$ ; displaying guilt about expressing affection for the alienated parent,  $\chi^2(2, N=98)=0.252, p>.01$ ; expressing fear of alienated parent,  $\chi^2(2, N=98)=1.505, p>.01$ ; discussing adult matters,  $\chi^2(2, N=98)=1.672, p>.01$ ; demonstrating favoritism for alienating parent,  $\chi^2(2, N=98)=0.755, p>.01$ ; withholding information from alienated parent,  $\chi^2(2, N=98)=0.689, p>.01$ ; referring to the alienated parent by first name,  $\chi^2(2, N=98)=2.051, p>.01$ ; disregarding the alienated parent's rules, values, and authority,  $\chi^2(2, N=98)=0.302, p>.01$ ; expressing guilt about spending time with the alienated parent,  $\chi^2(2, N=98)=0.929, p>.01$ ; expressing guilt about spending time with the alienated parent's extended family,  $\chi^2(2, N=98)=1.139, p>.01$ ; prescribing to the independent thinker phenomenon,  $\chi^2(2, N=98)=1.425, p>.01$ . Table 11 illustrates child-related alienating factors examined in this study.



Table 11

*Frequencies of Alienating Behaviors by Child in Context of Gender Child*

	Gender <sup>1</sup>	
	Females	Males
	<i>n</i> (%)	<i>n</i> (%)
Made negative comments about alienated parent	14 (29.8)	20 (39.2)
Made negative comments about extended family	2 (4.3)	2 (3.9)
Speaks negatively to alienated parent	6 (12.8)	13 (25.5)
Speaks negatively to alienated parent's family	0 (0.0)	1 (2.0)
Refuses to visit alienated parent	22 (46.8)	25 (49.0)
Refuses to interact with alienated parent	17 (36.2)	15 (29.4)
Physically assaults alienated parent	2 (4.3)	7 (13.7)
Displays guilt about expressing affection for alienated parent	4 (8.5)	5 (9.8)
Expressed fear of alienated parent	13 (27.7)	10 (19.6)
Discusses adult matters	15 (31.9)	20 (39.2)
Demonstrates favoritism for alienating parent	13 (27.7)	14 (27.5)
Withholds information from alienated parent	2 (4.3)	4 (7.8)
Refers to alienated parent by first name	2 (4.3)	6 (11.8)
Disregards alienated parent's rules, values & authority	6 (12.8)	6 (11.8)
Expresses guilt about spending time with alienated parent	5 (10.6)	3 (5.9)

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Expresses guilt about spending time with alienated parent's family	1 (2.1)	0 (0.0)
Prescribes to independent thinker phenomenon	11 (23.4)	8 (15.7)

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*Note.* Columns will not total to 100 as children could demonstrate more than one alienating behavior.

## Chapter 4

### 4 Discussion

The overall purpose of this study was to examine how the term, ‘parental alienation’ is used within Canadian court cases and whether or not there is a gender difference within the use of parental alienation before the court by mothers or fathers. Furthermore, this study investigated whether male or female legal (i.e., judges) and mental health professionals (i.e., custody evaluators) were more or less likely to identify parental alienation, and whether the gender of parents played a role in this decision. The results will be discussed through the scope of the impact of individual factors on the outcome of the identification of parental alienation.

Individual analyses suggested that judges were most likely to identify parental alienation (i.e., when the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence) than make findings of parental alienation or parental alienation syndrome. Following identification of parental alienation, judges made findings of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan) in nearly one third of the cases and very rarely made findings (i.e., less than five percent of the cases) of parental alienation syndrome.

Analyses of individual factors suggested that in cases where judges identified parental alienation (i.e., when the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence), mothers were more likely to be identified as the alienating parent than fathers across gender of parent. However, when reporting within gender, judges identified (i.e., when the allegations raised by a parent were seen as legitimate concerns by judges with some basis in fact from the evidence) a higher proportion of fathers as alienating parents than mothers.

In cases where judges made findings of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan), male judges were more likely to make these decisions than female judges. However, in cases heard by female judges, they were much more likely to identify fathers as the alienating parent than mothers. These findings support the third hypothesis that there would be a difference in the way in which female, in

comparison to male judges, approach findings of cases citing family law issues due to inherent gender bias issues.

Many of the variables studied did not differentiate decisions identifying or finding parents of alienation in comparison to those decisions that did not identify or find alienation. For example, identification or findings of alienation were not more likely to occur depending on the gender or age of the children. For some of the variables, the small numbers in the sample size and missing information in some of the decisions limit these findings.

## 4.2 Impact of Individual Factors

**Parental factors.** The five parental factors that reached significance were related to the gender of the parent, alienated parent primary caregiver status, findings of domestic violence against alienating parent, allegations of domestic violence against alienated parent, and findings of domestic violence against the alienated parent.

As the literature suggested, mothers were identified or found to be the alienating parent more often than fathers. However, mothers who were alleged to be the alienated parent were much more likely to be given the primary caregiving status than fathers who were alleged to be the alienated parent. This finding is consistent previous research that suggests that there are certain factors that lead courts to the “Tender Years Doctrine” (a maternal presumption) and the maintenance of status quo. Various explanations for this gender imbalance have been put forth. These theories are presented below and are outlined as, (1) the lasting effects of the “Tender Years Doctrine” on the courts; (2) the maintenance of status quo; and (3) domestic violence as an influencing factor.

