

## Family

# Parenting co-ordination: Proceed, but with care | AJ Jakubowska

By **AJ Jakubowska**



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(May 23, 2023, 3:20 PM EDT) -- Let's set the scene. You are counsel in a high-conflict parenting matter for three years now, finally close to inking a parenting plan. Several skirmishes in court, and the input of a counsellor for the children along the way, have informed its content. Now you and the other counsel are wondering "*What is next?*" for these parents. Given their volatile post-separation history, it would not be wise to simply send them off into the sunset once the parenting plan is signed, and hope for the proverbial best. Is parenting coordination an option? It might be. Proceed, but with care.

A number of colleagues told me they found my previous piece, "Come to family mediation with bridge-building tools," useful but they had other questions. This is my first instalment in a three-part series on the most practical aspects of parenting coordination, a checklist of sorts, and a response to some of those questions.

I begin with points to consider at the "what is next" stage of your high-conflict parenting case. By way of preliminary truism and reminder for us all: every individual, parent and child, is unique and so is every parenting case. While both family law lawyers and mental health professionals can and do identify some patterns or guideposts, we must all take care to tailor what we do to the specific circumstances of each family. I ask that you keep this in mind while reading the series.

Here are points to consider at the "what is next" crossroads:

**1. "Someone else needs to deal with this now"** — Writing as a lawyer, I can identify with my colleagues at the end of a protracted, heated, expensive and intense parenting case: tired and hopeful, frankly, that one day soon the parenting battle will become someone else's responsibility. But the urge to pass the difficult-to-chew dish onto another's plate cannot be stronger than our obligation to carefully consider what happens once the ink on the parenting plan is dry.

History being at least a decent predictor of the future, these parents are not going to walk kumbaya into the sunset, holding hands. Involving a parenting coordinator (PC) in what are likely to be ongoing parenting disputes is an option, but you should first consider other avenues.

Is this a matter requiring the ongoing involvement of the court? Some matters do and in those circumstances, your dispute resolution clause might provide for a short, structured opportunity to mediate the disputed issue (provided there are no concerns about power imbalance or intimate partner violence (IPV) at the time) and then a court proceeding. That is an extreme option, in my view, but in some cases necessary.

If you do believe that once the dust settles, with ongoing education and coaching from the PC, these parents might disengage and learn to resolve more of their disputes, then keep

considering a PC for your file. In the decision-making phase of the process, the PC can arbitrate issues that cannot be resolved through negotiation. Such awards are enforceable by the court. This means that by bringing in a PC, you are addressing the reality that sometimes, an actual decision by someone (the PC) may be required for these parents. But involving a PC should never be reflexive in a high-conflict parenting case. There may be important reasons against it.

**2. Open or closed** — In our opening scenario, you are leaning in the direction of parenting coordination. What else should you consider? One important point is whether the process will be open or closed. Experienced PCs before me have made informed and persuasive arguments in support of both modalities, and I invite you to consider those further if you are interested. I am a proponent of a closed process because, based on my experience as a mediator, people are more willing to be vulnerable and, therefore, more open to change in a confidential setting. On the other hand, particularly in cases involving a concern that one party will strategically railroad the process, the possibility of a report from the PC may be a useful deterrent.

**3. Details matter** — When I am asked why a typical parenting coordination agreement is over 20 pages long, my classic answer is that details matter, particularly for a modality as complex as parenting coordination. The process involves two phases: the education and consensus-building phase (mediation) and the decision-making phase (arbitration). As family law lawyers, we often describe parenting plans to our clients as “roadmaps.” Particularly in difficult parenting cases, they are to contain enough detail to reduce future opportunities for disputes, and in practical terms, prescribe steps to co-parenting in everyday life.

The PC agreement should be viewed the same way. It is long because it addresses many subjects relating to the parents’ relationship with the PC, and with each other. You should review the proposed PC agreement carefully — to understand it yourself and to then be able to explain it to your client. Parenting coordination is a process involving significant time commitment and expense. The PC agreement contains important markers along the way, for a variety of scenarios, and brings with it real consequences.

**4. PCs decide on their involvement** — Naming a mediator in a dispute resolution clause is far more straightforward than involving a PC. Many of us have done it in court, while negotiating minutes of settlement. We might call the mediator as a courtesy and ask, “Hey, are you retiring any time soon?” and then hear, “Sadly, no.” Often, that is all it takes.

Involving a PC is more complex. Here, he/she has a far more active role in the very early stages, involving both pre-screening and then screening the case for appropriateness on a number of levels, before the PC agreement is signed. Obviously, power imbalances and IPV must be taken into account, but other factors also come into play. For example, the PC will consider the nature of the parents’ conflict, their psychological profiles, any adverse childhood experiences, their ability to sustain a financial commitment to this long-term process and others. Ultimately, the PC makes the decision whether he/she will become involved in a case.

This is part one of a three-part series. In part two, I consider the PC’s jurisdiction.

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