Navigating Stormy Parenting Plans

Process Over Chaos

“Our life is what our thoughts make it.”

Marcus Aurelius
(121-180 AD)

“Three-Foot World.”

Navy SEALS
(2025 AD)

Legal Roundup

- **CA/Gov. Gavin Newsom Signs DV Bills, 9/27/24**

  - **Car Tracking** (SB 1394) - Car manufacturers must allow drivers to terminate remote access to vehicles, **prevents tracking, manipulation of car controls by abusers**.

  - **DV S/L** (SB 690): Increased from 5 to **7 years** (Incident <-> Report)

  - **Domestic-Homicide Justice** (SB 989) - Tools for investigators and victim's family members to **help prevent misclassification of homicide as suicide.**

- **CA Announcement:**

  https://www.gov.ca.gov/2024/09/27/governor-newsom-signs-bipartisan-bills-to-support-domestic-violence-victims/

Legal Roundup

- **CA/Gov. Gavin Newsom Signs DV Bills, 9/27/24**
  - Physical Violence from Partner: 1 in 5 women and 1 in 7 men in lifetime
  - **1 in 6 homicide victims killed by partner**
- **CA Announcement:**
- https://www.gov.ca.gov/2024/09/27/governor-newsom-signs-bipartisan-bills-to-support-domestic-violence-victims/

Legal Roundup

- **Uniform Law Commission - Uniform Family Law Arbitration Act (UFLAA), 2016**
  Adopted AZ; DC; HI; MT; ND; PA; WA

  - **WA State (UFLAA), effective 1/1/24**
    RCW 26.14
    Divorce, Custody, Child Support…

  - **Arbitrator Powers:** Appoint Experts; Attorney/GAL; Implement Limited Protective Measures (see RCW 26.14.120)

  - **Arbitrator Prohibited Powers:** Terminate Parental Rights; Issue/Modify/Renew DVPO; Permanently modify Parenting Plan Based on Finding Substantial Change in Circumstances (see RCW 26.14.020)

  - **Unclear Powers:** Process to Select Guardians; Limits on Allocating Guardian Fees; Policies for Appointing Experts; Procedures for Appointments When no Case is Actively Pending

- **UFLAA - WA Bar Association Overview:**

- **https://wabarnews.org/2024/09/11/washingtons-new-uniform-family-law-arbitration-act/#:~:text=Washington's%20Uniform%20Family%20Law%20Arbitration,1%2C%202024.**

Navigating Stormy Parenting Plans

- **Client's Journey —>**
  - DoooomScroll
  - Negotiations
  - Impasse
  - Cognitive Bias
  - Toolbox



Navigating Stormy Parenting Plans

- **Client's Journey —>**
  - **The "Why"**
    - Curse of Knowledge
    - Trust & Rapport
    - Client Education



DoomScroll

Alec Baldwin & Kim Bassinger

9-Year Marriage

8-Year Custody Battle

$3M Legal Expenses

90+ Court Hearings



Don’t Be That Crew

DoomScroll

- **Police “Line of Duty” Fatalities**

  (National Study, 2010 - 2014)

  - **Domestic Violence 22%**
  - Robbery 9%
  - Burglary 8%
    - valorforblue.org



DoomScroll

- **ChatGPT & Perceptions**
  - **File Divorce:**
    - M 31% vs. W 69%
  - **Custody:**
    - M 20% vs. W 80%
  - **House:**
    - M 25-40% vs. W 60-75%
  - **Pay Spousal Support:**
    - M 90-97% vs. W 3-10%