**1. The lasting effects of the “Tender Years Doctrine” on the court.** Research states that although mothers are significantly more often the alienating parent, mothers much more frequently have sole custody of their children. Bala, Hunt and McCarney (2010) suggest that this is due to the fact, that historically, mothers were much more likely to have custody of their children which leads to a greater opportunity for attachment and thus, a larger window of opportunity for alienation to transpire (Bala, Hunt, & McCarney, 2010). This conceptualization of mothers having a greater attachment bond with their children informed what was called “The Tender Years Doctrine”. This common-law doctrine presumed that

during a child's "tender" years (i.e., four and under), the mother should have custody of the child. The "Tender Years Doctrine" is assumed by some to be continually influencing current judicial decision-making (Kaslow & Schwartz, 1987; Kopetski, Rand, & Rand, 2006; Palmer, 1988). This maternal presumption states that mothers are much more likely to be deemed primary caregiver than fathers as a result of the thinking that young children need their mothers as they are more nurturing and therefore elicit a greater attachment relationship.

**2. The maintenance of status quo.** Another line of thinking that supports the finding of mothers being more likely to be ordered primary caregivers despite allegations and findings of parental alienation is the maintenance of status quo. This explanation states that when mothers present before the court, with allegations and even findings of parental alienation against them, the judge may feel that it would be more detrimental to the child(ren) to disrupt the status quo (i.e., have the child change where they live, go to school, their friends, etc.) than to leave the child(ren) in their mother's care. For example, in the court decision of *Anderson v. Renzetti*, (2012) Justice Dellapinna stated, "I considered granting primary care of (*the children*) to the Applicant but words on paper won't repair their damaged relationship. I believe that it is likely that one or both children would run away from their mother if they were forced to return to her home and I have been cautioned by (*the custody evaluator*) that such a remedy may cause further psychological harm to them." (p. 861). In parental alienation cases such as this the alienating parent (more often the mother) has created a situation in which the child dislikes, or is extremely uncomfortable with, the other parent, and the courts therefore have a difficult time in changing the status quo whereby forcing a child into unfamiliar territory as it may result in the children "running away from home" or in "further psychological harm."

**3. Domestic violence as an influencing factor.** The present study is supported by current literature that states that although mothers are more often the alleged alienating parent across gender, when compared within gender, the proportion of fathers who are identified as the alienating parent results as in a greater percentage than mothers who are deemed the alienating parent. This may be related to the fact that mothers who had allegedly alienated their children were less likely to have findings of domestic violence against them than fathers who had allegedly alienated their children. Similarly, mothers who were allegedly alienated parents were less likely to have allegations of domestic violence and subsequently less likely

to have findings of domestic violence against them in comparison to alienated fathers who were much more likely to have both allegations and findings of domestic violence against them. Therefore, the factor of domestic violence may be playing a significant role in mediating judge's findings of parental alienation and custody decisions.

This is supported by research that suggests that the above gender bias is due to a recent increase in allegations of parental alienation as counter measures in court cases where domestic violence has been alleged against fathers (Brown, 2008). Commonly, by accusing mothers of parental alienation, abusive fathers are able to divert judicial focus from their wrongdoings and place mothers in the spotlight of 'emotional abuse' of their child. Through these often times misconstrued allegations of parental alienation, abusers can maintain control over their spouses if they gain custody of their children (Brown, 2008; Fidler & Bala, 2010). Oftentimes, mothers who are in all actuality trying to protect their children from their abusive partners are labeled as "alienators", which results in them being labeled as the perpetrator (of parental alienation). This often overshadows the allegations, or findings, of domestic violence against the "alienated" parent, who is usually the father.

From this, children then run the risk of being placed with abusers—sometimes despite substantial evidence of abuse—due to the allegation of parental alienation. Many times, children's adaptive and positive coping mechanisms of dealing with their symptoms of abuse or witnessing abuse, such as refusing contact with the abusive parent, or telling stories of their wrongdoings are wrongfully construed as evidence of parental alienation (Bruch, 2001; Hoult, 2007; Meier, 2009).

### **Judicial factors.**

The two judicial factors that reached significance were related to the judge's gender and judge's finding of parental alienation (i.e., used alienation as one of the reasons for the final decision and parenting plan). The current study revealed that in making findings of parental alienation, male judges are more likely to find parents as alienating than female judges. However, female judges are much more likely to find fathers as the alienating parent than they are to place this finding on mothers. These findings supported the third hypothesis as they demonstrated the fact that there are gender differences in the way female judges make

findings pertaining to family law cases citing parental alienation in comparison to the means in which male judges do.

Drawing from related literature on gender bias in custody evaluations and domestic violence cases, female judges were more sensitive to domestic violence issues which may make them more hesitant to apply parental alienation labels since the victim concerns about the other parent have a basis in fact (i.e., not poisoning but rather protecting). Previous research has demonstrated female legal and mental health professionals are significantly more likely to report unintended negative consequences if parental alienation is included in the DSM-V than male legal and mental health professionals surveyed (Jaffe, Harris & Aujla, 2012).

