Risk Assessment – High Ris

Erin and Seth married and lived together for 12 years. Both are from rural farming backgrounds. They have three children who were quite young at separation. Erin has post-graduate qualifications and over some years has acquired recognised expertise. Seth did not finish high school, however has a diploma and farming-related experience. Erin had a troubled relationship with her own family through the marriage, which has continued after separation. She feels she was blamed for a poor choice in Seth and then for the marital breakdown. Erin has been excluded from the family farming business and assets but she places a strong value on family and has endeavoured to foster a relationship, especially so the children would know their grandparents, uncle, and cousins. There is also a history of antagonism by Seth’s family towards Erin with the exception of one family member who has remained supportive.

Over the course of the marriage, Erin experienced negative, controlling interference from her own and Seth’s families including verbal and physical abuse in the presence of the children. It became problematic to involve family in the care of the children while Erin and Seth attended to work responsibilities; consequently, they stopped doing things together so that one would be available to stay home with the children.

A significant rupture occurred in the family when Seth was involved in a serious accident making him lose confidence. Seth’s own family farming business—in which he worked, and he and Erin had a part interest—was then sold. Seth struggled to adjust, and financial security from the farm sale took away the urgency to work which was not a good combination. Erin says Seth had a career crisis and he insisted that she and the children travel around with him looking for other opportunities. It was during this time that Seth began denigrating Erin, blaming her for joint financial decisions they previously made, claiming she was inept and incapable of making basic decisions. Erin believed that Seth was jealous of her achievements and humiliating her was his way of dealing with his own deficits. She also believed that throughout the marriage Seth deliberately set about to isolate her from her professional and personal networks so as to limit her capacity to progress in her own work and life. Over time, the situation became intolerable to Erin. From time to time, she would drive away from wherever they were staying to get some brief respite. Erin was aware that Seth had an arsenal of guns (he and his father are hunters), and, as Seth’s behaviour became more irrational, she became increasingly worried about how he might use them.

Eventually, Seth decided to move interstate to be closer to his family and to have time to find himself. He tried to deliver Erin and the children to Erin’s family, but they refused to house them on the family property. Erin and the children were forced to live with Seth in motels for a number of months before Erin organised a rental house, a quite expensive one that was the only one he would agree to. Within weeks of moving in, Seth was spending more time away than at home, and would take the family car. Erin ended up having to pay for the rental house and purchase another car. The couple separated and a year after reaching a property settlement, Erin felt she and the children were emotionally able to move to a house she bought in her own right. She hoped to give the children a sense of stability as Seth’s week about contact with them was erratic, and each changeover time was an opportunity for him to put her down in front of the children. In the time following separation Seth’s abusive behaviour towards Erin escalated considerably. He also took deliberate steps to recruit Erin’s and his own family as participants in the abuse. In one year after separation Seth again moved interstate and chose to see the children for only limited time on school holidays.

The couple divorced and agreed on a parenting plan, through solicitors, for the care of the children: they would live with Erin and spend four nights each fortnight with Seth. Seth never followed the arrangement; he would take or leave the children as he wished, and refused to consult Erin or comply with any routine.

Seth finally got a job and permanent accommodation on the farm where he worked. The couple’s sons were then involved in an accident while at the farm with Seth. The youngest suffered a head injury and Seth didn’t seek suitable medical support, driving him to town instead of calling an ambulance. It wasn’t as serious as feared, but the child experienced health issues and was absent from school as a result. It was clear to Erin that she hadn’t been given a truthful account of the accident. It became apparent to Erin that her family were concerned about Seth’s parenting, calling him irresponsible in front of the children on many occasions, and suggesting that he not have contact with them. Erin found herself having to stand up for the children’s right to have both parents in their lives, resulting on further conflict with her own parents. Seeming to take advantage of this rift, Seth encouraged Erin’s parents to call for a Justice Examination Order to be issued placing Erin under surveillance by police and psychologists for around a week. During his contact time, Seth began alienating the two older children from Erin. He would report to Erin that they were afraid of her and that she was violent and abusive towards them when in her care. What significantly damaged Erin’s relationship with the older two children and prolonged proceedings was Seth’s encouragement of the eldest child to make assault allegations against Erin. She was charged and released on bail, and the charges were subsequently dismissed. This was traumatic and humiliating for Erin.

