

# “Back To School” Doesn’t Have To Be “Back In The Ring”- Co-Parenting Tips For Adversaries

By Hon. Susan Lopez-Giss (Ret.)

Summer may be winding down, but for many families, co-parenting stress is just heating up. By October, a lot of parents will feel like prize fighters in the ring—each one determined to knock the other out because “there’s no way to co-parent with that person.”

In my experience, the problems usually fall into two camps:

1. Parents who don’t yet have a custody order or agreement.
2. Parents who *do* have one—but it isn’t working.

That’s when clients start insisting on going to Court so the other side “HAS to comply ONCE AND FOR ALL.”

But here’s the reality: unless one parent has sole legal custody (easy cases), most families will end up with *joint* legal custody—either by agreement or because the court orders it.

Family Code Section 3003 says it plainly: “Joint legal custody” means that both parents shall share the right and the responsibility to make the decisions relating to the health, education, and welfare of a child. And under Family Code Section 3083 (Current as of January 01, 2024), the court must spell out when both parents’ consent is required and what happens if they don’t agree:

*In making an order of joint legal custody, the court shall specify the circumstances under which the consent of both parents is required to be obtained in order to exercise legal control of the child and the consequences of*

*the failure to obtain mutual consent. In all other circumstances, either parent acting alone may exercise legal control of the child. An order of joint legal custody shall not be construed to permit an action that is inconsistent with the physical custody order unless the action is expressly authorized by the court.*

Translation: you’ve got to talk it out. And “talk it out” really means **compromise**.

Of course, if compromise were easy, no one would need to call me.

A few guideposts to keep in mind:

1. The Family Code establishes that the Best Interest of the children standard be utilized in making orders relating to the health education and welfare issues for the minor children.
2. The Best Interest standard has been interpreted by a myriad of cases. Each case evaluating the case specific facts and ultimately determining what in that situation is in fact in the child's " Best Interest "
3. In *IRMO Furie* (2017) 16 Cal.App.5th 816 (full disclosure, the author was affirmed in this decision), the Court determined that ordering one parent to make the ultimate decision over orthodontic care was NOT a change in legal custody, requiring a change in circumstances, but, rather an order in the "**best interests**", (emphasis added) of the child.

4. California Rules of Court- 5.98 establishes the meet and confer requirement BEFORE any Request for Order or Trial is filed.

The big takeaway? Parenting disagreements don't automatically mean custody changes. They're differences of opinion. And no judge has a magic answer book about gluten, baseball, or extracurriculars.

That's why I strongly recommend early involvement of a co-parenting expert. And when that doesn't work? Early mediation is the next best step. When parents hear from a neutral that most parenting disputes aren't really *legal* issues, resolution usually follows.

So, when your clients call demanding "immediate" court intervention, remind them: 99% of these problems aren't emergencies. And if they still need help? Well—you know who to call.

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*Judge Lopez-Giss served 15 years on the Los Angeles Superior Court, where she presided exclusively over Family Law matters and earned a reputation as an effective negotiator, problem solver, and adjudicator. Now a neutral with ADR Services, Inc., she mediates and resolves family law disputes with the same focus on collaboration and practical solutions. Before her judicial appointment, she spent three decades with the Los Angeles City Attorney's Office, where she helped create a pioneering domestic violence prosecution and counseling program adopted statewide, and later became the first woman to serve as Assistant General Counsel for the Department of Water and Power.*