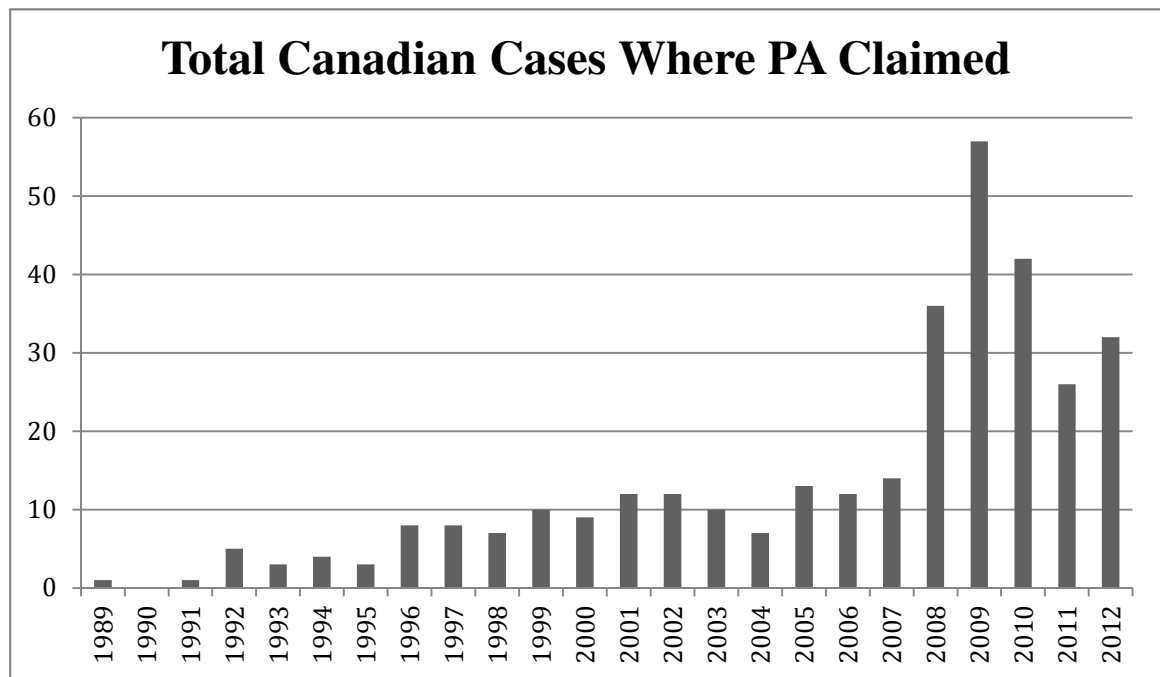
**Mental health professional factors.** None of the mental health professional factors reached significance and therefore, this part of the third hypothesis was not supported as there were no statistical differences between male and female mental health professionals identification of parental alienation in general, or based on gender of the parent. One explanation for this is that mental health professionals may have a better self-awareness of the means in which their gender may impact their decision-making and may be more conscious of how it interacts with the way in which they assess clients for the court.

**Child factors.** The only child factor that reached significance was number of children in the family. Families with only one child were less likely to have a parent identified or found as committing alienation than those families with two children. This finding was not supported by any research that currently exists and therefore is considered to be a potentially spurious finding elicited by a third, confounding factor.

Interestingly, although not significant, a pattern suggests that alienation is more effective with older children as there are more families with older children where alienation was found in their family than those families with younger children. This is consistent with existing research that suggests, “for children to form alignments with an angry parent and correspondingly reject the other parent, they need sufficient cognitive and emotional maturity...For these reasons it is unusual to see children whose alienation from a parent is consolidated and hardened prior to age 7 or 8,” (p. 260, Kelly & Johnston, 2001). With a larger data set this pattern may have reached significance.

## 4.2 Current findings in relation to previous research

The current study demonstrates that those Canadian court cases citing parental alienation are continuing to increase gradually. This is consistent with previous literature that has found as more cases are successful in citing parental alienation as a means to obtain their desired outcome and it becomes case law, the more likely the employment of the term ‘parental alienation’ is to grow (Bala, Hunt, & McCarney, 2010).



\*Note. Data from 2009 was updated and provided by Fidler, Bala and Saini (2013).

*Figure 2.* Total Canadian court cases where parental alienation (PA) was claimed incorporating data collecting from Bala, Hunt, and McCarney (2010), Fidler, Bala, and Saini (2013) and data from the current study.

## 4.3 Recommendations for Future Research

**Better method for heterogeneous group.** The alienation sample of cases appears heterogeneous or to consist of different clusters of factors. Judges may be influenced by the interaction of factors in making judicial decisions, however, this study used a variable-oriented approach to analyze the judges’ decisions, which does not consider how different factors may or may not be important in relation to different categories within the sample and



ultimately within a judge's final decision. For example, a case involving multiple children of different ages and gender, joint custody, and allegations of domestic violence may lead to a finding of parental alienation, whereas another case may have primary custody with the mother, one eight year old child, and no concerns of domestic violence and not have a finding of parental alienation. Thus, it is the groupings of factors that would be related to an outcome, rather than single factors.

**Employing a mixed methods approach.** Although the current study gathered a large quantity of data from the cases reviewed, richer data could be collected from a study that employed a mixed-methods approach that both reviewed Canadian court decisions and interviewed families about their experience and followed the families longitudinally, across time. By employing a mixed-methods approach future research could gain important information such as how often families returned to court, the effectiveness of judicial orders, the outcomes for children over time, and other related outcomes. Furthermore, more qualitative accounts from families could be gathered pertaining to their experiences with specific court processes (i.e., the process to get to court, how parents felt they were treated, if parents citing domestic violence felt safe in their proceedings, how children's wishes were managed, etc.). This data would allow for the research to better understand parent's struggles and successes within the system in an effort to pinpoint areas in need of improvement, which could be addressed by policy change.

