

December 9, 2008

DIVORCE MAGAZINE

A Promise to Others

By Stacy D. Phillips

NOTE: The following article is the perspective of the author and does not necessarily reflect the opinion of DivorceMagazine.com.

With great interest, I read Alec Baldwin's book, *A Promise to Ourselves*, which is anything but flattering to all of those who work within the family law community -- its lawyers, judges, and court-ordered therapists. Baldwin makes many claims: among them, that the "American family law system has degenerated into a disgraceful mess..." And though he says, "...this book is not an indictment of all attorneys and the legal profession," the reader is left to wonder.

Baldwin draws an analogy of what it is like to get a divorce, aiming this next remark toward the professionals who work in the family law field: "When someone is sick, our society usually offers some means of care. The sick individual reaches out to professionals who arrive with their skills and training at the ready, prepared to solve the problem. When illness afflicts a marriage," he goes on to say, "the professionals who arrive on the scene often are there to prolong the bleeding, not to stop it. To be pulled into the American family law system," he writes, "...is like being tied to the back of a pickup truck and dragged down a gravel road late at night."

As he rails against the system, on nearly every page of the book's Introduction and throughout many pages in the subsequent chapters, he contends that "the problem lies not only with antagonistic lawyers who perpetuate conflict, but also with the judges who sit idly by and do nothing to rein them in." He says about his own lawyers in their failure to educate him as to what he should expect: "They provided little information, and even much of that was irrelevant to the questions I asked. They were inside a system, an inefficient, corrupt, amoral system, and they wanted to be left to work that system with as little interference from me as possible."

Baldwin also tells the reader that divorce is now a \$28-billion dollar industry in the United States and that "family law is a racket." He also says "the battle between couples with deep pockets and lingering, unresolved personal issues becomes the Super Bowl for divorce attorneys." Moreover, he flatly states, "Family law in most states has become its own preserve, one in which litigants come and go while the principal players remain the same. Those players, not the families whose fates are determined by this system, are the ones who profit from protecting the status quo." As if to level a gavel with concluding thoughts along those lines, he finishes with: "We have, I believe, a system designed to line the pockets of these principals."

Angry words from an angry man.

Though I take umbrage at his nasty accusations toward all those with whom I work in the family law community -- those who, for the most part, do their level best to help individuals who find it necessary to go their separate ways do so as undamaged as possible -- I truly understand the frustration and pain he must have felt (and probably still does). Yes, I do feel for Alec Baldwin. I am sure many of those



PHILLIPS LERNER LAUZON & JAMRA LLP

2029 Century Park East, Suite 1200 | Los Angeles, CA 90067 | Phone: 310.277.7117 | Fax: 310.286.9182 | plljlaw.com

in the “system” he disparages probably feel the same way I do, because we are very much aware of how wrenching “divorce” pain is and how exhausting the divorce process can be. His stuff is the kind of stuff we deal with every single day.

Some days, it gets to us.

But what Baldwin does not get is that those of us who practice family law, and those who adjudicate cases, and those who treat couples and children in a therapeutic sense through the courts, lay awake many nights fretting over the welfare of those whom we seek to help, especially the children that have become entangled in their parents’ contentious messes.

What Baldwin fails to realize is that the very people he condemns are those that work hard within a system whose primary goal, day in and day out, is to treat parents and their children fairly. What he also may not fully realize is that more members than not of the family law bench in Los Angeles, along with the steady support and cooperation of the family law bar -- the attorneys -- are dogged in their pursuit to try to improve the way the system works. And it has improved in Los Angeles immensely since I started practicing family law 25 years ago, in many ways. For example, today, the courts’ preferred approach to custody -- notwithstanding any extenuating circumstances, such as abuse or misconduct of a parent to a child, or a parent that has moved away -- is a 50-50 proposition. The judicial officers then work backwards from that premise to devise the best parenting plan they can devise to benefit all parties. It did not used to be that way. Baldwin is lucky.

In fact, he is really lucky, because in some states, there are courts that would have shown little mercy toward a father who had left such a scathing message on his child’s voicemail -- a message that left many of us to ponder: If it looks like a duck, and walks like a duck...

“All behavior is consistent,” according to Baldwin’s recollection of what his parenting class therapist, Jane Shatz, (whom he regards as “one of the heroes of the story”) said to him. Yes, I also find that to be true through my dealings with both men and women going through divorce.

