

LEGAL BULLETIN

Issue No. 44

Parental Alienation Claims and Intimate Partner Violence in BC: *Stolhandske v. Carlos*, 2024 BCSC 2516

Introduction

Recent research on child custody disputes in Canada has shown that intimate partner violence (IPV) is frequently neutralised or dismissed in custody disputes where parental alienation (PA) is also alleged (Sheehy and Boyd 2020). Judicial reasoning, often grounded in stereotypes about the ‘weaponization’ of IPV claims, and the dominance of shared parenting norms, has led to PA claims being treated as presumptively credible while IPV claims are discounted (Sheehy and Boyd 2020). Although the Court of Appeal in *KMN v SZM* (2024 BCAA 70) underscored the reversible nature of harmful stereotypes about IPV claims used as litigation tools, the use and credibility of child testimony in family law disputes remain legally ambiguous. According to Rise’s 2024 research, at-risk children are rarely included in protection orders and are frequently compelled to maintain contact with abusive parents despite the protections set out in ss. 37–38 of the *Family Law Act* (FLA) (Rise 2024).



Recent testimony before the House of Commons Standing Committee on the Status of Women echoes these concerns (FEWO Meeting 126). Professor Jean Mercer warned that PA was a ‘hypothetical phenomenon’ lacking a solid empirical foundation. Advocate Tina Swithin characterized it a rebranded ‘pseudo-theory’ tied to a lucrative reunification industry. Meanwhile, ‘Witness 1’ recounted her first-hand experience of how alienation claims were weaponized against her despite documented abuse. She stated:

“Don’t mention abuse. I know it sounds wrong, but don’t bring it up. Mothers who are victims of domestic violence don’t fare well in family court.”

This jarring warning was the first legal advice I received. It proved prophetic.”

Against this backdrop, *Stolhandske v. Carlos* (2024 BCSC 2516) stands out. In a child-custody dispute resting on a PA claim, the Court:

- Resisted harmful assumptions about IPV;
- Emphasised evidentiary rigour for claims of PA; and
- Afforded credibility and weight to children’s own voices.

Importantly, the Court deferred to the children’s consistent and well-documented fears of their father and to the forthcoming s. 211 report before ordering any parenting time. This approach signals a more cautious and evidence-based judicial stance toward PA claims and the prioritisation of children’s testimony in custody disputes involving IPV.

Case Background: *Stolhandske v. Carlos*, 2024 BCSC 2516

This case involved a high-conflict parenting dispute in which the father alleged PA and sought increased parenting time, while the mother raised concerns about family violence and the children's safety. The children had expressed fear of their father and resisted contact. A s. 211 report was in process at the time of the hearing.

The father argued that the mother was alienating the children, "influencing the children and interfering in the relationship he has with them" and that their fear of him was unjustified (para. 34). The mother argued that the children's fear was genuine and rooted in past abusive behaviour, citing prior incidents of IPV and ongoing controlling conduct. She sought to maintain supervised or limited contact pending the s. 211 report.

Court's Analysis and Decision

Justice Lamb declined to accept the father's PA claims at face value. Instead, the Court:

- Noted, following *Williamson v. Williamson*, 2016 (BCAA 87) that PA requires credible **expert evidence** and cannot be inferred simply from a child's reluctance to see a parent, echoing national testimony that parental alienation lacks an empirical base and is often used to override children's disclosures of abuse:

'An allegation of alienation is a serious allegation, and proof of such a serious allegation requires proper expert evidence' (para. 35).

- Recognized the children's alleged fear of their father and the need to prioritize their safety.

'I am satisfied on the available evidence that the children have identified a history of family violence, primarily emotional and psychological abuse, as the reason they continue to fear their father and refuse to see him' (para. 36).

- Deferred changes to parenting time until after receiving the s. 211 report, which would provide an evaluative assessment of the children's needs and wishes.

Why This Case Matters

This decision marks a shift away from the routine neutralisation or dismissal of IPV claims when PA is alleged and toward a more careful, safety-centred, trauma-informed consideration of both IPV and children's voices. In contrast to the patterns identified by Sheehy and Boyd (2020) and Neilson (2018), where PA claims often overshadow or neutralize IPV, *Stolhandske v. Carlos* (2024 BCSC 2516) illustrates a court prioritising child safety, expert input, and evidentiary rigour before making parenting-time orders. Although the decision does not itself endorse a ban on PA, it sits within a wider climate of caution about such claims, including UN recommendations

to prohibit its use in courts and emerging concepts such as 'Child and Mother Sabotage (CAMS)' that reframe these dynamics as forms of coercive control (UNHRC/53/36 2023; Dalgarno et al. SHERA Research Group, 23 October 2023).

Beyond its handling of PA allegations, the decision also underscores the importance of giving meaningful weight to children's own voices in custody determinations. Chapter 4 of the BC Family Law Act Modernization Project notes that custody disputes are often protracted and adversarial, yet children's perspectives are typically gathered late,

inconsistently, and without qualified assessors. One of its central findings was that:

‘Early engagement suggested that obtaining the views of children involved in family law disputes earlier in the dispute resolution processes may help resolve disputes in a timelier and more cost-effective way and help reduce escalation of the conflict.’

(Chapter 4 – *Views of the Child and Parenting Assessments and Reports*, 9).

This is especially critical in cases involving coercive control, where protracted litigation and repeated PA allegations can pressure, intimidate or manipulate children into changing or silencing their disclosures (Dalgarno et al. 2023). *Stolhandske v. Carlos* (2024 BCSC 2516) puts this principle into practice: Justice Lamb deferred any change to parenting time until a s. 211 report could provide a thorough assessment of the children’s wishes and needs, effectively placing their safety and lived experience at the centre of the interim decision.

This bulletin was prepared by:

Ella Phillips, Sarah Yercich, & Margaret Jackson



Department of Justice
Canada

Ministère de la Justice
Canada

Notes

Dalgarno, E., Meier, J., Ayeb-Karlsson, S., Pollack, D. and Katz, E, 'From 'Parental Alienation' to [Abusers'] Child and Mother Sabotage (CAMS) as a Preferable Term for How Perpetrator Fathers Intentionally Sabotage the Child-Mother Connection' SHERA Research Group, 23 October 2023

Elizabeth Sheehy and Susan Boyd, 'Penalizing Women's Fear: Intimate Partner Violence and Parental Alienation' *Journal of Social Welfare and Family Law* (2020) 42(1) 80

Family Law Act Modernization Project. Chapter 4: Children's Views and Parenting Assessments and Reports (2025)

Family Law Act, SBC 2011, c 25

Haley Hrymak: Rise Women's Legal Centre, 'Protection Orders in BC and the Urgent Need for a Specialized Process and Coordinating Reform' (December 2024)

KMN v SZM (2024 BCAA 70)

Linda C Neilson, Parental Alienation Empirical Analysis: Child Best Interests or Parental Rights? (Fredericton: Muriel McQueen Fergusson Centre for Family Violence Research and Vancouver: The FREDA Centre for Research on Violence Against Women and Children, 2018)

Report of the Special Rapporteur on Violence Against Women and Girls, 'Custody, Violence Against Women and Violence Against Children, its Causes and Consequences' UNHRC/53/36 2023

Stolhandske v. Carlos (2024 BCSC 2516)