

A REBUTTAL TO BRUCH'S ARTICLE: PARENTAL ALIENATION SYNDROME AND PARENTAL ALIENATION: GETTING IT WRONG IN CHILD CUSTODY CASES

(This Rebuttal is an excerpt from a forthcoming article entitled *The Parental Alienation Syndrome in American law*, written by Demosthenes Lorandos, Ph.D., J.D.¹)

Citing to Faller's work nine times² and to Jon Conte and Ms. Wood four times, one wonders what sort of "research" professor of law Ms. Bruch might be.³

Professor Bruch begins her essay by mis-stating Gardner's central hypothesis.⁴ She then explains that "Gardner first stated that PAS was present in approximately ninety percent of the children whose families were involved in custody litigation.....his initial estimates appear to have been dramatically overstated."⁵ One has to wonder why she would neglect a work as important as the American Bar Association's *Children Held Hostage* in which Clawar and Rivlin describe as much as 80% of custody cases involving the processes of alienation.⁶ This, as is the whole "essay", is not scholarship, it is fuzzy thinking and misinformation.

After launching an argument against Gardner's idea that there is a lot more alienation than previously understood, Professor Bruch mischaracterizes the research of Thoennes and Tjaden for support: "Less than 2% of the approximately 9,000 families with *custody and visitation disputes* served by 8

¹ B.A. Psychology - San Francisco State University 1969; M.A. Psychology – New School for Social Research 1972; Ph.D. Clinical Psychology – Union Graduate School 1978; J.D. *Cum Laude* University of Detroit 1991.

Dr. Lorandos is a member of the State Bar of California and Michigan. He is licensed as a clinical psychologist in California and Michigan. He is the president of *Psychlaw.net, l.l.c.* 214 North Fourth Avenue, Ann Arbor, Michigan 48104 - www.psychlaw.net.

² Bruch, C.S. (2001). Parental Alienation Syndrome and Parental Alienation: Getting it Wrong in Child Custody Cases. 35 *Family Law Quarterly* 527. Curiously, Professor Bruch misrepresents Faller's credentials – *Id.* note 3.

³ Several attempts were made to contact Professor Bruch and to ascertain her background in science as well as to inquire about her article [csbruch@ucdavis.edu]. An assistant politely explained that she was too busy to respond.

⁴ Bruch, C.S. (2001). Parental Alienation Syndrome and Parental Alienation: Getting it Wrong in Child Custody Cases. 35 *Family Law Quarterly* 527. "...cases he believed involved false allegations of child sexual abuse..."pg 528. *Hereinafter*: Bruch (2001)

⁵ *Id.*

⁶ Clawar, S. and Rivlin, B (1991) *Children Held Hostage: Dealing with Programmed and Brainwashed Children* Chicago, American Bar Association.

domestic relations courts included in th[is] study involved an allegation of sexual abuse...." When one looks to Thoennes and Tjaden's 1985 and 1986 telephone and follow-up interviews, what the authors actually reported about the prevalence of accusations was:

"In the 129 cases for which a determination of the validity of the allegation was available, 50% were found to involve abuse, 33% were found to involve no abuse, and 17% resulted in an indeterminate ruling."⁷

Next, Professor Bruch cites to Kathleen Faller. Apparently Bruch has done the same investigation into Dr. Faller as law student Wood. When one considers the resources available at the University of California, this can only be characterized as substandard scholarship. For as we have seen, when one really looks into the orientation and methodology of Faller and her Faller Group, one can scarcely imagine a less worthy authority.

Indeed, Professor Bruch's first citation to Faller is to Faller's 1998 article in : *Child Maltreatment*.⁸ Unfortunately for her readers, Professor Bruch neglects to inform that Faller's serial ad hominem against

⁷ Thoennes, N and Tjaden, P (1990). The Extent, Nature, and Validity of Sexual Abuse Allegations in Custody/Visitation Disputes. 14 *Child Abuse and Neglect* 151, 151. 50% "found to involve abuse.." leaves 50% *not* found to involve abuse.