### **4.3 Long-term outcomes for children of parental alienation**

While it is important to analyze the patterns that exist in the way that parental alienation cases are handled in the courts, it is even more important to start establishing the research on the impacts of these decisions. Research on the long-term outcomes of parental alienation in Canada has been limited.

Retrospective research on adults who claim to have experienced parental alienation when they were children have demonstrated those adult children of divorce who perceived experiencing greater levels of behaviors and experiences congruent with those outlined in the criteria associated with parental alienation were more likely to perceive experience greater levels of psychological distress (Reay, 2007). Despite this important research, there has been limited research to date that analyzes children's (i.e., those under the age of 18) experiences

during the time of their parent's divorce and subsequent alienation experience and moving forward into how this may affect their romantic relationships later in life.

#### **4.4 Future Directions for Professionals**

##### **Judges and Lawyers**

**Being aware of domestic violence in judicial decisions citing parental alienation.** As is illustrated above, there is a relationship between those parents with findings of committing domestic violence and their status as an alienated parent. More often, alienated parents (particularly fathers) were more likely to also have a history of domestic violence in comparison to alienating parents. This has been attributed to the alleged alienated parent alleging that their partner is an alienating parent in an effort to divert judicial focus from their wrongdoings and place their former partner in the spotlight of 'emotional abuse' of their child. Through these often times fabricated allegations of parental alienation, abusers can maintain control over their spouses if they gain custody of their children (Fidler & Bala, 2010).

Abusive parents may also use parental alienation to further their control over their former partners by distancing or cutting off access between their former partner and their children as a means of controlling their former partner even after the dyad has split. Although this has less support, it makes sense that a parent who has already perpetrated abuse against their partner would continue to do so as a way to

Judges and lawyers need to be aware of the intersection between parental alienation and domestic violence that has been illustrated above. This is particularly important due to the nature of the children involved in these cases who may become at an increased risk of being placed with parents who are domestically violent, due to allegations of parental alienation (Bruch, 2001; Hoult, 2007; Meier, 2009). Judges and lawyers need to push for domestic violence screening at the onset of a court case and take allegations of domestic violence seriously.

**Encouraging early assessment.** Bala, Fidler, Goldberg and Houston (2007) suggest that when presented with cases citing parental alienation, legal professionals, including lawyers

and judges, need to facilitate early assessment by a qualified mental health professional and ultimately intervene before attitudes harden and patterns are set. Furthermore, the judicial system needs to implement more resources to reduce slow judgments by courts as they have been found to exacerbate litigious and high-conflict situations, particularly those alleging parental alienation (Cartwright, 1993).

**Continuing education.** Gender bias in the courts is a historically significant construct in the literature. A task force on gender bias in the courts once said, “As long as judges adhere to gender based myths, biases and stereotypes, the intent of the laws can be compromised or subverted through the exercise of judicial discretion,” (Foundation for Women Judges, 1986). The current study supported this statement nearly 30 years after this recommendation as it found gender bias as an influencing factor in family court decisions as gender of judge made a difference in the outcome and orders of cases, particularly in the case of parental alienation.

Research has recommended that education committees for judges strengthen the gender-bias education components of the new judges’ pre-bench training program and of the mandatory and voluntary conferences for experienced judges (Gender Bias in the Courts Task Force, 2001; Hinds & Bradshaw, 2005). This task force further recommended that similar training be given to all courtroom professionals and that bar associations increase awareness of gender bias through continual lectures and literature throughout career (Gender Bias in the Courts Task Force, 2001). Hinds and Bradshaw (2005) supported this recommendation when they suggested that education for lawyers, both during their formal education, and also continuing into their legal practice, needs to expose them to social science perspectives “including an understanding of the issues of domestic violence and the psychological and emotional issues associated with separation,” (p. 452).

This is congruent with the current study findings, which suggest that mental health professionals’ gender and the gender of alienating parent were not influencing factors in making recommendations. However, in judicial decisions these factors were significantly related and ultimately led to influenced judicial decisions. This may be due to mental health professionals’ foundational training and its emphasis on self-awareness, whereas legal professionals’ training may not have such an in-depth self-analysis during their training. Hinds and Bradshaw (2005) suggest that continuing social science training on these matters

would aid these professionals in representing their clients in “ways not affected by personal and gender-related bias” (p.453).

#### **4.5 Limitations of Study**

This study has several limitations to consider when making interpretations of the findings. The individual judges’ decisions varied on the amount of data provided on the factors, even with what the social science and legal research suggested to be relevant factors. For example, there was such a high proportion of missing data on factors pertaining to financial status of families that it was not included in the analyses. As literature suggests that financial increases are associated with more positive child outcomes, further information collected on this factor and its association with cases citing parental alienation would be an important contribution to the literature.

In line with this limitation, judicial decisions are complex and there are multiple factors at play. The current study investigated only individual factors, one at a time. In some of the cases analyzed by the current study, parental alienation was the central issue considered by the judge; in other cases, parental alienation was one of the multitudinous contributing factors placed before the judge. It is difficult to say whether the presence of the other factors (i.e., domestic violence, financial considerations, move related scenarios, etc.) would have taken the emphasis off of the allegations of parental alienation or highlighted them. Further research on exacerbating factors of parental alienation would be an important contribution to the existing literature.