I applaud Baldwin for wanting to share his divorce experience in what I believe is a sincere attempt to preclude others from suffering the same anguish. When he steps away from the rant against the legal community, he does attempt to help the Promise reader: his book is a long list of admonishments. Some of his advice is prudent; other points are off-base or what I consider misleading. For example, he suggests that court evaluators be “assigned blind, by judges from a pool of therapists”. I think I speak for many of us in the “system” when I say that, no, it is better to choose an evaluator best suited to the case, if you can.

There are points he covers in the book -- points for which he could have included more detail, fuller explanation, and a more balanced rationale.

I am not suggesting that some of Baldwin’s complaints in his Promise book lack merit. For instance, does the family law court have its flaws? It does. Is the system overcrowded? Absolutely. Are evaluations sometimes slow in coming? Yes. Are more courtrooms needed to unclog the system -- a system that is constantly backed up? Certainly. Are there some judges who ought not to be on the bench, and court-appointed personnel that fall short of what should be expected of them? Yes.

As to the flaws and congestion, the bench and the bar work tirelessly to refine and improve the system. Do we need more mental-health professionals to do custody evaluations; absolutely. But one needs a special constitution to do that type of work, and thus the pickings are slim. Although there are a few judicial officers who have not found their calling in family law or are burned out, the vast majority are hardworking, caring individuals who are willing to make far less money than being an attorney



and who are sincerely motivated to help families and children in crisis. Indeed, I would stack up our California family law statutory and case law as well as our judicial officers and practitioners against any other group in the country. Our system is not perfect, but it is darn good and hopefully getting better. With mediation and Collaborative Divorce assuming an ever greater role “in the family law system”, those going through a divorce have choices as to how to proceed. And as mediation and Collaborative Divorce become even more popular, the family law courts should become less congested and, therefore, more available to those who need the court system.

Baldwin winds down his book ticking off the promises he has broken and promises he has made. He says, “I promised myself that I would write this book, to help people better understand the terrible and unnecessary pain that the divorce industry inflicts on those people who have had the bad fortune to enter this world.”

Interestingly, I made a promise to my readers when writing my book, *Divorce: It’s All About Control -- How to Win the Emotional, Psychological, and Legal Wars*, in the hopes that people like Baldwin could stave off and/or deal productively with some of the battles that ensue during the divorce process. Its core message is to let the reader know, if he/she is struggling through divorce (and most people are), that they are likely dealing with a power struggle -- a problem where control is either an issue or at issue. It also tries to help the reader take a closer look at him/herself to see what he/she may be doing to perpetuate the divorce wars, stay mired in the process, or carry the frustration and anger forward, long after he/she should have moved on. What I found during my research -- and through my many years as a family law attorney -- is that those who point the finger at others around them (e.g., it is always someone’s else’s fault) are often the ones who are most out of control. And Baldwin does a great deal of finger-pointing.

It sounds as though much of Baldwin’s grouching comes as a result of what it has cost him financially. In so many words, and in so many places throughout the book, he continues to bring up the subject, most particularly in reference to fees divorce attorneys are paid. When discussing the costs he incurred while dealing with what he says was parental alienation against him, “...judges in Los Angeles do not have the guts to stand up to the rapacious lawyers who line their pockets at the expense of men and women victimized by this very real syndrome.” This is not to say that one (or both parents) does not try to brainwash their child against the other parent. Whether you call that fact pattern parental alienation or something else, such bad behavior absolutely does occur. But who is Baldwin to say that the judge (all judges?) in Los Angeles are gutless when dealing with the family law bar and, thus, turn a blind eye to parents who are, in essence, abusing their children?

If that is Baldwin’s point of view, many of us practicing in family law, and the judges who worked for meager pay while on the bench (and who have gone on to serve as a “rent-a-judge” subsequently making the money they so deserve), should similarly resent the high salaries Baldwin is typically paid for his roles on television and in film. The difference is: if we do not like how the film or show turns out, we do not begrudge Baldwin for what he was paid to do his job, just as he should not blame any of us for charging for our skills and abilities, for our hard work, just because his “divorce show” did not turn out the way he thought it would or should.

*Stacy D. Phillips is a Certified Family Law Specialist and author of *Divorce: It’s All About Control -- How to Win the Emotional, Psychological and Legal Wars*. Phillips represents many celebrities in film, television, music, sports, and politics.*

