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*Shepherding you safely through difficult family transitions!*

## **DIVORCE IN NEW YORK – PARENT RELOCATION**

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A parent wanting to relocate with a child away from the other is considered by judges to be one of their most difficult decisions. How does one weigh the emotional and financial health of the moving-away parent against the difficulties and lack of access the other will have to the child? There are always multiple motivations and so it's often hard to figure out what are the primary motivators and whether they are a legitimate basis for which to impose the additional hardship.

The New York Court of Appeals, in *Tropea vs. Tropea* held that even if the parties agreed in their separation agreement that neither would move away, that is only one of the many factors a court should consider when deciding whether to permit the move. That means that no matter how carefully we draft separation agreements, we cannot guarantee that the other parent will not be able to move away.

A party seeking the court's permission to move should be ready to demonstrate what efforts they will make to ensure that the other parent will still be able to maintain a relationship with the child. That might include Skype or Facetime, or periodic trips back to see the other. The less disruption to the staying-behind parent, the more likely a court will permit it.

As with all other legal issues, the facts become important. You therefore need a skilled lawyer who can weave the most favorable facts and present them to the court in a compelling manner.

Because Mr. Steinberger chairs the custody committee of the American Bar Association's Family Law Section, he is the ideal lawyer to guide you through the custody process and help you obtain the result you desire.

In the event that a forensic evaluator is appointed, the evaluator should investigate:

*NOTE: This monograph is intended as an educational guide and not as legal advice. Legal advice should only be obtained from a qualified lawyer who is familiar with all of the facts and circumstances of your matter.*

1. Each parent's understanding of the motives for wanting to move and the motives for wanting to prevent the move;
2. Each parent's ideas of the parenting plan that is in the children's best interests assuming that the move takes place and assuming that the court does not allow the move;
3. Each parent's ideas about the logistics of any travel plans if the parents live apart so that the distant parent can see the children, i.e., who will be traveling, how, who will pay for it, etc.;
4. Each parent's position on what he might do if the court prohibits or allows the children to move (unless the case takes place in a jurisdiction that prohibits asking, such as California);
5. In the event of a proposed international move, any specific information relevant to language; culture, abduction risk, or other international issues relevant to the case;
6. Each parent's ideas of how he will promote the children's relationships with the distant parent in the event that he is the primary parent;
7. Each parent's description of how the other parent has historically supported and promoted the children's relationships with that parent;
8. A risk/benefit analysis of the advantages and disadvantages of primary-mother- custody in one location and primary-father-custody in the other location
9. All psychological and case or statutory law factors relevant to the case and the jurisdiction;
10. Suggested parenting plans depending on the outcome of the case (e.g., children move with moving parent, children don't move and parent moves, both parents in same location);

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