The study’s findings are not generalizable to all parental alienation cases. The purpose of this study was to increase knowledge of the factors that influence the outcome of cases citing parental alienation in Canadian court. As is noted above, it is important to consider that many cases do not reach litigation due to the alienating parent ‘giving up’ as a product of a sense of hopelessness in dealing with a hostile situation, and a byproduct of lacking both the emotional and financial resources to continue litigation. Therefore, cases that settle were not the focus of the current study, although they are cited to be similar to those cases that are the focus of the current study - those that go to trial and are reported (Bala, Hunt, & McCarney, 2010). Admittedly, there may be aspects of those cases that go to trial that are qualitatively

different than those that settle and therefore may not be generalizable to all families that cite alienation.

Furthermore, the cases in this study were selected nationally, including all provinces and territories in the sample. However, there is some variability in the provincial legislation that guides the “best interests of the child” decisions across the provinces that do not fall under the Divorce Act. There may also be variability in generalizing across provinces as important differences may have been unaccounted for (i.e., cultural differences). Future research could analyze if differences between cases of each province exist.

Finally, the sample size obtained for this study ( $n=100$ ), was small. The small sample size produced limited data on variables of interest such as social economic status of parents, gender of children, as well as alienating behaviors. The small sample size in this study should be taken into consideration when interpreting the results and further research should use a larger sample to replicate the findings. Additionally, elements of randomization were to be included in the selection process of cases, however, it could not be implemented in the current study’s methodology due to the limited number of cases that met inclusion criteria ( $n=100$ ).

## Chapter 5

### 5 Conclusion

It is undeniable that parental alienation is a growing part of current child custody disputes. Since 1989 when the term “parental alienation” was first cited in a Canadian court case, the number of litigated parental alienation cases has increased exponentially. Indeed, there were 30 cases citing findings of parental alienation in 2012 alone. Experts in the field continue to view these family law cases as some of the most difficult to predict due to the controversy surrounding the legitimacy and scope of parental alienation and its effects on children. A portion of this controversy is found in the parental alienation literature where the lack of consistency with which the term parental alienation, and further, with which Parental Alienation Syndrome (PAS) are being employed, despite the recent decision of the American Psychological Association not to include PAS as diagnosis in the recently released DSM-5. These elements shape the current illustration of parental alienation in Canadian court cases.

More specifically, gender bias has been found to be a significant factor in these cases. Mothers continue to much more likely to be alleged and found as the alienating parent in comparison to fathers. This gender bias is not limited to the parents involved in these cases. Gender of judges, but not custody evaluators, was found to significantly predict findings of parental alienation in the current study. Gender of judge significantly interacted with gender of alienating parent in identifying alienation in Canadian court cases in the current study.

While there is limited research into the long-term impacts of parental alienation on parents and children, there is substantial research on the negative impact of high-conflict divorce and continued impact of post-separation conflict on children, which would support the use of more structured guidelines in managing these cases.

Recent and future research on parental alienation may help to bolster the development of guidelines for family court representatives in Canada in providing more predictability in the outcome of these cases. Clearer guidelines and earlier intervention may result in fewer cases going to trial, thereby decreasing the high-conflict and litigation experienced by parents, and more importantly the children. The divorce research in combination with these findings of this study illustrate patterns in the decisions and provide some rationale for proposing further

guidelines to facilitate the process for judges, lawyers, and, most importantly, parents and children in crisis.

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## Appendix A

*Quicklaw search results*

<i>Database</i>	<i>Terms</i>	<i>Syntax Used</i>	<i>#Cases 2010- 2012</i>	<i>#Cases 2000- 2002</i>	<i>#Cases 1990- 1992</i>
Quicklaw	Replication of Bala's search terms	"parental alienation" or "alienated child" or "alienated" or "alienating parent"	331	180	13

*\*Note: Searching terms with truncation found many cases where parental alienation was irrelevant*



## Appendix B

## Coding Data Sheet: Parental Alienation Variables Examined in Judges' Decisions

Case Name: \_\_\_\_\_

Coder: \_\_\_\_\_

Date of Coding: \_\_\_\_\_

Parent 1 (Alienating Parent (AP)): \_\_\_\_\_

Parent 2 (Non-Alienating Parent (Non-AP)): \_\_\_\_\_

Date of Separation (years): \_\_\_\_\_

Date of Divorce (years): \_\_\_\_\_

Date of Judgment \_\_\_\_\_

Number of previously reported trials: \_\_\_\_\_

<i>Coding Sheet for Parental Alienation Case Review Study</i>					
Representation Status of Parent 1	0 = Self	1 = Lawyer	2 = Legal Aid	3 = Not reported	
Representation Status of Parent 2	0 = Self	1 = Lawyer	2 = Legal Aid	3 = Not reported	
Gender of Judge	0 = Male	1 = Female	3 = Both	4 = Not available	
Gender of Custody Evaluator	0 = Male	1 = Female	3 = Both	4 = Not available	
Gender of Alienating Parent	0 = Male	1 = Female	3 = Both	4 = Not available	
Gender of Alienated Parent	0 = Male	1 = Female	3 = Both	4 = Not available	
Number of Children	0 = 0 children	1 = 1 child	2 = 2 children	3 = 3 children	4 = 4 children or more
Number of Total Children (includes step children)	0 = 0 children	1 = 1 child	2 = 2 children	3 = 3 children	4 = 4 children
	5 = 5 children	6 = 6 children or more			
Age of children	Child 1:	Child 2:	Child 3:	Child 4:	Child 5:
Gender of Child 1	0 = Male	1 = Female	3 = Not available		
Gender of Child 2	0 = Male	1 = Female	3 = Not available		
Gender of Child 3	0 = Male	1 = Female	3 = Not available		
Gender of Child 4	0 = Male	1 = Female	3 = Not available		
Gender of Child 5	0 = Male	1 = Female	3 = Not available		
Parent 1 Marital					

