

Parental Alienation International

Advancing worldwide understanding in the field of parental alienation

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Parental Alienation and the Least Detrimental Alternative: An Important Safeguard in Cases that Involve Ex-Parte Contact Suspension Orders

Shawn A. Wygant, MA

PARENTAL ALIENATION IS A COMMON PROBLEM that arises when a parent engages in behavior likely to cause harm to the child's relationship with the other parent (Wygant, 2024).¹ It is not uncommon for the alienating parent in such cases to resort to making unfounded allegations of child abuse as a tactic for gaining sole possession of the children.² When this occurs, family courts often enter ex-parte orders that suspend the targeted parent's contact with the children until a child protective services investigation is complete or until the court conducts a full evidentiary hearing.³

In the recent case of *Sanchez v. Healey* (2024), the Michigan Court of Appeals vacated an ex-parte order that suspended a targeted mother's parenting time. The alienating father had falsely accused the mother of abuse as a tactic to exclude the mother from the family. When the mother raised her concerns about parental alienation by the father, the court dismissed them. The court of appeals held that the trial court violated the mother's procedural due process rights by failing to fully hear her concerns during an evidentiary hearing on the mother's objections to the ex-parte parenting time suspension order. The court of appeals was concerned that the trial court displayed indifference "toward the amount of time that elapsed without plaintiff [mother] being allowed any contact, including supervised and telephone, with her children."⁴

The *Sanchez* case illustrates a critical safeguard that was missing in the trial court's best interests of the child analysis: a proper evaluation of the least detrimental alternative. The least detrimental alternative is a harm-reduction principle that guides professionals and courts to select an option that poses the least disruption or psychological risk to the child's ongoing development, attachment security, and identity formation.⁵ This principle was explicitly addressed in the Colorado case of *In re the Marriage of Hatton* (2007), in which an alienating mother's parenting time was suspended without a best interests analysis that included consideration of the least detrimental alternative.⁶ The appellate court emphasized that "applying the best interests standard includes determining whether there is a less detrimental alternative to ending all contact between a parent and a child"⁷ citing its earlier decision in *Marriage of Martin* (2002) which held that the least detrimental alter-

¹ Wygant, S. A. (2024, October 5). *When should a child's exposure to parental alienation behaviors require a child protective response? Exploring the Parental Alienation Child Abuse Model* [Conference presentation]. 2024 Parental Alienation Consortium Legislative Summit, Southbury, CT.

² Saini, M., Laajasalo, T., & Platt, S. (2020). Gatekeeping by allegations: An examination of verified, unfounded, and fabricated allegations of child maltreatment within the context of resist and refusal dynamics. *Family Court Review*, 58(2), 417-431.

³ *Sanchez v. Healey*, No. 370627 (Mich. Ct. App. Oct. 15, 2024).

⁴ Id. at p. 5

⁵ Goldstein, J., Solnit, A. J., Goldstein, S., & Freud, A. (1996). *The best interests of the child: The least detrimental alternative*. The Free Press.

⁶ *In re Marriage of Hatton*, 160 P.3d 326 (Colo. Ct. App. 2007)

⁷ Id. at 332.

native is subsumed within the concept of the best interests of the child.⁸ Importantly, whereas Sanchez case involved the suspension of the targeted parent’s parenting time, Hatton involved suspension of the alienating parent’s contact with the children. In both cases, the appellate courts held that trial courts must not ignore the least detrimental alternative when applying the best interests of the child standard.

In some cases, the least harmful option is not considered when the *endangerment* standard overshadows judicial decision-making—particularly during ongoing child abuse investigations.⁹ According to Melton et al. (2007), the endangerment standard requires courts to determine whether a parent’s conduct poses a serious and likely risk to a child’s physical safety or emotional development to justify limiting or terminating contact. Under the Uniform Marriage and Divorce Act (1973), the endangerment standard is framed as a prohibition against the government arbitrarily restricting visitation: “The court shall not restrict a parent’s visitation rights unless it finds that the visitation would endanger seriously the child’s physical, mental, moral, or emotional health.”¹⁰ A critical legal challenge arises in determining how courts should apply the three standards—best interests of the child, endangerment, and least detrimental alternative—in cases of parental alienation child abuse.¹¹ The following table provides a comparative overview of each standard’s purpose and operational focus:

Table 1: Comparison of Key Standards

Standard	Core Question	Operational Definition Focus
Best Interests of the Child	What will most promote the child’s overall well-being?	Comprehensive evaluation of factors affecting development, relationships, safety, and stability
Least Detrimental Alternative	Which available option is least harmful to the child?	Harm-reduction model prioritizing stability, continuity, and emotional development
Endangerment	Is the child at serious risk of harm?	Requires evidence of significant physical or emotional risk necessitating protective intervention

These standards are not mutually exclusive. Rather, they form a hierarchical framework through which courts need to evaluate competing claims of abuse. **The Endangerment Threshold** should first be used to determine whether a proposed limitation on contact is legally justified. This threshold must be satisfied with clear and convincing evidence—not merely allegations—as emphasized in *Sanchez*. **The Least Detrimental Alternative** serves to limit unnecessarily harsh or totalistic interventions when less restrictive options—such as supervised visitation—can eliminate the risk of harm. **The Best Interests Analysis** integrates both endangerment and the least detrimental alternative principles to ensure that long-term developmental and relational outcomes are prioritized over short-term expediencies.

⁸ *In re Marriage of Martin*, 42 P.3d 75 (Colo. Ct. App., 2002)

⁹ Melton et al. (2007). *Psychological evaluations for the courts: A handbook for mental health professionals and lawyers* (3rd ed.). Guilford Press.

¹⁰ Uniform Marriage and Divorce Act (UMDA), § 407 (1970, amended 1973)

¹¹ See, e.g., *Clark v. Wade*, 273 Ga. 587, 544 S.E.2d 99 (2001) (emphasizing that the best interests standard must be balanced with constitutional protections of parental rights); *In re D.A.T.*, 170 S.W.3d 865 (Tex. App. 2005) (holding that the state must show evidence of endangerment to justify termination of parental rights); *Matter of Bennett v. Schultz*, 110 A.D.3d 792, 972 N.Y.S.2d 671 (2d Dep’t 2013) (holding that a trial court must consider the least detrimental alternative before restricting parenting time based on alienation claims).

Cases involving serious allegations of abuse, especially parental alienation, demand a careful, layered judicial approach.¹² As courts have increasingly recognized, abrupt judicial responses—such as ex parte suspensions of parenting time—must be subject to rigorous evidentiary review and developmental consideration to avoid long-term harm.¹³ Grounding these decisions in the best interests of the child, requiring proof of actual endangerment rather than assumptions, and applying the least detrimental alternative standard ensures a more balanced, rights-respecting outcome.¹⁴ This integrative approach offers the clearest path to serving the interests of justice while safeguarding the children’s psychological well-being.¹⁵ ■

¹² See *Clark v. Wade*, 273 Ga. 587, 594, 544 S.E.2d 99, 106 (2001) (“In child custody matters, the trial court must consider the totality of the circumstances, and the child’s welfare and best interests are paramount.”)

¹³ *Zafran v. Zafran*, 740 N.Y.S.2d 596, 602 (N.Y. Sup. Ct. 2002) (“Even serious allegations must be tested by adversarial process; blanket prohibitions on contact based on unchallenged claims risk irreparable harm.”)

¹⁴ *Rowe v. Franklin*, 663 So. 2d 956, 957 (Fla. Dist. Ct. App. 1995) (parenting restrictions require “competent, substantial

¹⁵ *Rideout v. Riendeau*, 761 A.2d 291, 299 (Me. 2000) (“Any restriction on a parent’s contact must account for the emotional and developmental consequences for the child.”)



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About the Parental Alienation Study Group

Parental Alienation Study Group, Inc. (PASG) is an international, not-for-profit corporation. PASG has 937 members—mostly mental health and legal professionals—from 65 countries. The members of PASG are interested in educating the general public, mental health clinicians, forensic practitioners, attorneys, and judges regarding parental alienation. PASG members are also interested in developing and promoting research on the causes, prevention, evaluation, and treatment of parental alienation.

About *Parental Alienation International*

Parental Alienation International (PAI) is published bimonthly by PASG. PAI seeks to lead and promote the scholarly discussion and debate concerning parental alienation practice, research, prevention, education, and advocacy to promote development of informed practice and policy in this field.

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