

Bethenny Frankel Will Face Uphill Battle Gaining Primary Custody of Daughter — Lawyers Explain

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Bethenny Frankel's battle in court against ex-husband Jason Hoppy to gain primary physical and legal custody of daughter Bryn, 8, will be a tough one, believe two NYC divorce attorneys.

Bethenny Frankel is in the middle of a contentious child custody battle with her ex-husband, **Jason Hoppy**, and it doesn't look like it will be over anytime soon. But is it all for naught? Two top divorce attorneys in New York City told **HollywoodLife** that Bethenny's goal to gain sole physical and legal custody of their eight-year-old daughter, **Bryn Hoppy**, may not be realistic. Despite Bethenny and Jason's accusations that she's a "mean girl" and that he allegedly "manhandled" Bryn and mistreated their dog, it's likely going to take more than that for the courts to disrupt their joint custody arrangement.

New York divorce attorney **Leon Mindin, Esq.**, explains that the outcome of their custody case "is difficult to predict. The court may be inclined to maintain the status quo if neither

party has proven a significant change in circumstances or an overwhelming argument that sole custody is in the best interests of the child. Custody cases are difficult to predict because to get to a custody trial involves a lot more than just testimony.” What Bethenny is asking the courts to decide is serious. He went on to explain that, “joint legal and physical custody will only be disturbed here if Bethenny can prove there has been a significant change of circumstances since the last order was entered, or that Jason’s actions are serious enough that they pose a risk of harm to the child.”

Physical custody, Mindin says, refers to where Bryn would live full-time. It also determines who the custodial parent is for child support purposes. In New York, where both Bethenny and Jason, who divorced in 2013, live, the non-custodial parent pays child support to the other party. So, Jason would be paying Bethenny should she get sole custody. As to legal custody, which Bethenny is also seeking — it refers to who has decision-making power for Bryn. The parent with legal custody. “This allows the parent to decide where the child goes to school, what medical treatments the child should partake in if there is an illness, etc.,” Mindin explains.

“Legal custody does NOT mean Jason would never have any say, but it would mean that if he disagrees with Bethenny, she gets the final say in the matter,” he added. “If he thinks she is making a decision that is not in the best interests of the child or potentially harmful, he can go to court and try to have it stopped. But that’s rare and unlikely in most situations.” The serious accusations Bethenny and Jason have made toward each other may not impact the custody decision, New York divorce attorney **Raoul Felder** told us. “All these things they are complaining about doesn’t mean he or she isn’t the better parent. If Bryn was a bit older, like if she was 16 or something, then the role model question comes into play. But she’s an eight-yr-old child; she wants her mother, and she wants her father. So it’s up to the judge to decide what’s in [her] best interest.”

In Felder’s opinion, Jason would still have rights as a father. “All of these things that they allege (allegedly grabbing Bryn’s arm, mistreating their dog) does not preclude Jason from being a winner in the case. It’s reprehensible, but it has no effect on the child. The fact that Jason is doing all these things according to Bethenny, even if it were true — I don’t see how it would affect him being an inappropriate parent. This is something between the two of them. It’s maybe tasteless and a good reason to get divorced, which is what they’re doing. Allegations about the dog... it’s a terrible thing if it’s true, but that doesn’t affect custody. Pulling the arm of the child, it’s reprehensible, but it’s still not going to tip the scale.”

It boils down to this, according to Mindin: “What is most likely to affect any custody decision is whether the parents can communicate to effectively co-parent the child.” Of course, this information is based on what has been made public in Bethenny and Jason’s court case.

“You never know what kind of skeletons can be uncovered and the child being old enough to formulate an opinion on the matter is a huge wildcard factor in a case like this,” Mindin said.