

**Background and Submission Summary:**

The personal account during the years [REDACTED] of Family Law process in which there is a trial. Reflections, learnings, outcomes & solutions.

1. **Nearly [REDACTED] years in the Family Court of Australia** matter [REDACTED] (Orders made [REDACTED]) in which the father was suspended from seeing the child [REDACTED]  
[REDACTED]  
**Psychological violence.**  
[REDACTED]
2. Pro-active role as **Advocate with White Ribbon Aust.** [REDACTED]  
[REDACTED]
3. **Real life example** of the challenges, loop-holes, costs, difficulties in the system from timelines/time-wasting/resources to sub-sections of the process – subpoena procedures, FOI limitations. AVO process.
4. **Reflections and learnings post-issue of Orders** after trial – one year on. That with a psychologically violent other parent who refuses to change (or even agrees that he needs to change) parenting a child is completely untenable. The default position of the law is that a poor parent is better than no parent at all, this is simply wrong. Particularly in the case of "poor" equalling "abusive".

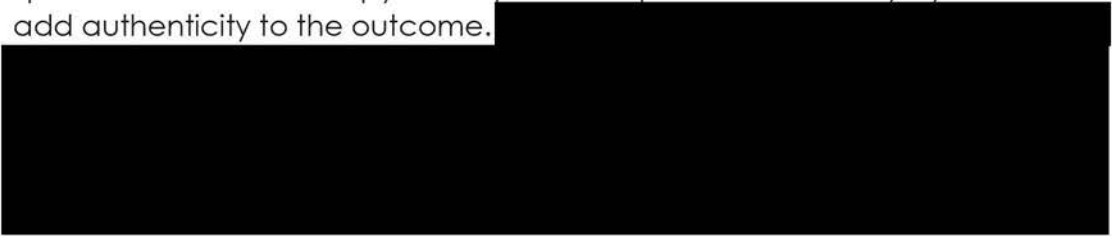
The default/perspective needs to change, the Law needs to identify just one parent who operates from the child's best interest and support and enable that parent via Orders.

**Personal information:**

[REDACTED]

[REDACTED] years in FCA cost \$ [REDACTED] K, rendered my company [REDACTED] without cashflow and a recommendation by accountant to close down and seek employment. Prior to separation our home was nearly paid off, currently I have a very large mortgage.

**Summary of solutions:**

1. Proper profiling – that a specialist could review case files and provide profiling about the parties easily.
  2. Shared resources information – this could occur under the current discovery process if subpoenas were conducted in a serious manner and responded to rather than refuted, ignored or manufactured with no consequence.
  3. Check lists – this could be produced as a resource for the court to proactively look for certain information, characteristics of individuals and behaviours in the documents; this could be aligned with a psychological information e.g. the Hare Psychopathy Checklist.
  4. The Conciliation Conference is an under-utilised opportunity in the process. If this was better resourced with a view to achieve an outcome, there would be no need to utilise the court beyond this.
  5. The Family Report is an under-utilised resource. A review, skill audit, guideline to the approach and consecutive appointments would enrich the content.
  6. Allied resources enriching the outcome in 1 and 5 above. For example qualified alternate therapy could provide reports on the family dynamic to add authenticity to the outcome.
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**Introduction:**

Unique aspect of my particular case from the perspective of "one year later"

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**What happens after Orders are issued?****The day-to-day management of Children who are required under Order to continue visitation with the violent perpetrator who will not stop**

██████████ is the one year anniversary of Orders issued in Family Court of Australia.

My story: This day one year ago the ██████████ FCA trial ██████████ concluded. It had been bifurcated ██████████. Justice ██████████

██████████ had begun the process of cross-examination of me in ██████████ and left me sworn-in for a ██████████ month recess.

This meant that for these ██████████ months ██████████, I could not speak with my legal team about this.

After the trial concluded in ██████████, it had not occurred to me that I would have to wait for a judgement.... Waiting turned into complete despair as the difficulties of raising a child being subjected to psychological abuse escalated further post-trial. I couldn't conceive why the judge would delay proceedings this long whilst the daily challenges had become magnified post-trial.

Logging in to the Family Courts portal became a daily event, many days several times.

On this particular day last year, I was preparing to leave work when for the third time that day I logged in and magically the orders were posted! I could barely believe it! As I opened them and began reading I was shaking...

The bittersweet news is that this judge had convinced himself without doubt that there was "child abuse", the nature of which was psychological. ██████████

██████████ (The "good news" about this is that we had an "endeavouring judge" who genuinely wanted to get to the detail and explore the outcomes of the orders he thought he needed to make.)

The result - that orders dated ██████████ were made allowing "the child" to have a ██████████ break from the abuse - the father was suspended. Ongoing the orders enable me to care for the child as a sole custodial parent in regard to education and health. Visitation was resumed identical to before after the suspension, ██████████

In the only way available right now with the law the way that it is, my faith in justice was restored that day.