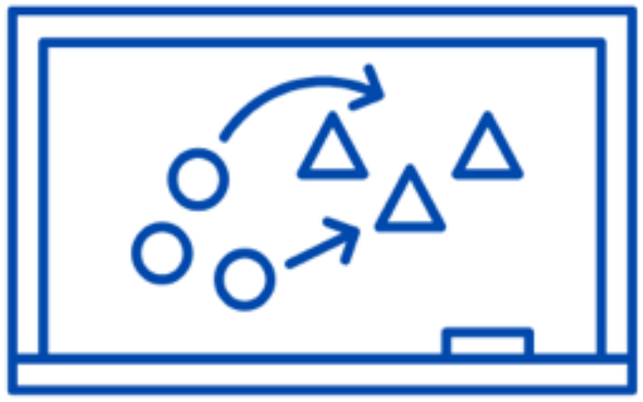


Negotiation Preparation

“No Solutions. Only Tradeoffs.”
Thomas Sowell, Economist

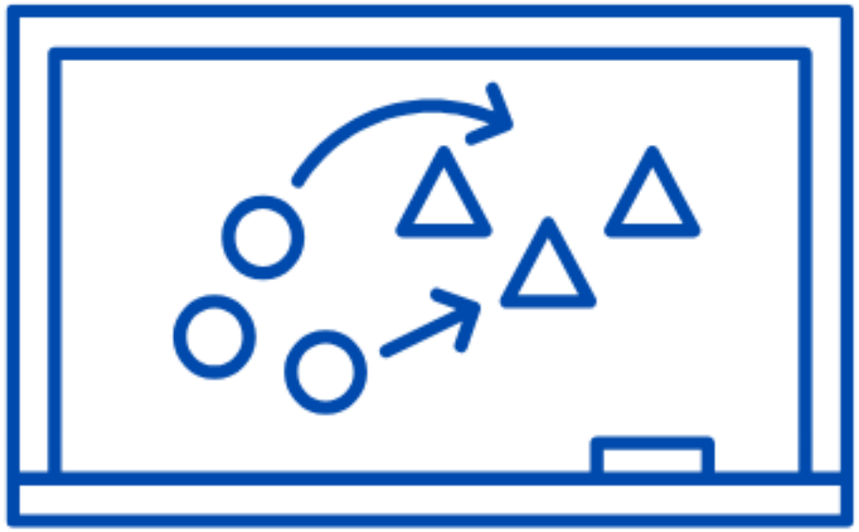
Negotiation Prep

- **Parenting Plan Hypo**
  - Faith **(Gen Z Divide)**
  - Politics **(Gen Z Divide)**
  - Education
  - Medical
  - Sleep & Diet
  - Youth Sports (Gymnastics)
  - Helicopter vs. Free-Range



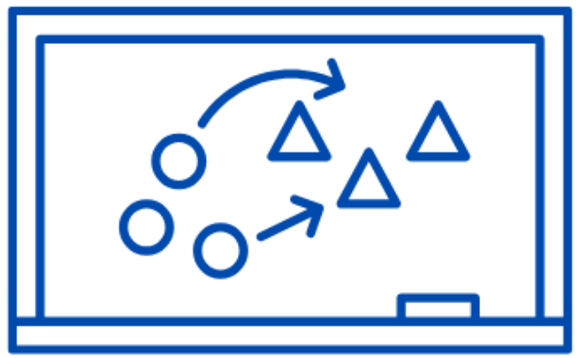
Negotiation Prep

- ***Ex-Spouse* Trauma**
  - **Past Baggage**
    - Respect
    - Trust
    - Loss
    - Finances…
  - **Stress Stacking**
    - Work
    - Other Family
    - Health



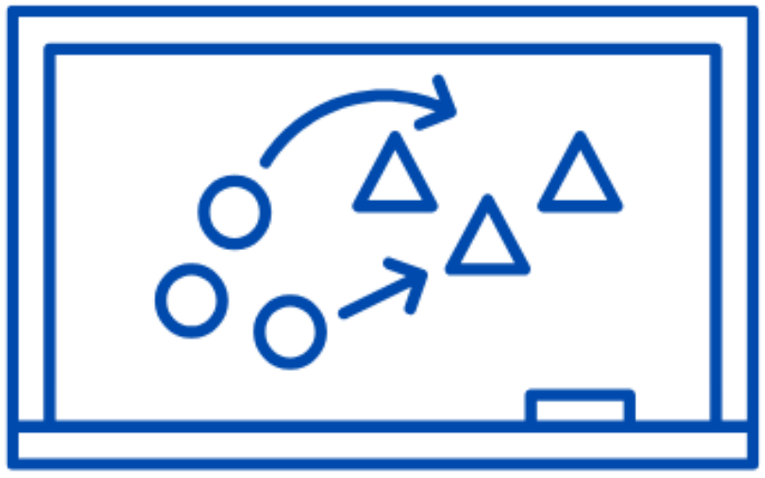
Negotiation Prep

- **E*x-Spouse* Trophy**
  - Victory Speech
  - Save Face
  - Constituents
    - Family
    - Friends
    - Co-Workers



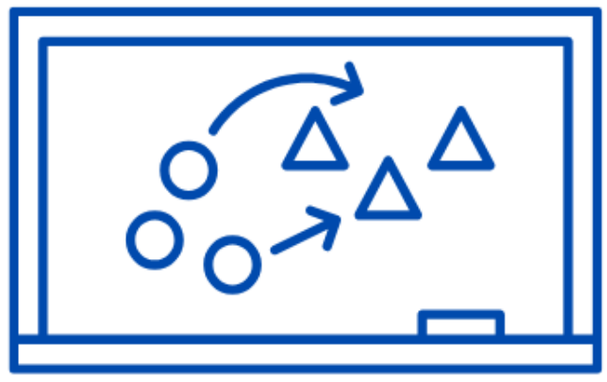
Negotiation Prep

- ***Client* Triggers**
  - "If _____ then _____."
    - **No Reaction = Win/Win**
    - **Good Faith Mistake?**
      - No Damage
      - Keep Credibility
- **Bad Faith Intent?**
    - No Satisfaction



