

# A JUDGE'S PERSPECTIVE ON "REMOVAL"

By K. Dean Kantaras



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**T**HE ISSUE OF "REMOVAL" ARISES when a parent with custody wants to move to another place with the child. When the move is to another state, there are obvious problems and changes would have to be made. Visitation with the nonresidential parent can't possibly remain the same, and the cost of visitation will necessarily increase. Therefore, permission to move is not automatic. Judges review these cases very carefully. Below is how one trial judge drafted an order denying a mother, who had remarried, the right to move with the child. (The Order has been edited to accommodate this article.)

**ORDERED:**

1. The parties' marriage was previously dissolved. The parties signed a marital agreement. The agreement provided for shared parental responsibility of the child, now six years old. The Mother would have primary residential care.

2. The Mother remarried. Her Husband lives in another state. The Mother wants to take the parties' child to live with her new Husband.

3. The child is normal, active, intelligent and doing well in school. The Father is close to her and is actively involved in her school and extra-curricular activities. The Father consistently visits with her.

4. The Mother's general quality of life would be improved by moving, because she would be married to a person she loves and not working.

5. The area the Mother wishes to relocate to is described as hilly to mountainous with warm summers and cool winters. It is steeped in history. The schools are good. It is a "family friendly" environment. The child's present residence enjoys beautiful

beaches, ideal weather, good schools, a family friendly environment and a rich history. One area is not superior over the other, because both have much to offer.

6. However, it cannot be said that this move is in the best interest of the child. At a very young age, she will be taken a great distance to a strange environment, away from familiar surroundings and friends, and away from a Father who spends a great deal of time with her and is very close to her.

7. The parties will be separated by a great distance. They are of modest means. Long distance travel will be a financial strain. As the child gets older, she will probably become involved in activities that conflict with visitation and will be a point of contention.

8. The Wife's proposed visitation for the Father is generous, but no substitute for the visitation he presently enjoys. For a child of this young age, who presently visits with her Father several times a week, to be suddenly taken far away and

only see her Father every several months for short periods during holidays is hardly conducive to fostering the close relationship he has enjoyed.

9. The child is young and has lived her entire life in Pinellas County. The child is an intelligent, well-adjusted, happy young child, who enjoys and is doing well in school, with friends and in extra-curricular activities. The home environment is good. Both parents love her deeply, and the child loves them. Despite the fact the parties are divorced, the child still has a Father and Mother in her life daily.

10. Marital agreements are contracts. They must be complied with. A Court can modify them only upon good cause. The reasons for changing a marital settlement must be compelling. To change an agreement because a party seeks a life change, which affects the other party, will discourage signing these agreements. The fact of remarriage is not a compelling reason to modify the agreement.

**ORDERED:**

1. The Mother's Motion for Relocation is denied. ■■■

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*EDITOR'S NOTE: K. Dean Kantaras is an attorney limiting his practice to family law matters, including custody, related appeals and immigration. He is a member of The Florida Bar and Clearwater Bar Association Family Law Section. His offices are located at 3531 Palm Harbor Boulevard in Palm Harbor and 1014 U.S. Highway 19 North, Suite 110 in Holiday. He can be reached at (727) 781-0000, fax: (727) 938-3939, and emailed at [kdk@kantaras.com](mailto:kdk@kantaras.com).*