Status	0= Single	1= Dating	2= Common Law	3= Married	4= Divorced
	5 = Separated	6 = Not available			
Parent 2 Marital Status	0= Single	1= Dating	2= Common Law	3= Married	4= Divorced
	5 = Separated	6 = Not available			
Parent 1 Occupation					
Parent 1 Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 2 Occupation					
Parent 2 Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 1 Partner Occupation					
Parent 1 Partner Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Parent 2 Partner Occupation					
Parent 2 Partner Income	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Household Income Parent 1	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Household Income Parent 2	0= Less than \$10,000	1= \$10,000 - \$14, 999	2= \$15,000 - \$24, 999	3= \$25,000 - \$49,999	4= \$50, 000 – \$99, 999
	5= \$100,000 - \$149,999	6= \$150, 000 - \$199,999	7= \$200,000 or more	8= No information	
Judge deems AP primary caregiver	0= Yes, explicitly states	1= J. describes AP as PC	2= Both parents/ Neither parents PC	3= J. says AP is not PC explicitly	4= Not available
Parent 1 meets definition of primary caregiver	0= No	1= Yes	2= Unsure/ too little info.	3= No information	
Parent 2 meets definition of primary caregiver	0= No	1= Yes	2= Unsure/ too little info.	3= No information	
Primary Caregiver Gender	0= Male	1= Female	2= Both	3= Unknown	
Primary Caregiver Biological Parent?	0=No	1= Yes	2= Unknown		

Allegations of Alienating Behavior by Parent 1	0= No	1= Yes	2= Not applicable		
Allegations of Alienating Behavior by Parent 2	0= No	1= Yes	2= Not applicable		
Relationship between Child 1 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 2 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 3 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 4 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 5 and Parent 1	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 1 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 2 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 3 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 4 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Relationship between Child 5 and Parent 2	0= Poor	1= Neutral	2= Good	3= No information	4=Conflicting information
Conflict in Parental Relationship	0= Low	1= Medium	2= High	3= No information	
Judge orders custody evaluator	0 = No	1 = Yes	2= No information		
Presence of Custody Evaluation	0= No	1= Yes	2= Not Applicable		
# of Mental Health professionals involved in case	0 =0	1=1	2=2	3=3	4=4
	5=5	6= 6 or more			
Presence of Child Protective Services	0= No	1= Yes	2= No information		
Parent 1 Received individual counselling pre-	0 = No	1 = Yes	2= No information		

trial					
Parent 2 Received individual counselling pre-trial	0 = No	1 = Yes	2= No information		
Parent 1 Received individual counselling during trial	0 = No	1 = Yes	2= No information		
Parent 2 Received individual counselling during trial	0 = No	1 = Yes	2= No information		
Parent 1 Received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Parent 2 Received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Children received individual counselling pre-trial	0 = No	1 = Yes	2= No information		
Children received individual counselling during trial	0 = No	1 = Yes	2= No information		
Children received individual counselling post-trial	0 = No	1 = Yes	2= No information		
Family Therapy received pre-trial (all members)	0 = No	1 = Yes	2= Yes, but 1 parent absent/refused	3= No information	
Family Therapy received during trial (all members)	0 = No	1 = Yes	2= Yes, but 1 parent absent/refused	3= No information	
Family Therapy received post-trial (all members)	0 = No	1 = Yes	2= Yes, but 1 parent absent/refused	3= No information	
Allegations of domestic violence (physical & sexual) against Parent 1	0 = No	1 = Yes	2= No information		
Allegations of child abuse (physical, sexual & neglect) against Parent 1	0 = No	1 = Yes	2= No information		
Allegations of domestic (physical & sexual) violence against Parent 2	0 = No	1 = Yes	2= No information		

Allegations of child abuse (physical, sexual & neglect) against Parent 2	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction) of domestic violence against Parent 1	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction)of child abuse against Parent 1	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction) of domestic violence against Parent 2	0 = No	1 = Yes	2= No information		
Finding (incl. previous conviction)of child abuse Parent 2	0 = No	1 = Yes	2= No information		
AP displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information	3= Contradicting information	
Non-AP displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information	3= Contradicting information	
Child 1 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 2 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 3 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 4 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child 5 displays psychological problems, traits and/or disorder	0 = No	1 = Yes	2= No information		
Child(ren) received individual counseling for alienation	0 = No	1 = Yes	2= No information		

Child(ren) received group therapy for alienation	0 = No	1 = Yes	2= No information		
Child(ren) attended a workshop for alienation	0 = No	1 = Yes	2= No information		
Mental health professional (psychiatrist, psychologist, counselor or social worker) identified parental alienation	0 = No	1 = Yes	2= Conflicting information	3 = No information	
Judge identified parental alienation	0 = No	1 = Yes	2= No information		
Judge makes finding of parental alienation	0 = No	1 = Yes	2= No information		
Judge labels & makes finding of parental alienation as syndrome	0 = No	1 = Yes	2= No information		
Judge mandates counseling for AP for PA	0 = No	1 = Yes	2= No information		
Judge suggests counseling for AP for PA	0 = No	1 = Yes	2= No information		
Judge mandates counseling for Non-AP for PA	0 = No	1 = Yes	2= No information		
Judge suggests counseling for Non-AP for PA	0 = No	1 = Yes	2= No information		
Access Plan: AP cut-off	0 = No	1 = Yes	2 = No information		
Access Plan: Non-AP cut-off	0 = No	1 = Yes	2 = No information		
Access Plan: AP Supervised Access	0 = No	1 = Yes	2 = No information		
Access Plan: Non-AP Supervised Access	0 = No	1 = Yes	2 = No information		