Negotiation Prep

- **BATNA / WATNA / MRATNA**
  - Starting Line
    - CL & Ex-Spouse
    - “Tripwire”
    - Improvable?
    - Realistic
      - Not a Blender!
      - Not a Buffet Line!



Negotiation Table

“If I’m here and you’re here,
doesn't that make it our time?”

Jeff Spicoli, Surfer & Gentleman Scholar
Fast Times at Ridgemont High

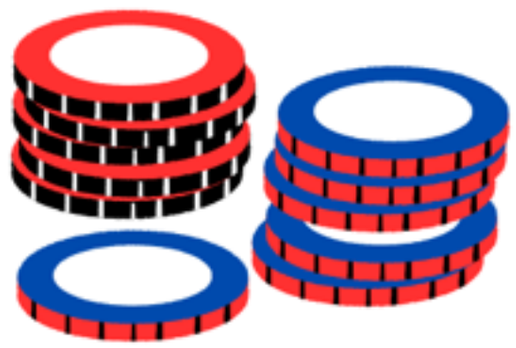
The Table

- **Closed-End Questions**
  (Pizza Rule)

  - Is, Can

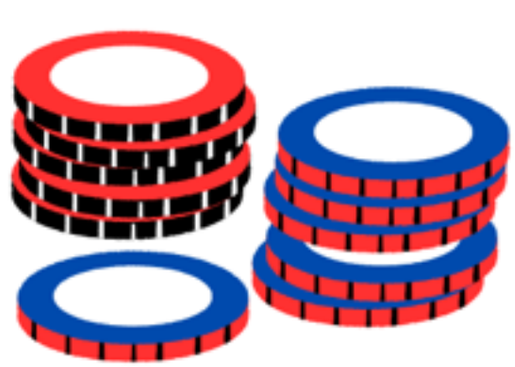
- **Open-End Questions**

  - How
  - Why, Why Not
  - What
  - Who



The Table

- **Ex Spouse Needs…**
  - **Substance:**
    - Heard &
    - Understood
  - **Process:**
    - Fair

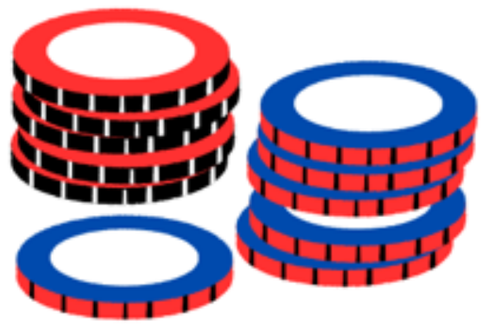


The Table

- **I. Positions vs. Interests**

  Example - Gymnastics

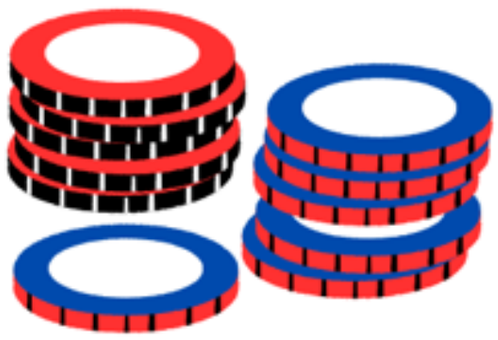
  - **Position = “What”**
    - Negotiable
    - Ego
    - Single-Option
  - **Interest = “Why”**
    - Non-Negotiable
    - Values
    - Many Options



The Table

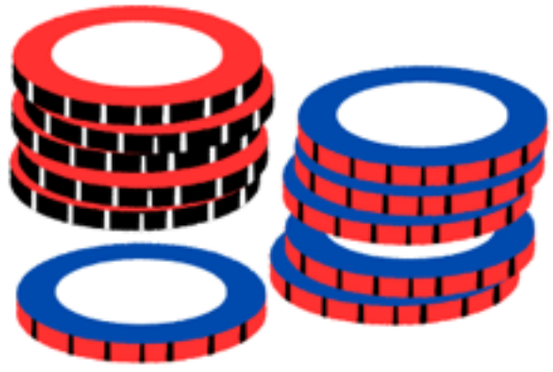
- **II. Create Options**

  - Brainstorm (No Peanut Gallery)
  - Buy-In
  - No Bad Ideas
  - Nothing Binding/Final
  - Springboard