**Reflecting on-**

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- Terms of reference
  - Royal Commission Goal
  - Questions provided

The submission I would like is particularly relate to Questions 8, 9, 10 & 12.

**Q9**

Assessment of individuals – parties to a FCA matter – ought to be easily facilitated by the process – disclosure, affidavit materials, sworn statements, and subpoena.

- The FCA don't view perjury as serious is an issue

**Commentary:**

A case that runs for years in the FCA simply doesn't occur if there are two reasonable individuals with a shared concern for the child's best interest. It requires only one unreasonable party to quickly cycle into acrimony. There appears to be no checkpoints in time and in the process where the court – not the representing legal teams – require a proper assessment, an audit if you like, of the individual.

The primary focus of the court should be to discover the character of the individuals. How do they conduct themselves in society? Are they honest? Do they live within an ethical, legal, moral framework? Do they contribute? How do they keep their business? Their home? Do they have good relations with others? Their work colleagues? Neighbours? School communities?

Instead the discovery/disclosure/subpoena process is a series of closed doors with no legal consequences. The fact that cover-ups are occurring ought to be noted in the court outcomes as "alarming" and in the very least "red flag". A request/requirement for full disclosure should result in full disclosure and absence of disclosure, cover-ups and manufactured disclosure should mean something compelling.

**Solution** – instead of a judge ordering psychological assessments – which are ineffectual for assessing psychologically violent men – use the resource to review all of the materials from a legal case and prior to a trial, with the view to provide a psychological assessment. IE have a specialist read the case documents and provide a report about the two individuals.

In my case, because there was a joinder, the solicitor and barrister of the joinder quickly and easily formed a relevant and true opinion of the violent party – just by reading the materials from the case thus far. On the other hand, they formed a positive and true opinion of me. Truth and deceit are clearly evident if documents are read in one sitting and representing a reasonable time period.

The Child's best interest is improperly represented by the process. The court's current default is – it is in the child's best interest to make an Order to spend time with both parents – in past times equally – so that the child has the greatest opportunity to have a relationship with both parents. The default needs to be – it is in the child's best interest to have the opportunity to be cared for by *one parent* who has their best interest central. This primary parent will facilitate ongoing relationship between the child and other parent if and only if it is safe and indeed in the child's best interest. The primary parent needs to be facilitated and empowered (and trusted) to make this call.

In cases of high acrimony Shared Parental Responsibility only facilitates the child to spend their entire childhood exposed to continued conflict.

**Q8 & Q10**

Gaps and deficiencies, legal responses.

Practical improvements integration and co-ordination. What are the barriers.

My belief is that there is a terrific opportunity to expand and invest in:

1. The Conciliation Conference and
  2. The Family Report.
1. **Conciliation Conference** (refer attachment 2 – Raw Capture of the day after my Conciliation Conference). The Conciliation Conference is a terrific opportunity to avoid further legal proceedings- particularly regarding financial orders - if legal teams and their clients properly understand it as *an opportunity* and they are properly prepared to get outcomes on the day. There can be orders made on this day!  
This can only work if
    - all parties understand and agree to an outcome
    - discovery/disclosure is completed, there is nothing further to find out

**Personal recollection:**

My conciliation conference lasted [REDACTED] hours with the registrar concluding the father was [REDACTED]. None of this behaviour (see attachment) had any bearing on future legal proceedings, I sought to have the registrar's notes from the day attached to our proceedings and I was treated as if I was a fool. He was vexatious on that day and throughout the [REDACTED] years in court and there was never any consequence for this. Vexatious behaviour is not the attribute of a parent who has the best interest of the child. These details should be noted and attached with consequences.

**2. Family Report +specialist psychologists**

Due to the length of my case, the delaying by the father and the joinder issue, the child matter was put off constantly. In this time, [REDACTED] months apart, we were ordered to attend upon Family Report writer [REDACTED]. The gift in this repetition of the process was, [REDACTED] was able to compare and draw a richer understanding of the psychological violence and the impact it had on our child.

[REDACTED] concluded in cross examination that in her [REDACTED] years in this field she had never seen such an alarming case [REDACTED].

The specialist under cross examination concurred (independently of [REDACTED]'s account).

During the [REDACTED] years, there were [REDACTED] court appearances as the father pursued me for [REDACTED]

However, the point I want to make is there were no consequences for this behaviour. Lying, scamming, accusing with no grounds, deception designed to bring me down and damage my credibility – had no bearing on the case outcome. I was consistently told – “yes he’s done all of these things before the court but the court’s view is that this does not necessarily mean he is a bad parent”.

**Solution:**

The fundamental perspective from which the law is made needs to change. If a person is a liar, cheat, sexual pervert/deviant, tax cheat, deals only in cash, drives for 10 years without a license, hides & denies assets, threatens, manipulates others etc etc, in a legal proceeding, then it is likely this is how they conduct themselves generally in life.

On the alternative, if a person is consistent, honest, transparent, willing to share information and disclosure, admired in the communities they exist in, kind, charitable, dignified, fair and this is evident in all documentation and dealings, then this is generally how they are in life.

