

# Trial & Error—

## VISITATION and the INFLEXIBLE “EX”

BY STACY D. PHILLIPS

The most common disputes that wind up on my desk involve squabbles over custody and visitation rights. In other words, who has the children and when. Although the courts normally award joint legal custody, the parent without physical custody generally has a visitation schedule clearly defined. Mom and dad's lives (and the children) cannot always fit within court-prescribed parameters, however.

The standard court order for many joint legal custody arrangements typically calls for the non-custodial parent to have custody of the child every other weekend, one night mid-week, alternate holiday periods and two to six weeks out of the summer. For most people, such a regulated schedule cannot always be adhered to. After all, “life happens,” which means special

events and emergencies may call for the need to change

visitation times. Sounds reasonable, but what if your ex is one to live by the book—and won't budge when you wish to make a visitation time change? Though it's not always easy, there are ways to handle an inflexible spouse.

I generally advise my clients; do your best to adhere to the schedule because you don't want to disrupt the children's sense of continuity. It's difficult for most kids to go back and forth between their parents. To keep changing times can make it even more difficult. Children need a routine and they need order. They often feel caught in the middle if one or the other parent continually changes the schedule. Do your best to make your plans according to what the court has ordered. Plan family events, special occasions, outings and other events on your weekends and times. If you continually ask for flexibility, your ex may become even more inflexible! That's the last thing you want.

Let's assume you're pretty constant and stay with the standard schedule—

but at times ask to change visitation and your ex won't “give.” Then it's time to get your best negotiation and diplomacy skills in order. The marriage is over, but raising children isn't, so here are some choices:

**Letters:** If your ex is inflexible, write kind-worded letters reflecting your requests. Aggressive dialogue may spark an altercation, but respectful correspondence is great.

**Conversations:** If you contact your spouse regarding any schedule changes by phone, or discuss the request in person, be polite and courteous, especially if he or she isn't. This approach could play a major factor in getting you what you want.

**Calendar Credits:** If letters and calm conversation don't work, try a bartering system—“trade-you-this-

**“The marriage may be over...but raising the children certainly isn't.”**

for-that” is effective. Issue your ex a “credit” (put it in writing), for the time slot he or she is changing for you in exchange for a time he or she may want in the future. Let your ex “bank” these credits and be flexible when asked to redeem them. This approach helps the parent who makes the sacrifice feel as though he or she is getting something in return—and getting it right away. With credits in the “bank,” your ex feels a sense of power. If you are using a barter system, honor your “credit” and don't ask to trade too often. Abusing the process will only create tension.

**Legal Intervention:** Your last resort is to contact your attorney. Only do so if it seems there is an extended period of time in which your ex won't make any reasonable schedule changes. Using an attorney can become stressful and costly and land you in court. Best to exhaust the other options if you can.



**Q.** I'm a 37-year-old father of two and I have had the need to change my visitation schedule every couple of months because of out-of-town work commitments. My former wife, however, has been very obstinate about not cooperating. What should I do?

**A.** Asking for changes too frequently may prove to be a constant irritant to your ex. If you can't barter, then you may need to go to court and ask for a modification—a different calendar arrangement that better fits your weekend schedule. Of course, in California you can set an appointment in conciliation court and get a mediation appointment at no cost. Very often, the courts will attempt to help the partner who wants more flexibility because his/her job requires it.

**Q.** I'm a mother of two young children and my husband seems to prefer his spur-of-the-moment vacations over his visitations with the children. He's fairly demanding that I arrange my calendar around his. What's the best way to handle this?

**A.** Try to reason with him by letting him know that one day the children may feel they are not a priority in his life. Also, don't be afraid to let him know your life doesn't revolve around his. Be as flexible as is comfortable, but don't subjugate your needs or those of the children. **W**

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