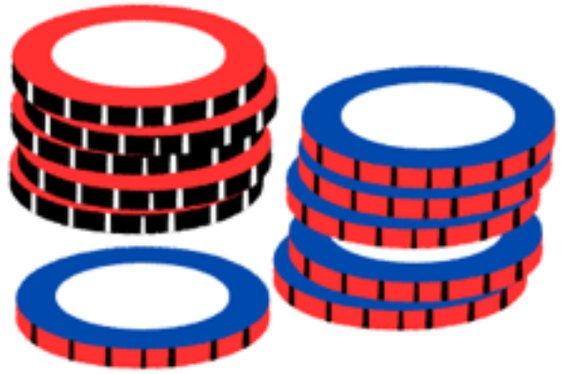
The Table

- **III. Evaluate Options**
  - Shared Interests
  - Fair Standards
  - Discard; Deep Dive; Improve; Re-Order…
  - BATNA/WA/MR in Mind



The Table

- **Negotiation Table - Summary:**
  - Interest-Based Negotiations
  - Brainstorm Options
  - Edit Options
    - Standards
    - “Cheaters & Line Cutters”



Post Negotiations

“Three Options:
Change It,
Accept It,
Leave It.”

Tim Ferriss

Post Negotiations

- **Reality Test**
  - Same Page?
  - Hypos “What if…”
  - Worst Case Scenario



Motion to Clarify!

$$$

Post Negotiations

- **Reciprocity**
  - Flexibility - Murphy's Law
  - Payback or Pay Forward
  - Flip the Script
  - Best Interest Standard



Post Negotiations

- **Revisit**
- 5 YO vs 15 YO
- 15 YO vs. 16 YO
- **Periodic Check-In**
  - Working? Fair? Ideas?



Negotiation Recap

Prep -> Table -> Post

- **Negotiation Framework**
  - **Client Focus:** “Process & Controllables"
  - **Ex Spouse Needs:** Heard & Understood; Fairness
  - Prep (TTT)
  - Table (IBN’s; Fair)
  - Post (RRR)

Impasse

**“So you’re telling
me there’s a chance.”**

Lloyd
Dumb & Dumber

Impasse

- **Communication Issues:**

  - **Workplace:** 7% said communication = Accurate, Open & Timely. *Gallup*

  - **Law:** 1/3 Malpractice Claims = Communication Issues. *ABA*

  - **Divorce:** 70% Women & 59% Men = “Bad Communication” as a Cause. *Journal of Divorce & Remarriage.*



Impasse

- **Impasse…Why?**
  - Autonomy
  - Unmet Interests
  - Save Face
  - Unfair Process (Perception)



William Ury
Getting Past No

Impasse

Full Agreement

—>

Partial Agreement



Impasse

Binding Agreement

—>

Trial Run



Impasse

“My Way or Nothing!”

—>

A/B Testing:

Helicopter

vs.

Free-Range



Impasse

First-Order

—>

Second-Order

WHAT & WHY



Cognitive Bias

**“Show me the incentive and
I’ll show you the outcome.”**

Charlie Munger, J.D.
***Psychology of Human Misjudgment* Speech**
Harvard, 1995

Cognitive Bias

- **Cognitive Bias 101:**

  - **Definition** - A mental shortcut that can lead to errors in thinking. It happens when **our brains make quick judgments based on past experiences** instead of careful reasoning.

  - **Purpose** - **Simplifies the flood of information** our brain receives every second.



Cognitive Bias

- **Big Three - Parenting Plan**
  - Confirmation Bias
  - Self Serving Bias
  - Bubble Bias



Cognitive Bias

- **Confirmation Bias**

  - When we look for and believe information that supports our current POV.

  - **Example** - P1 believes P2 is selfish. P2 misses child's soccer game during expectedly busy month. P2 had 100% attendance the prior 12 months.



Cognitive Bias

- **Self Serving Bias**
  - ***My*** Success? Many Skills
  - ***My*** Failure? Bad Luck
  - ***Your*** Success? Good Luck
  - ***Your*** Failure? No Skills
  - **Example:** Family vs. In-Laws holiday travel schedule delays/ adjustments. Double Standard for reasons.