In the rather less than sophisticated interview and data collation study by Thoennes and Tjaden, the "determination of the validity of the allegations..." was developed by court personnel, survey data and interviews with selected professionals. *Id.* pg 152 – 153. Unfortunately, the *Melissa Studies* by Horner and Guyer, and Horner, Kalter and Guyer were not available to them when they were trying to make heads or tails of their data. *See:*

Horner, T. M., & Guyer, M. (1991). Prediction, prevention, and clinical expertise in child custody cases in which allegations of child sexual abuse have been made: I. Predictable rates of diagnostic error in relation to various clinical decision making strategies. *Family Law Quarterly*, 25(2), 217B252. *and see:* Horner, T. M., Guyer, M. J. & Kalter, N. M. (1992). Prediction, prevention and clinical expertise in child custody cases in which allegations of child sexual abuse have been made: III. Studies of expert opinion formation. *Family Law Quarterly*, 26, 141B170.

This is unfortunate because Thoennes and Tjaden relied upon their surveys and interviews with trained and untrained court personnel, social services folks and a few professionals trying to make sense out of sexual abuse allegations in custody battles. Horner and colleagues demonstrated that in ambiguous circumstances such as these, evaluators seem to routinely rule in abuse rather than exploring alternative hypotheses. *Id.* And note that Thoennes and Tjaden make no mention of the number of their 50% of 129 cases (64 ½) that were "found to involve abuse" which were actually adjudicated in the justice system *for* abuse. Concerning the very biased reporting of folks involved in custody litigation, and its impact upon "professionals" *see:* Ash, P. & Guyer, M.J. (1991). Biased reporting by parents undergoing child custody evaluations. 30 *Journal of the American Association of Child and Adolescent Psychiatry* 835.

⁸ Faller, K.C. (1998) The Parental Alienation Syndrome – What is it and What Data Support it? 3 *Child Maltreatment* 110. Cited by Bruch (2001) at note 3, pg 528.

Child Maltreatment is the house organ of the American Professional Society on the Abuse of Children located in Oklahoma. A.P.S.A.C. was created in 1987 by a group of notable believe-the-children, abuse validators like social workers: Kee MacFarlane (of the McMartin Pre-School debacle - *State v Bucky*, Superior Court, Los Angeles County, California Docket No. A 750900 (1990).) and Jon Conte (of the *Menendez* and *Hungerford* embarrassments [*People of the State of California vs. Erik Galen Menendez &*

Gardner came *after* Dr. Gardner was subpoenaed to testify about the Faller Group methodology.⁹ Next,

Professor Bruch argues that:

"Dr. Gardner's description of PAS may well remind parents, therapists, lawyers, mediators, and judges of these frequently encountered emotions, and this may help to explain why his audience has often accepted PAS without question. The overwhelming absence of careful analysis and attention to scientific rigor these professionals demonstrate, however, is deeply troubling."¹⁰

Bruch argues that Gardner's formulation may "remind" folks of the behaviors found in difficult custody and divorce situations. That is certainly to be hoped for. As a child psychiatrist of more than forty years experience, Gardner has been trying to ameliorate difficult alienation circumstances for decades. But what is Bruch arguing? It seems from these convoluted sentences that she argues that *if* folks are reminded of alienating processes, they will unquestioningly accept the existence of a *Parental Alienation Syndrome*. If we "un-wrap" this idea, it seems Bruch is arguing that parents, therapists, lawyers,

Joseph Lyle Menendez County of Los Angeles File No. BA 068880 & *State of New Hampshire v Joel Hungerford*, Hillsborough County, New Hampshire - No. 95-429]. It is noteworthy, that one of the leading proponents of the junk science concept of "repressed memory" ["The reason I keep getting parking tickets and I can't balance my checkbook and I keep getting fired from jobs and I'm on my fourth spouse....is that I was raped by a family member when I was five and you know what....I just forgot about it...."] is psychologist John Briere. Conte and Briere are on the Board of Directors of A.P.S.A.C. and Kathleen Faller is their current "Advanced Training Institute" lecturer on "Forensic Interviewing of Children". <http://www.apsac.org/ISPCAN%20APSAC%20Registration%20Form2.doc>