On one occasion, Seth assaulted Erin in the children’s presence and then drove off with all three children in the car. The police were called but no action was taken to return the children to Erin. As a consequence, Erin made an application to the Family Court for interim parenting orders. The first family report highlighted alienating and aligning behaviour by Seth in relation to the two older children and concluded that it was clear that Seth wanted Erin out of the children’s lives. The court ordered that the three children live with Erin and have contact with Seth three weekends in every four. Counselling was ordered for all three children; however Seth later withdrew the two older children from counselling accusing the counsellor of not doing what he expected of her.

Seth subsequently breached the interim parenting orders. During this time, child safety initially removed the children from both parents and then, on application, delivered them to Seth’s family pending a further interim hearing in the Family Court. Further interim parenting orders were made requiring that the children live with Seth and allowing Erin to have weekly two-hour contact visits at a safe house and periodic phone calls. Erin found these visits totally humiliating as she felt she was watched and listened to. She believes this forced the older two children further away from her because, as teenagers, they hated the space.

Erin was advised by her solicitor not to apply for a protection order as those proceedings may jeopardise or delay the proceedings in the Family court.

It was another 12 months before the parenting matters came to a final hearing in the Family Court. The second family report confirmed the alienation tactics highlighted in the first report. The judge acknowledged this conclusion and indicated that it wasn’t appropriate for Seth to care for the youngest child for extended periods. There was however no broader recognition of Seth’s violence and abuse. The judge did not give any credit to the allegations regarding Erin’s mental ill health. Seth tried to accuse Erin of being an alcoholic.

The family report writer was the only witness in the proceedings. The court ordered that the two older children live with Seth and be free to visit Erin as they wish, and that the youngest child return to live with Erin, with fortnightly weekend contact with Seth. Erin believes that the 12 month delay gave Seth the opportunity to cause a great deal of psychological harm to the two older children in continuing his alienating tactics. Whilst an Independent Children’s Lawyer was appointed, Erin observed that the ICL met with the children only once and otherwise performed no obviously useful function; she found that she had to insist that the ICL explain the orders to the two older children as she was very concerned that they believed the court had ordered that they not have contact with her.

These parenting arrangements have continued now for 10 months. Child safety found that Seth’s allegations against Erin regarding her mental ill health and unfitness to care for the children were unsubstantiated. Still, Erin has no meaningful contact with her two older children. There are the occasional texts and phone calls, but they are commonly abusive towards Erin; periodically, they involve coaxing their younger sibling into disclosing information about or making demands of their mother. Changeover for the youngest child typically occurs at a service station midway between the parents’ houses. Seth uses these opportunities to put down Erin, and when the two older children accompany him, they remain in the car and turn their backs to her.

Seth’s allegations against Erin were never substantiated and yet post separation and throughout the course of the Family Court proceedings, Seth was able to alienate their two older children from Erin and, consequently, the youngest child. Erin has felt frustrated by the lack of communication or connection between the various courts and agencies that govern her and her children’s circumstances. She remains very concerned about her relationship with her two older children, and their relationship with their younger sibling, and whether there is any prospect that they will get the help they need to positively rebuild these relationships. While the court ordered counselling, it has only occurred once for the oldest two. There is now almost no communication between the oldest two children and Erin. Erin is frustrated with the court order allowing the older children to see her as they choose, believing it denies any hope of her having a good relationship with them.

Erin is now in financial trouble. While Erin was able to purchase her own home as a result of the early property settlement reached with Seth, since then she has had to borrow money on that security to fund her legal fees in the order of $100,000. Meanwhile, she has started a consultancy business, the returns from which are predictably modest through the building phase. She has received supplementary benefits from Centrelink; however she is currently facing (what she believes are unfounded) claims that she was overpaid. At no stage was Erin entitled to legal aid, whereas Seth received legal aid funding throughout despite having significant financial support from his family. She has recently missed her daughter’s birthday and is struggling to focus on her work. She feels like she needs a miracle. Financially, she lives day to day, trying to make sure she can provide well enough for her youngest child.