



## Custody and Parenting Time

7/26/21

In **Kakollu v. Vadlamudi**, 175 N.E. 3d 287 (Ind. Ct. App. 2021) *trans. denied*, the Court held that the trial court did not err when it awarded Wife sole custody of the parties' Child and affirmed the trial court's attorney's fees and business value determinations.

Husband and Wife were married for eight years and have one child. Wife filed for divorce after the parties moved from Illinois to Indiana to open several dental offices as an expansion of Husband's dental practice. Shortly after filing her petition, Wife filed for an order of protection citing several instances of domestic violence. That court granted the protection order. The final decree described the parties as "unable to separate their differences with each other from their relationship with their child and their obligation to parent the Child" and expressed concern that joint legal custody would expose the Child to "the stress of dealing with parents constantly at war." The Doctor retained to perform the custody evaluation recommended joint legal custody in a manner that supports a goal of protecting the child from exposure to animosity between the parties, counseling for the parties targeted to parents engaged in conflictual relationships, and a parenting coordinator to assist in crafting a suitable parenting plan. The trial court found that the ultimate decision on the best interests of the child and the child's custodial situation remains with the court, and thus awarded sole legal and primary physical custody to Wife. Further, Wife rebutted the presumption of an equal division of the marital estate and the court found that an equitable division of the estate would be a division equal to 58.12% to Wife and 41.88% to Husband. Also in the final decree, the trial court ordered Husband to pay an additional contribution payment of Wife's attorney's fees of \$60,000. Husband appealed.

**The trial court did not abuse its discretion when it found that joint legal custody was not in the Child's best interests and awarded Wife sole legal custody of Child. Id. at 297.** Husband argued that the trial court erroneously put too much focus on the parties' general resentment towards one another. Id. at 296. The trial court was not obliged to accept the joint legal custody recommendation of the Doctor, nor was it required to enter a joint legal custody order merely because the parties agreed that they should exercise joint legal custody. Id. at 297. The Court found that the evidence supports the trial court's findings that the parties share a "warring attitude" and a "penchant for permitting Child to see and hear their angry interactions." Id. As to physical custody, the Indiana Parenting Time Guidelines specifically provide that they are not applicable to situations involving family violence, risk of flight with a child, or any other circumstance that the court reasonably believes endanger the child's physical health or safety or significantly impair the child's emotional development. Id. In this case there was evidence of domestic violence and concerns of an intention to flee with the child because of substantial evidence that Husband had been stockpiling money in India for a substantial period of time. Id. Thus, the trial court did not abuse its discretion in modifying the guidelines.

**The trial court did not err as a matter of law when it excluded from the marital pot the \$50,000 Husband paid for Wife's provisional attorney's fees. Id. at 299.**

**The trial court did not err when it adopted Wife’s expert valuation of his dental business.  
Id. at 300.**