⁹ Answering to a subpoena, Dr. Gardner watched videotape of Faller and her group coercing a three year old child with repeated leading questions and sexually explicit pictures and dolls. Gardner testified that the process Faller and her group carried out, was among the worst he'd ever seen. Soon after this testimony, Faller began to attack Dr. Gardner in the social work literature. - Faller and her "Faller Group" of child abuse validators have been sued numerous times. Each time she and her group are sued, her university employer spends thousands of dollars claiming that Faller and her group should not be sued no matter what they do to children. The claim is always: No matter *what* they do, they're "*immune*" from suit! According to the *Detroit Free Press*, the lawsuit in which Gardner testified, found Faller's university employer spending well over one and a half million dollars in defense costs to avoid a plaintiff who would have settled for one tenth that amount. (*Champney v Faller et al.* Washtenaw County (Ann Arbor) Michigan Case No. 95-4760CK) See: *Detroit Free Press* November 3rd & 4th, 1997 "Expert and her methods on trial" - <http://www.freep.com/news/childrenfirst/qfaller3.htm> and follow up articles detailing the *Free Press's* Freedom of Information Act suit to discover the taxpayer dollars spend on Faller's defense.

See also: *Michigan Daily* November 4th, 1997 - "U Prof. faces trial on charges of improperly interviewing a child" <http://www.pub.umich.edu/daily/1997/nov/11-04-97/news/news5.html> Faller's vitriol should not be underestimated: The journalism student who wrote this article dissolved into tears in the plaintiff's lawyer's office sobbing that Faller had telephoned and threatened her graduation from the University. In this case, the Court's own independent expert viewed the Faller Group in action and read transcripts of their interviews. This independent examiner described Faller and her group as engaging in "non-standard approach to child interviewing" where they had a "...a strong preconception of what had happened.." and "...went about trying to elicit it with no orientation to alternatives: interviewer bias." Report: 11-3-97 pg 20. Faller's first hatchet job on Dr. Gardner was published in the stellar professional journal: *Child Maltreatment* edited by her "believe the children" and "children never lie" colleagues in A.P.S.A.C.: Faller, K.C. (1998). The Parental Alienation Syndrome, What Is It and What Data Support It?, 3 *Child Maltreatment* 100..

¹⁰ Bruch (2001) pg 530.

mediators, and judges who come across alienating processes in their dealings with families and children, merely accept it all "without question". Notably, Professor Bruch provides no citation to any literature whatsoever for this preposterous and insulting idea.

Bruch then deepens the insult by exclaiming that "*these professionals*" and again, the reference is to "... therapists, lawyers, mediators, and judges", demonstrate an "overwhelming absence of careful analysis and attention to scientific rigor".... which is "deeply troubling".¹¹ Again, there is no specific identification of "these professionals" and no citation to literature whatsoever. Professor Bruch seems to use hyperbole as a substitute for scholarship and clear thinking.¹²

