

Granberg Law Office

in the Historic Mayer House (circa 1890)

134 Central Avenue, Salinas, CA 93901

Phone: 831-422-6565 / Fax: 831-422-5550

Dear Client:

Find attached a letter written in a hypothetical pending child custody dispute between “Martha Mothersby” and “Frank Fathersby.”

I represent “Frank” in the case, and have written him the letter in order to suggest ways to reduce the ill effects of the parental separation on the parties’ son “Kenny.”

Sincerely

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Frank Fathersby
123 Rational Road
Prudence, California 98765

RE: In re Marriage of Mothersby and Fathersby

Dear Frank:

This letter describes ways you can reduce the ill effects of your and Martha's separation on your son Kenny. If you feel like making disparaging remarks about Martha to Kenny, your feelings are normal. You may have valid reasons for feeling critical of Martha. Because such remarks would be detrimental to Kenny, however, you should refrain from making them. Consider the following:

- Your breakup is a major crisis in Kenny's life. His reactions may include anxiety, sadness, confusion, and anger.
- Kenny will need to be assured that you and Martha are both reliable people who can be counted upon to care for him. If Kenny is told that his mother is unreliable, his anxiety will increase.
- The more conflict Kenny sees between you and Martha, the more adversely your divorce will affect him. Hostility between parents is toxic for a child.
- Family Code section 3040(a)(1) requires a judge making a child custody or visitation decision to "consider . . . which parent is more likely to allow the child frequent and continuing contact with the [other] parent."
- Judges dislike parents who criticize their former partners in the presence of a child. This factor is highly relevant to decisions judges make.

As you see, the central "**Don't**" is "Don't criticize Martha to Kenny or within his presence."

Here are some other “**Don’ts**:”

- **Don’t** discuss adult issues (e.g., finances, details of your separation, or statements from court papers) with Kenny or in his presence. If you discuss divorce issues with others, make sure Kenny can’t overhear you.
- **Don’t** argue with Martha in Kenny’s presence. For example, remain meticulously civil during every visitation exchange.
- **Don’t** use Kenny to spy on Martha, or report to you on Martha’s activities.
- **Don’t** permit parental time with Kenny as a reward for Martha’s good behavior, or withhold parental time as a punishment for Martha’s bad behavior.
- **Don’t** allow your relatives or friends to criticize Martha to Kenny, or to criticize Martha in his presence.

Here are some “**Do’s**:”

- **Do** assure Kenny that you and Martha both still love him.
- **Do** assure Kenny that that he has your full permission to continue to love Martha.
- **Do** assure Kenny that he will be well taken care of by both you and Martha.
- **Do** assure Kenny that the fact that you and Martha are separating from each other in no way means that he will separate from you or from Martha.
- **Do** assure Kenny that your and Martha’s separation is not his fault in any way.
- **Do** be punctual when beginning or ending your parental time with Kenny.
- **Do** make “what will be best for Kenny here?” the central consideration in decisions you make.

The way you and Martha behave during this period will have lifelong effects on Kenny. Anger expressed in his presence is the most damaging. Your and Martha’s consistent good behavior is of utmost importance to your son’s future.

The parenting issues in your case might be easily resolved, or might require court intervention. I will actively represent you regarding those issues. When you follow the advice in this letter, you will be helping the court make appropriate decisions regarding Kenny. Judges are very impressed by efforts parents make to shield their children from emotional harm. Following the suggestions in this letter will prove that you are a good parent. If you criticize Martha to Kenny, or within his presence, you will have harmed your case as well as your son.

Please maintain a confidential journal describing in detail any instance of Martha's failure to parent properly. Behaviors described in the "**Don'ts**" portion of this letter are examples of failure to parent properly.

Here are some resources that may help you protect Kenny's wellbeing:

- The Association of Family and Conciliation Courts maintains a website (<http://www.afccnet.org/resource-center/resources-for-families/categoryid/1>) showing resources available to assist parents in reducing the adverse effects of parental separation on their children.
- A pamphlet entitled "What Should We Tell the Children?" was written by respected psychologist Joan B. Kelly, Ph.D. This pamphlet and other helpful publications can be purchased at <http://www.aaml.org/library/publications>. Section IX of Dr. Kelley's pamphlet lists books and other resources for separating parents and their children.
- A DVD entitled "Split" (<http://splitfilm.org/>) shows divorce from a child's point of view.

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