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HUFF POST DIVORCE

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Divorce Confidential: Potential Risks When Litigating Move-Aways in Divorce

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For my last installment in this three-part move-away series, I am going to explore the potential risks that you may face when you decide to litigate a move-away motion in court. As a family law attorney, it is my position that the better option is to try and problem solve outside of court rather than asking a judge to make decisions for you and your future.

With that being said, I also understand that sometimes it's not possible to resolve issues if you and your ex-spouse are not on the same page. This is especially true when one spouse is planning to relocate to another state or country. Let's look at some of the potential risks you should consider before you proceed and make your case before a judge. Bear in mind that these are only "potential" risks and each outcome will depend on the laws of your state, your judge and essentially your own unique and personal circumstances:

- 1. Less Time With Your Children:** In my last article, I explained that if you file a motion in bad faith and the judge catches wind of this, you may expose yourself to a change in your custody and visitation orders, giving you less time with your child. I cannot stress enough that before you file a motion to relocate, consider the best interests of your child. Don't file a motion because you want to cause a rift or disrupt the bond between your ex-spouse and your child.
- 2. Money and Time Spent:** A move-away motion is not a quick and easy process. You may find yourself waiting for months before you are heard before a court. It is just speculation, but sometimes I think that courts may purposely place move-away motions on their calendar far into the future so it gives you and your ex-spouse considerable time to rethink the decision and potentially resolve the issue out of court. Attorney's fees will also pile up rather quickly with all the paperwork to be filed in a move-away case.
- 3. Psychological Damage:** There is no definitive evidence to suggest that a relocation will have any psychological impact on your children, but there is some research out there that suggests it could have a long-term impact on a child's psychology. This is definitely something to consider

and watch out for. Look for signs of stress and anxiety in your child. Think about what kind of effect this might have long-term knowing your child's unique personality and bond with the other parent. If anything, a move away could potentially cause more distress than the usual divorce due to your child being uprooted. It is definitely something to consider.

4. Criminal Charges and Contempt Of Court: In the event that you make a unilateral decision and you move your child to another state or country without consent or a court order, you could expose yourself to criminal charges and an order by the court to return your child back to his or her home state. You could also be found to be in contempt of court for violating prior child custody and visitation orders already in place. Fleeing the state without consent or court order is risky business and you should seriously reconsider your decision.

As I've said all along, make sure you speak with an attorney in your home state before you make any major life-altering decisions. Each state is unique and has their own set of laws and rules. If you're set on moving, know your risks and be sure to have a game plan so you're not caught off guard. Being prepared will also help you overcome any obstacles you may face in a move-away motion.

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