¹¹ *Id.*

¹² Indeed, lacking scientific scholarship, Professor Bruch detours into hyperbole overdrive, informing that there are "many troubling" things going on (pg 541); that it's all "troubling" (pg 545); or it's "deeply troubling" (pg 530 & 534) and that it's all "profoundly disturbing" (pg 537). Furthermore, Professor Bruch blithely neglects thirty five years of scholarship into family dysfunction and alienating parents. See, e.g.: Rieff, J. D. (1967). Relational Interest: A Minor Child's Action Against a Third Party Who Alienates the Affection of a Parent, 7 *Journal of Family Law* 14. ; Kopf, K. (1970). Family variables and school adjustment of eighth grade father-absent boys. 19 *Family Coordinator*, 145.; Rutter, M. (1971). Parent-child separation: Psychological effects on the children.12 *Journal of Child Psychology and Psychiatry*, 233. Robert H. Woody, Behavioral Science Criteria in Child Custody Determinations, 3 *Journal of Marriage and Family Counseling* 11.; Benedek, R. & Benedek, E. (1977). Post divorce visitation: A child's right. 16 *Journal of American Academy of Child Psychiatry*, 256 ; Sorosky, A. (1977). The psychological effects of divorce on adolescents. 12 *Adolescence*, 123 ; Boike, M., Ginter, E., Cowen, E., Felner, R., & Francis, R. (1978). The relationship between family background problems and the competencies of young normal children. 15 *Psychology in the Schools*, 283; Hetherington, M., Cox, M. & Cox, R. (1978). The aftermath of divorce. In J. Stevens & M. Mathews (Eds). *Mother-child, father-child relationships*. Washington, DC: National Association for the Education of Young Children; Hetherington, M. (1979). Divorce: A child's perspective. 34 *American Psychologist*, 851 ; Santrock, J. & Warshak, R. (1979). Father custody and social development in boys and girls.35 *Journal of Social Issues*, 112 ; Kressel , K. et al., (1980). Typology of Divorcing Couples: Implication, Mediation and the Divorce Process, 19 *Family Process*, 210 ; Nelson, G. (1981). Moderators of women's and children's adjustment following parental divorce. 4 *Journal of Divorce*, 71; Emery, R. (1982). Interparental Conflict and the Children of Discord and Divorce, 92 *Psychological Bulletin* 310; Hetherington, E. M. et al., (1982). Effects of Divorce on Parents and Children, in *Non-Traditional Families* 233 (Michael E. Lamb ed.,; Pett, M. (1982). Correlates of children's social adjustment following divorce.5 *Journal of Divorce*, 25 ; Ellison, E.S. (1983). Issues concerning parental harmony and children's psychological adjustment. 53 *American Journal of Orthopsychiatry*, 73; Thompson, R. (1983). The father's case in child custody disputes: The contributions of psychological research. In M. Lamb & A. Sagi (Eds). *Fatherhood and social policy*, Hillsdale, NJ: Erlbaum; Stolberg, A. & Anker, J. (1983). Cognitive and behavioral changes in children resulting from parental divorce and consequent environmental changes. 6 *Journal of Divorce*, 23 ;Farber, S., Primavera, J., & Felner, R. (1984). Parental separation/divorce and adolescents: An examination of the factors mediating adaptation. 13 *American Journal of Community Psychology*, 171.; Emery, R.E., Hetherington, E.M., & DiLalla, L.F. (1985). Divorce, children, and social policy. In H. Stevenson & A. Siegal (Eds.), *Child development research and social policy*. Chicago: University of Chicago Press; Johnston, J.R., Campbell, L.E., & Tall, L.C. (1985). Impasses to the resolution of custody and visitation disputes. 55 *American Journal of Orthopsychiatry*, 112; A.L. Stolberg & J.P. Bush. (1985). A Path Analysis of Factors Predicting Children's Divorce Adjustment, 14 *Journal of Clinical Child Psychology*, 49; Lampel, A (1986). *Post-divorce therapy with high conflict families. The independent Practitioner*, Bulletin of the Division of Psychologists in Independent Practice, Division 42 of the

Next, Professor Bruch begins a five part analysis entitled: "The Flaws in PAS Theory". She begins by offering: "First, Gardner confounds a child's developmentally related reaction to divorce and high parental conflict..." But of course, she offers no citation to this seeming confusion in the board certified child psychiatrist's thinking. And for this proposition, Professor Bruch cites to others, none of whom say Dr. Gardner is confused about a child's developmental reactions. Warning to her task, Professor Bruch begins to erect a "straw man" by putting words in Gardner's mouth (none of which, by the way, cite to his work), and then in Quixote fashion, sets about to strike it down.