Cognitive Bias

- **Bubble Bias**
- “Everyone I know agrees with me.”
    - Friends; Work; YouTube & Social **Media Algorithms**…
- **Example -** P1 is atheist and P2 is religious…Whipsaw Danger
    - **Shared Interests?**
        - Critical Thinking
        - Core Values
        - Social Skills
        - Community



Cognitive Bias

- **Cognitive Bias Wrap-Up:**
  - **Confirmation Bias** “I know what I know.”
  - **Self Serving Bias** “I’m special, you’re not.”
  - **Bubble Bias** “The science is in…”



- **Fun Game:**
  - Moon Landing: What % Watched?
  - NFL: Global Rank?
  - K-Pop: Foreign Sales?

Cognitive Bias

- **Cognitive Bias Wrap-Up:**
  - **Own It -**
    We're all biased.
  - **Devil's Advocate -**
    Intentionally pursue disconfirming info, viewpoint diversity.
    - Face Value Until…
    - Ex-Spouse Best Argument?
    - Why Might I be Wrong?
- **More Gray; Less Black & White**
  Questions Assumptions
  Open to New Info

  "I only trust my doubt."
  Chamath Palihapitiya
  All-In Podcast



Toolbox

Process Over Chaos

“Today I shall meet people
who are …ungrateful, aggressive
malicious, unsocial….
I cannot be harmed by
any of them, as none will infect
me with their wrong.”

Marcus Aurelius (121 - 180 AD)
Meditations

Toolbox

- **First Principle**
  - Circumstances | Behavior
    - Event **(GAP)** Response

***** FOR YOU *****



Toolbox

- **Foundation:**
  - Sleep
  - Diet
  - Exercise
  - "**If you're not sleeping, eating, and moving well, nothing else will matter."**
    Naval Ravikant

- **New Self Help Books:**
  - 2010 —> 15,000
  - **2020 —> 45,300**



Toolbox

- **Table Selection**
  - Family, Friend, Co-Worker
- "**The most important decision** you can make is selecting the right table."

  Tim Ferriss
  Tools of Titans



Toolbox

- **Opportunity Cost**
  - No Decision
  - No Action
  - Passive-Agressive
  - Fight
- **“Yes, and…Forward**
  - Baldwin vs. Bassinger



Toolbox

- **Future-Cast: 10/10/10 Rule**
  - Gain Perspective:
    - 10 Days
    - 10 Months
    - 10 Years



Toolbox

- **Rule of 3 (Heat of Moment)**
  - Walk
  - Sleep
  - Exercise

  —> DECISION



Toolbox

- **Communication**
  - Words
  - Tone
  - Body Language



Toolbox

- **STOP Doing List**

  “Hold My Beer”

  A bad situation can always be made worse.



Toolbox

- **Don’t Blame the “Message”**
  - Person | Problem
  - Good Idea or Not?
  - Best-Interest Standard



Toolbox

- **The Judge**
  - P1 & P2? “Don’t Care”
  - Best-Interest Standard
  - Forward-Looking
  - Less is More



Toolbox

Active Listening

- Don’t Interrupt
- Summarize
- “Do I have that correct?”
- Allow (Invite) Corrections



Toolbox

- **Labeling (Defuse)**
- Never "**I** understand…"
  - "Sounds like **YOU**…."
- "It looks like **YOU**…"
- "It appears **YOU**…"
- "It feels like **YOU**…"
  - Wait…and wait (Silence)



Chris Voss
FBI Hostage Negotiator
Never Split The Difference

Toolbox

- **Cheaters & Line Cutters**
  - Trust (Protect It)
    - Mistake?
    - Intentional?



Wrap Up

- Income/Assets & Liabilities/Debts —> Software Program. Done!
- ***Parenting Plan = Lifetime Game***
    - **Client Focus:** “Process & Controllables"
    - **Ex-Spouse Needs:** Heard & Understood; Fair Process
    - Negotiation Prep (Game Plan)
    - Negotiation Table (IBN’s; Fairness)
    - Post Negotiation (Baldwin vs. Bassinger)
    - Impasse (Shake the Box)
    - Cognitive Bias (Protect Client from Client)
    - Toolbox (PP = Lifelong Game)

Resources

**“Good Artists Copy,
Great Artists Steal.”
Picasso**

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- ***Athlete to Entrepreneur*, reached #16 (Sports Law) @ Amazon/Kindle**

- ***Zero Offseason: Divorce & The Insanely Busy Sports Mom*, @Amazon/Kindle**

Credits & Acknowledgements

- ***Thinking In Bets***, Annie Duke
  (Cognitive Bias & Uncertainty)

- ***Getting To Yes***, William Ury
  (Negotiations)

- ***Getting Past No***, William Ury
  (Negotiations)

- ***Never Split The Difference***, Chris Voss
  (Persuasion)

- **M*editations***, Marcus Aurelius
  (Process & Controllables)