**Types of Alienating Behavior(s) committed by AP:**

- Made negative comments about alienated parent
- Made negative comments about alienated parent's extended family
- Limited contact with alienated parent
- Withheld or blocked messages from alienated parent
- Made communication difficult with alienated parent
- Indicated discomfort about alienated parent
- Displayed negative affect when child(ren) shows affection with alienated parent
- Made child choose between parents



## Appendix C

## Operational Definitions for Parental Alienation Variables Examined in Legal Decisions

<i>Variable</i>	<i>Definition</i>
Alienating parent	Parent who engages in parental alienating behaviors
Non-alienating parent	Parent who is alienated from the child
Number of previously reported trials	Number of previous trials as related to custody for the children in question of current trial that has been cited in case
Representation Status of Parent 1	Self-representation in court; lawyer; legal aid (government funded lawyer)
Representation Status of Parent 2	Self-representation in court; lawyer; legal aid (government funded lawyer)
Gender of Judge	Male; female; no information
Gender of Custody Evaluator	Male; female, both, (if multiple evaluators), no information
Gender of Alienating Parent	Male; female; both (if both parents found to be engaging in alienating behaviors)
Gender of Alienated Parent	Male; female; both (if both parents found to be engaging in alienating behaviors)
Number of Children of Parents Involved in the Case	One Child; Two Children; Three Children; Four Children.
Number of Total Children (includes step children)	One Child; Two Children; Three Children; Four Children.
Gender of Children 1-4	Only Female Children; Only Male Children; or Mixed Gender (referring to at least one female and one male child in the family).
Age of Children 1-4	Under 6; 6 to under 12; 12 and over
Marital Status	
Household income	Combined income of each parent 1 and new partner, if applicable; combined income of parent 2 and new partner
Primary caregiver	Person who legally takes care of child(ren)



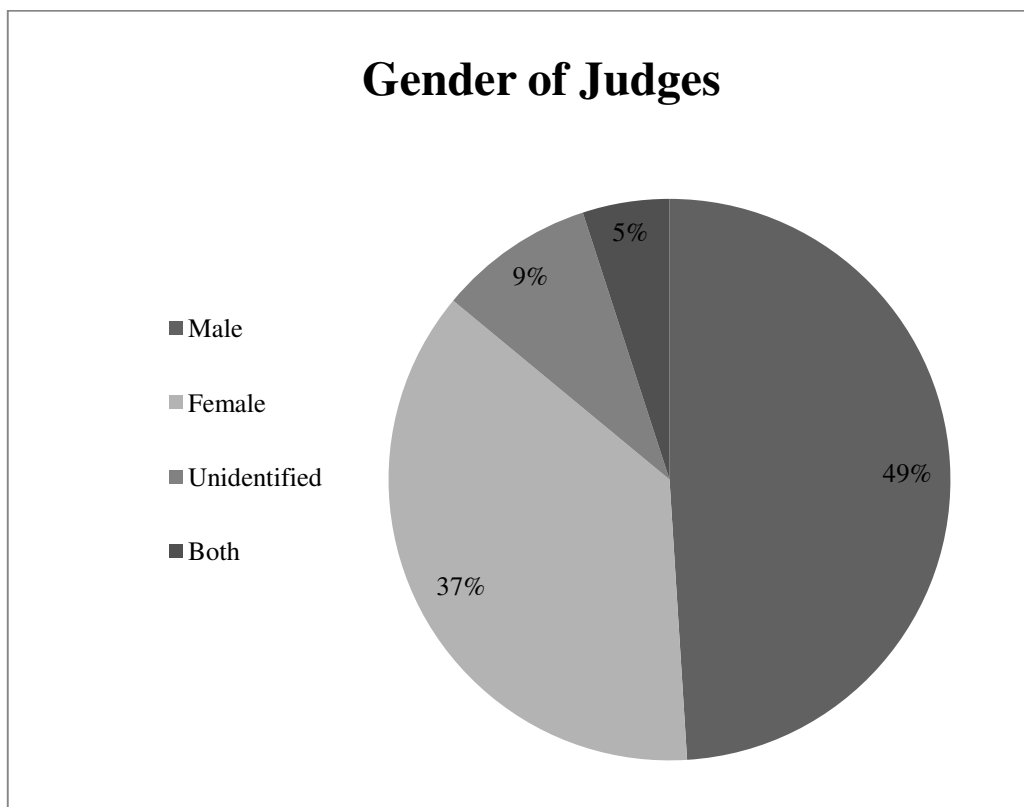
	most of the time; has legal guardianship to care for child(ren)
Allegations of alienating behavior	Parent claiming other parent has been engaging in alienating behaviors with child(ren)
Relationship between child and parent	Poor; neutral; good; no information; conflicting information as explicitly stated by legal and/or mental health professional
Conflict in parental relationship	Low (minimal disagreement between parents); medium (some agreement/ some disagreement between parents, parents can communicate pertaining to parenting); high (high disagreement, parents cannot communicate); no information
Custody evaluator	Employee of the court or private practitioner appointed by the court to conduct custody evaluation
Parent received individual counseling pre-trial, during trial and post-trial	Any counseling pertaining to divorce, separation or parenting skills
Children received counseling pre-trial, during trial and post-trial	Any counseling pertaining to divorce, separation, parental conflict, behavior and/or emotional problems
Family Therapy	Counseling sessions that include all willing parties (mother, father, and children)
Domestic violence	Physical and/or sexual assault of a partner
Child abuse	Physical, sexual and/or neglect of child
Allegation	Claim only
Identification	When the allegations raised by a parent were seen as legitimate concerns by the judge with some basis in fact from the evidence
Finding	Judge used alienation as one of the reasons for the final decision and parenting plan
Psychological problem(s) and/or disorder (diagnosis) assessed during trial	Results of any mental health professionals involved during trial indicating the subject may have a psychological problem(s)