Her next argument is:

"Second...Gardner vastly overstates the frequency of cases in which children and custodial parents manufacture false allegations or collude to destroy the parent-child relationship. Taken

American Psychological Association 6(3):22-26. Warshak, R.A. (1986). Father custody and child development: A review and analysis of the psychological research. 4 *Behavioral Sciences and the Law*, 185 ; Felner, R. & Terre, L. (1987). Child custody dispositions and children's adaptation following divorce. In L. Weithorn (Ed). *Psychology and child custody determinations: Knowledge, roles, and expertise*. Lincoln, NE: U of Nebraska Press.; Hetherington, E.M. (1989). Coping with Family Transitions: Winners, Losers, and Survivors, 60 *Child Development* 1; Walsh, P.E. & Stolberg, A.L (1989). Parental and Environmental Determinants of Children's Behavioral, Affective and Cognitive Adjustment to Divorce, 12 *Journal of Divorce*, 265 ; Fauber, Robert et al., (1990). A Medial Model of the Impact of Martial Conflict on Adolescent Adjustment in Intact and Divorced Families: The Role of Disrupted Parenting, 61 *Child Development*, 1112; Tschann, Jeane M. et al., (1990). Conflict, Loss. Change and Parent-Child Relationships: Predicting Children's Adjustment During Divorce, 13 *Journal of Divorce*, 1; Borrine, Lisa et al., (1991). Family Conflict & Adolescent Adjustment in Intact, Divorced, and Blended Families, 59 *Journal of Consulting and Clinical Psychology*, 753; Hodges, William F. et al. (1991). Infant and Toddlers and Postdivorce Parental Access: An Initial Exploration, 16 *Journal of Divorce and Remarriage*, 239; Ash, P. & Guyer, M.J. (1991). Biased reporting by parents undergoing child custody evaluations. 30 *Journal of the American Association of Child and Adolescent Psychiatry*, 835.; Brown, Joseph H et al. (1991). Family Functioning Factors Associated with the Adjustment of Children of Divorce, 17 *Journal of Divorce and Remarriage* , 81; Forehand, Rex et al. (1991). A Short-Term Longitudinal Examination of Young Adolescent Functioning Following Divorce: The Role of the Family Factors, 19 *Journal of Abnormal Child Psychology* , 97 ; Amato, P.R. & Keith, B. (1991). Parental divorce and the wellbeing of children. 110 *Psychological Bulletin*, 26; Shaw, Daniel S. et al. (1993). Parental Functioning and Children's Adjustment in Families of Divorce: A Prospective Study, 21 *Journal of Abnormal Child Psychology* , 119; Ward, P. & Campbell, (1993). Family Wars: The Alienation of Children, *The Custody Newsletter* (Professional Academy of Custody Evaluators, Inc., Doylestown, Pa.); Campbell, T.W. (1993). Parental conflicts between divorced spouses: Strategies for intervention. 12 *Journal of Systemic Therapies*, 27; Dunne, J & Hedrick, M. (1994). The parental alienation syndrome: an analysis of sixteen selected cases. 21 *Journal of Divorce and Remarriage* , 21; Lampel, A. (1996) .Children's Alignment with Parents in Highly Conflicted Custody Cases, 34 *Family & Conciliation Courts Review*, 229; Amato, P.R. & Booth, A. (1996). A prospective study of divorce and parent-child relationships. 58 *Journal of Marriage and the Family*., 356; Hetherington, E.M., Bridges, M., & Insabella, G.M. (1998). What matters? What does not?: Five perspectives on the association between marital transitions and children's adjustment. 53 *American Psychologist*, 167; Doolittle, D. & Deutsch, R. (1999). Children and High-Conflict Divorce: Theory, Research and Intervention, in *The Scientific Basis of Child Custody Decisions* 425 (Robert M. Galatzer-Levy & Louis Kraus eds.); Campbell, T.W. and Lorandos, D. (2001) *Cross Examining Experts in the Behavioral Sciences*. Minneapolis, Mn. West Group two volumes. Specifically Chapter Eight provides a detailed discussion of the scientific literature concerning divorce and child custody litigation.

together, these assertions have the practical effect of impugning all abuse allegations, allegations which Gardner asserts are usually false in the divorce context. Here, too, Gardner cites no evidence in support of his personal view, and the relevant literature reports the contrary -that such allegations are usually well founded." ¹³

This in itself belies a rather serious misunderstanding of Gardner and of the *Parental Alienation Syndrome* Gardner has described. It's an apples and oranges issue. Gardner puts forth the idea that most *sexual abuse* allegations in the context of custody battles are false. This is clearly a tenable idea.¹⁴ But

¹³ Bruch (2001) pg 531.