The question is what type of person do we want to raise our children?  
Are the extreme behaviours likely to cease? And how do they impact the child?

A parent with the best interests of the child as central will arrange for the child to have an ongoing connection with the other parent if it is safe, positive and beneficial to the child. This person should be enabled by Orders as they have been established – via court processes – to be acting consistently in the best interest of the child and this will not change in the same way the detracting and nasty damaging behaviours of the other parent will not change.

**Q12**

Both parents were ordered to participate in [REDACTED] post separation [REDACTED] group programme [REDACTED]

The issue is, in a case of a violent man, with entitlement, belief they are doing the right thing, belief they are justified in their behaviours in spite of them being told otherwise throughout the process, this person will not engage in positive change.

**Good outcome:**

In the case of a female victim and the primary carer of the child (who needs stability, routine, to feel safe, valuable time with you), the cost in time to care for your child is very high. However, the gain from this programme for me was that I connected with two other mothers with very similar circumstances and at similar stages in the family court process. We established between the three of us a strong support base and this was highly valuable.

**Behaviour change is not possible:**

Real behaviour change for violent men is not possible or requires long term and more radical methods, than a small group chat weekly. The conclusion drawn about the father of my son from one of the two psychologist specialists, [REDACTED] was, in his opinion people like this don't change and they are near impossible to treat. If research supports this – which I believe research does – then the answer is in ensuring that victims are safe and potential future victims have access to information about the perpetrator.



## Attachment 1

### Example of how discovery process is broken

Via the subpoena process (because regular disclosure via affidavit was not forthcoming or manufactured), I sought to provide evidence to the court that he had a violent past that was on police record, he used his profession to be a sexual deviant and predator [REDACTED]

[REDACTED] So my solicitor subpoenaed the following, with the outcome stated:

- Police record/ They would only provide incidents which had been officially lodged, would not provide diary notes from the station where incident was recorded, officer on duty when approached confirmed there were incidents but they were not at liberty to disclose any information about them.
- [REDACTED] n
- [REDACTED], required to protect the file notes from counselling under privacy law – even though they were subpoenaed and even though I was one of the parties present and sought the notes for the purpose of a FCA matter and the other party was the other party present.
- Accountant/ simply responded by saying there were no records kept. [REDACTED]

[REDACTED] There were no consequences or followup to this even though materials provided to the matter directly contradicted this.

In my case, had these three parties properly responded to the subpoena, the FCA would not have had to allocate so much time to discovery. The materials provided would have substantiated all the other materials to the matter – claims that I had made in sworn documents to be true, responding claims he had made to be perjury.

These materials would have exposed him as a psychologically violent man, a scammer, a law breaker, long term tax evasion. The notes from counselling would confirmed that he felt entitled and justified in acting in the way he does. They would have confirmed he admits to his sexual conduct [REDACTED] and confirmed that he found the “Anger Management” course recommended by the counsellor a joke. They would confirm there was no intention to change his behaviour as he did not see the issue.

**Attachment 2:****Raw capture from yesterday Conciliation Conference.**

**The Father's Dirty tricks** – discrediting my integrity both personally and in business,

implying that he wants things that I refuse to discuss.

**What is evident to all parties – yesterday very evident:**

I'm fair, transparent, honest, conciliatory, believe in the process, willing to negotiate, focussed on achieving a win-win-win ( ), lawful.

He's adversary, clandestine, dishonest, bullying, troublesome, ranting, stone-walling, delusional and lawless.

I felt yesterday that he was supported, listened to, acknowledged and was responded to. On the other hand I continued to exhibit all of the attributes listed above and was not honoured or acknowledge by the process.

**Outcome** – Mediation is to be conducted no later than . Both parties provide full disclosure (I already have but he wants disclosure of something that doesn't exist )

How can we clearly articulate to 's legal team that they need to control their client and not allow him to gazump the process? It was clear yesterday that was in charge.

If they don't meet the criteria as stipulated in the court orders – ie 14 days prior full disclosure, we will not go to mediation but request a full trial. They will be made aware of this consequence immediately.

When will he be held accountable for breaking court orders? He has proven consistently that he does and will continue to do so. When will this be seen by the law as breaking the law. When does this behaviour get taken into account when dealing with the more difficult task of parenting orders?

When will I be compensated for his bully-boy delay tactics and law-breaking behaviours. The outcome for me from yesterday is that I continue to service this huge loan on my house and whilst he's now been ordered to continue to pay the [REDACTED] mortgage, he has had an entire [REDACTED] of not paying in [REDACTED] – when do I get compensated for continuing to pay whilst he lives in the [REDACTED] home at no cost. He continues to use it for [REDACTED] [REDACTED] business and living there, I still have it insured!!

Registrar [REDACTED] said:

- [REDACTED]
- [REDACTED]
- [REDACTED]

Do we get a transcript from the Registrar of what occurred yesterday in the [REDACTED] hours of negotiations?

-end-