	and/or disorder (diagnosis).
Judge mandates counselling	Refers to counselling to pertaining to parental alienation issues
Judge suggests counselling	Refers to counselling to pertaining to parental alienation issues
Access Plan: Cut-off	Parent no longer has contact with child(ren)
Access Plan: Supervised	Parent can only visit child(ren) under supervision
<i>Parental Alienation Behaviors of Alienating Parent</i>	
Negative comments toward alienated parent	Alienating parent makes negative comments about alienated parent to child(ren)
Negative Comments toward alienated parent's extended family	Alienating parent makes negative comments about alienated parent's extended family to child(ren)
Limiting Contact	Alienating parent limits contact with alienated parent such that child(ren) spends less time with alienated parent
Withheld/ Blocked Messages	Alienating parent withholds/ blocks messages from alienated parent to child
Hindering Communication	Alienating parent makes communication between alienated parent and child(ren) difficult (i.e., stays in room while child talks to alienated parent on phone)
Displays Discomfort with Alienated Parent	Alienating parent indicates discomfort pertaining to alienated parent
Negative Affect Regarding Relationship with Alienated Parent	Alienating parent displays negative affect when child(ren) shows affection toward alienated parent
Makes child choose between parents	Alienating parent has child(ren) choose between themselves and the alienated parent
Expressed concerns pertaining to the safety of alienated parent	Alienating parent states that alienated parent is unsafe to child(ren)

Confiding in child about “adult matters”	Alienating parent discloses “adult matters” to child(ren)
Requiring/ Demonstrating Favoritism	Alienating parent requires child(ren) to demonstrate preference for alienating parent over alienated parent
Spying/ Withholding Information	Alienating parent asks child(ren) to spy or withhold information from alienated parent
<i>Symptoms of Parental Alienation Observed in Child(ren)</i>	
Negative comments toward alienated parent	Child(ren) makes negative comments about alienated parent
Negative comments toward alienated parent’s extended family	Child(ren) makes negative comments about alienated parent’s extended family
Limiting contact	Child(ren) ignores/ refuses to visit alienated parent
Discomfort with alienated parent	Child(ren) express discomfort with alienated parent
Negative affect when discussing alienated parent	Child(ren) express negative affect (e.g., guilt, shame, etc) when discussing alienated parent
Safety concerns of alienated parent	Child(ren) express concerns pertaining to safety with alienated parent
Discussing “adult matters”	Child(ren) discuss “adult matters” (e.g., marital/ legal issues) as reason for disliking alienated parent
Dichotomous Thinking	Child(ren) expresses solely positive attributes concerning alienating parent and solely negative attributes pertaining to alienated parent
Spying/ Withholding Information	Child(ren) spies or withholds information from alienated parent

Independent Thinker Phenomenon	Child believes that his/her decision to profess a dislike for the alienated parent is one he/she arrived at on his/her own
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## Appendix D



*Figure 1.* Gender distribution of decision-making judges in the current study.

## Curriculum Vita

**Name:** Bryanne Margaret Harris

**Post-secondary Education and Degrees:** Saint Mary's University  
Halifax, Nova Scotia, Canada  
2007-2011 B.A. (Hons)

The University of Western Ontario  
London, Ontario, Canada  
2012-2014 M.A.

**Honours and Awards:** Western Graduate Research Scholarship (WGRS)  
2012-2014

SSHRC Joseph-Armand Bombardier Master's Scholarship  
2011-2012

Ontario Graduate Scholarship  
2011-2012 (declined)

Dean's Scholarship  
Wilfrid Laurier University  
2011-2012

Erich Burckhardt Scholarship  
2010-2011

**Related Work Experience** Student Intern  
Centre for Children & Families in the Justice System  
2013-2014

Research Assistant  
Dr. Rachel Birnbaum, King's University College  
2013-2014

Research Assistant  
Child and Parent Resource Institute (CPRI)  
2013-2014

Research Assistant  
Centre for Research & Education on Violence Against Women & Children  
2013-2014

Research Assistant  
Faculty of Education, University of Western Ontario

2012-2013

Research Assistant  
Clinical Psychology, University of Western Ontario  
2012-2013

Research Assistant  
IWK Centre for Pediatric Pain Research  
2010-2012

Teaching Assistant  
Wilfrid Laurier University  
2011-2012

Teaching Assistant  
Saint Mary's University  
2010-2011

**Publications:**

Jaffe, P., Straatman, A-L., Harris, B., Georges, A., Vink, K., & Reif, K. (2013). Emerging trends in teacher sexual misconduct in Ontario: 2007-12. *Education and Law Journal*, 23, 19-39.