¹⁴ Again, Professor Bruch, neglects years and years of research. *See, for example – fifteen years of supportive research.*: Kaplan, S. L., & Kaplan, S. J. (1981). The child's accusation of sexual abuse during a divorce and custody struggle. 3 *The Hillside Journal of Clinical Psychiatry*, 81; Ash, P. (1985, April). Sexual abuse in the context of divorce. Paper presented at the 63rd Annual Conference of the American Orthopsychiatric Association, Chicago, Illinois.; Gordon, C. (1985). False allegations of abuse in child custody disputes. 2 *Minnesota Family Law Journal*, 225; Benedek, E. P., & Schetky, D. H. (1985). Allegations of sexual abuse in child custody and visitation disputes. In D. H. Schetky & E. P. Benedek (Eds.), *Emerging issues in child psychiatry and the law* (pp. 145-156). New York: Brunner/Mazel; Green, A. H. (1986). True and false allegations of sexual abuse in child custody disputes. 25 *Journal of the American Academy of Child & Adolescent Psychiatry*, 449; Bresee, P., Sterns, G. B., Bess, B. H., & Packer, L. S. (1986). Allegations of child sexual abuse in child custody disputes: A therapeutic assessment model. 56 *American Journal of Orthopsychiatry*, 560; Schuman, D. (1986). False accusations of physical and sexual abuse. 14 *Bulletin of the American Academy of Psychiatry & Law*, 5; Bishop, S. J., & Johnson, C.E.K. (1987). Dealing with sexual allegations in custody and visitation disputes Part I. *Colorado Lawyer*, 16(6), 1006-1008. & Part II. *Colorado Lawyer*, 16(7), 1225-1228; Blush, G. L., & Ross, K. L. (1987). Sexual allegations in divorce: The SAID syndrome. 25 *Conciliation Courts Review*, 45; Green, A. H., & Schetky, D. H. (1988). True and false allegations of child sexual abuse. In D. H. Schetky & A. H. Green, *Child sexual abuse: A guide for Healthcare and Legal Professionals* (pp. 104-124). New York: Brunner/Mazel; Jones, D. P. H., & Seig, A. (1988). Child sexual abuse allegations in custody and visitation cases: A report of 20 cases. In E. B. Nicholson (Ed.), *Sexual abuse allegations in custody and visitation cases* (pp. 22-36). Washington, DC: American Bar Association. Kaser-Boyd, N. (1988). Fictitious allegations of sexual abuse in marital dissolutions. 11 *Family Law News*, 50; Sink, F. (1988). Studies of true and false allegations: A critical review. In E. B. Nicholson, & J. Bulkley (Eds.), *Sexual abuse allegations in custody and visitation cases* (pp. 37-47). Washington, DC: The American Bar Association; Thoennes, N., & Pearson, J. (1988). A difficult dilemma: Responding to sexual abuse allegations in custody and visitation disputes. In D. J. Besharov (Ed.), *Protecting Children from Abuse and Neglect: Policy and Practice* (pp. 91-112). Springfield, IL: Charles C. Thomas; Schaefer, M., & Guyer, M. (1988, August). Allegations of sexual abuse in custody and visitation disputes: A legal and clinical challenge. Paper presented at the 96th Annual Convention of the American Psychological Association, Atlanta, GA; Schultz, L. (1989). One hundred cases of unfounded child sexual abuse: A survey and recommendations. 1 *Issues in Child Abuse Accusations*, 29 ;Wakefield, H., & Underwager, R. (1990). Personality characteristics of parents making false accusations of sexual abuse in custody disputes. 2 *Issues in Child Abuse Accusations*, 121; Hindmarch, B. (1990). Allegations of child sexual abuse in the context of custody/access disputes. 19 *Alberta Psychology*, 18; Sheridan, R. (1990). The false child molestation outbreak of the 1980's: An explanation of the cases arising in the divorce context. 2 *Issues in Child Abuse Accusations*, 146; Elterman, M. F., & Ehrenberg, M. F. (1991). Sexual abuse allegations in child custody disputes. 14 *International Journal of Law & Psychiatry*, 269; Cooke, G., & Cooke, M. (1991). Dealing with sexual abuse allegations in the context of custody evaluations. 9 *American Journal of Forensic Psychology*, 55; Wakefield, H., & Underwager, R. (1991). Sexual allegations in divorce and custody disputes, 9 *Behavioral Sciences and the Law*, 451; Campbell, T. W. (1992). False allegations of sexual abuse and their apparent credibility. 10 *American Journal of Forensic Psychology*, 21; Lorandos, D. & Campbell, T. (1995). Myths and Realities of Sexual Abuse Evaluation and Diagnosis: A Call for Judicial Guidelines 7 *Issues in Child Abuse Accusations* 1.

more to the point, what does Bruch cite for support? Kathleen Coulborn Faller and law student Cheri L. Wood.¹⁵

"Third" writes Professor Bruch

"...in this fashion, PAS shifts attention away from the perhaps dangerous behavior of the parent seeking custody to that of the custodial parent.....Fourth, Gardner believes that, particularly in serious cases, the relationship of an alienated child with the rejected parent will be irreparably damaged....."¹⁶

In support of her sense that these are bad ideas, Professor Bruch cites to Dr. Faller, and a newspaper article. And this from a person who is complaining about an "overwhelming absence of careful analysis and attention to scientific rigor"¹⁷ – while ignoring decades of scientific literature.¹⁸

For her fifth point, Professor Bruch argues: "Gardner's proposed remedy for extreme cases is unsupported and endangers children." In support of this notion, she cites another newspaper article,¹⁹ and continues:

"Parent groups and investigative reporting describe, for example, numerous cases in which trial courts have transferred children's custody to known or likely abusers and custodial parents have been denied contact with the children they have been trying to protect."²⁰

Once again, Professor Bruch has found a newspaper article to support a proposition.²¹ So much for thirty years of hard scholarship by the likes of E. Mavis Hetherington or Michael Lamb or Emery or Cox or the new interdisciplinary work: *Legal and Mental Health Perspectives on on Custody Law: A Desk Book for Judges*.²² In addition, Professor Bruch cites to a "study"²³ by someone named Karen Winner. A bit of investigation²⁴ uncovers that Ms. Winner is a private investigator and author of an issue book for women.²⁵

¹⁵ Bruch (2001) pg 531, notes 15 & 16.

¹⁶ *Id.* at pg 532.

¹⁷ *Id.* at pg 530.

¹⁸ What was it she wrote about "deeply troubling"? Bruch (2001) pg 530 & 534.

¹⁹ *Id.* citing: Sherman, R. (1993) A controversial Psychiatrist and Influential Witness Leads the Backlash against Child Sex Abuse 'Hysteria' 15 *National Law Journal* 1 (A Newspaper – August 16th, 1993).

²⁰ *Id.*

²¹ *Id.* citing Keating, G. (2000) Disputed Theory Used in Custody Cases: Children Often Victims in Parental Alienation Syndrome Strategy, *Pasadena Star – News* (April 23, 2000).

²² Levy, R (Ed) (1999) *Legal and Mental Health Perspectives on Custody Law: A Desk Book for Judges*. Rochester, Mn. West Group 379 pages.

²³ Bruch (2001) pg 533, note 22.

²⁴ Minor investigation: <http://www.divorcedfromjustice.com/home.html> & <http://www.geocities.com/promanowsky/firestorm.html> & <http://www.divorcecentral.com/DCLive/expert/winner.html> - May 31st, 2002.

²⁵ Winner, K. (1996) *Divorced From Justice: The Abuse of Women and Children By Divorce Lawyers and Judges* New York. Regan Books. In a 1997 review, Leora Tanenbaum wrote in *The Nation*: "Every woman who is married or plans to be should be given a copy of this book. Every woman -even if she's independently wealthy, even if she has a well-paying job - is vulnerable because many divorce lawyers

She has a bachelors degree in social work from New York University and has submitted a number of women's issue pieces to newspapers around the country. She "investigates" and lectures on such topics as: *How women are subjected to "dirty tricks" by opposing lawyers and discriminated against by prejudiced judges* and maintains a business and website: **The Justice Seekers Inc.** where she advertises:

"Need an expert to debunk the fraudulent diagnosis, "Parental Alienation Syndrome?" Need an expert to evaluate whether your divorce lawyer has engaged in business practices that put his or her financial interests above the client's welfare? This small but growing list is a free public service to help litigants in divorce and custody cases find the experts they need. Check back periodically to see new additions. Courtesy of The Justice Seekers, Inc."²⁶

This is the person who did the "study" Professor Bruch cites as authority.²⁷

Next, Professor Bruch begins a vicious ad hominem attack against Gardner entitled "The Merchandising of PAS in Child Custody Cases"²⁸ She cites to law student Cheri L. Wood, describes what New York family court judge David F. Jung did in *Karen B v Clyde M*²⁹ as "deeply troubling"³⁰ and describes Gardner's ideas as lacking "scientific rigor".³¹ At this point in her "essay" she's found another newspaper and a magazine to cite to as authorities.³² Next she piggybacks an ad hominem from a psychiatrist with whom Dr. Gardner has vocally disagreed for years (she neglects to inform of the context), and then segues into "...as Faller's close examination reveals..."³³ As court appointed examiner Haynes put it when he reviewed the work of Faller "This examiner could comment for many pages on the problems..."³⁴ but these few examples amply illustrate Bruch's shabby, negligent scholarship.

think nothing of draining a client's personal life savings." Cathy Young, vice president of the Women's Freedom Network, was less complimentary in a review she wrote for the Detroit News: "Undoubtedly, as Winner argues, far too many lawyers mistreat clients," Young wrote. "But her contention that women are more vulnerable to such abuse is not backed by any research, only by more rhetoric that insultingly portrays women as guileless naifs."

²⁶ From: <http://www.divorcedfromjustice.com/home.html> - May 31st, 2002.

²⁷ Bruch (2001) pg 533, note 22.

²⁸ Bruch (2001) at pg 534.

²⁹ *Supra* at notes 26 through 54 and notes 207 through 230. (refers to footnotes outside the bounds of this excerpt)

³⁰ Bruch (2001) at pg 534 note 23.

³¹ *Id.* at pg 535.

³² *Id.* at pg 535 at notes 26 – 31 citing to *inter alia* The New York Times – Newsweek – and the Sherman newspaper article (note 213 *supra*).

³³ *Id.* at pg 539. At this point, Professor Bruch writes: Faller reveals...Faller notes.... As Faller puts it....again omitting any context.

³⁴ Bruch sets up Janet R. Johnston of San Jose State as a Gardner critic (pg 530 – note 10) and then purposely mischaracterizes Johnston's position: "Specifically disapproved is Gardner's recommendation that children, even those who are supposedly engaged in a *folie 'a deux* with their custodial parent, be removed immediately and cut off from all contact with that parent pending reverse brain-washing or deprogramming..." (at pg 543). What Johnston actually wrote was quite the opposite: "When the child is caught in a *folie a' deux* relationship with an extremely disturbed psychotic parent the separation may need

to be undertaken within the protective confines of an inpatient psychiatric hospital unit or in a residential school for emotionally disturbed children." Johnston, J (1993) Children of Divorce Who Refuse Visitation in *Non-Residential Parenting: New Vistas in Family Living* Depner and Bray (Eds). London: Sage Publishing page 132. But no matter. A few pages later, Professor Bruch slams Johnston: "Until she provides further clarification, Johnston's apparent support for forced contact between the members of high conflict families should be construed narrowly" Bruch (2001) at pg 549. Licensed psychologist Deirdre Conway Rand did not fare as well with the "Research Professor of Law". Bruch accused this noted psychologist of publishing a two part article in the prestigious *American Journal of Forensic Psychology* (a refereed, peer-reviewed scientific publication) "replete with inaccurate characterizations of the findings and views of many scholars" Bruch (2001) at pg 541. When contacted, Dr. Rand was astonished at this slam and verified that she'd received no communication from Bruch inquiring into Rand's scholarship. – Personal communication by telephone – May 29th, 2002.