

**SERVICES AVAILABLE TO ATTORNEYS**  
*representing clients in custody disputes*

**Evaluator screening**

Assistance is offered to attorneys in screening proposed evaluators. In particular, assistance can be provided in examining the practitioner's education, training, and experience in the specialty of forensic psychology and the sub-specialty of custodial fitness evaluation.

**Review services**

When an evaluator's full file is available for inspection, I am able to examine the file and offer commentary on the following:

(1) methodology, with respect to (a) the use or lack thereof of appropriate procedural safeguards; (b) the techniques utilized in interviewing the parents; (c) the techniques utilized in interviewing the children; (d) the manner in which parental interactions were observed and recorded; (e) the manner in which parent-child interaction sessions were observed and recorded; (f) the quantity and relevance of documents secured by the evaluator for verification purposes; (g) the manner in which collateral sources were selected; (h) the reliability of the collateral source information obtained; (i) the manner in which collateral source information was corroborated; (j) the selection of assessment instruments; (k) the administration of assessment instruments; (l) the interpretation of assessment data; (m) respect for role boundaries; (n) indications that alternative hypotheses were generated and explored; and (o) the creation, maintenance, and production of appropriate records.

(2) The apparent manner in which opinions were formulated. Specifically, (a) whether consideration appears to have been given to non-supporting data; (b) whether consideration appears to have been given to pertinent statutes and case law; (c) whether indicators of evaluator bias are present, such as the application of a double standard; the use of insulting terminology in describing non-favored parent; the use of glowing terminology in describing the favored parent; the assignment of minimal importance to possible parenting deficiencies in the favored parent; the assignment of much importance to reported flaws in the non-favored parent; the apparent wholesale acceptance of the favored parent's perspective; and, the apparent rejection of the non-favored parent's perspective.

(3) The effectiveness with which findings and opinions have been communicated to the intended recipients of the evaluator's report as reflected in (a) the inclusion of all the information reasonably needed by the court; (b) avoidance of personal perspectives presented in the guise of professional opinions; (c) acknowledgements of the known limitations of psychological knowledge, techniques, and data; (d) the inclusion of and discussion of non-supporting data; (e) a reasonably detailed presentation of assessment data; (f) an articulation of the criteria employed in examining the best interests standard; and (g) a cogently articulated nexus between findings reported and opinions expressed.

Even in situations where the only file item available for my review is the evaluator's report, it is still possible for me to provide useful information about and impressions of (a) the procedures and methodology utilized by the evaluator, including but not limited to the evaluator's adherence or lack thereof to generally accepted guidelines, practice parameters, and standards regarding child custody evaluations; (b) any test data analyses performed by the evaluator and/or reported by the evaluator; (c) the

evaluator's use of published research literature; and, (d) the logical nexus (or lack thereof) between reported information, observations, and clinical impressions and the opinions expressed by the evaluator.

If, following a discussion of my impressions of the reviewed report and file items, it is concluded that I can be of further assistance, a decision is made either to utilize me as a testifying expert or to utilize me as a provider of litigation support services.

### **Litigation support services - unfavorable report**

[1] Where it is felt that deficiencies in the evaluator's work are numerous and significant, I can assist in the preparation of a *Motion in Limine* seeking the exclusion of the evaluator's report.

[2] If the retaining attorney is preparing for trial, assistance can be provided in the development of questions to be posed during the deposition of fact witnesses and expert witnesses.

[3] Assistance can be provided in developing a list of items to be subpoenaed from the evaluator.

[4] Assistance can be provided to the retaining attorney during depositions, alerting the retaining attorney to expert witness responses that require further exploration.

[5] Applicable literature can be reviewed and a summary of the literature can be provided. The ways in which published research findings support or conflict with opinions communicated by the evaluator can be analyzed and discussed with the retaining attorney. The methods employed by the researchers whose articles have been summarized can be examined and commentary on their research procedures can be provided. Examinations of and commentary concerning research procedures provide the retaining attorney with the information needed to gauge the persuasive power of the research.

[6] Assistance can be offered in developing questions for use in the direct examination of fact witnesses and expert witnesses offering favorable testimony.

[7] Assistance in the development of questions for use in the cross-examination of adverse fact witnesses and expert witnesses can be provided.

[8] Assistance at trial is available.

### **Expert testimony**

If testimony is sought, I will offer expert testimony concerning deficiencies identified in my review of an evaluator's work.

### **Litigation support services -- favorable report**

An advisory report in which opinions offered are supportive of your client's position does not assure a judicial decision favorable to the client. Some experts emerge unscathed from cross-examination; some do not. Several types of assistance can be provided.

1. Aspects of the report that are likely to be the focus of cross-examination or likely to be the object of criticism by an opposing expert can be identified, so that pre-trial preparation can be more effectively targeted.
2. Specific questions can be prepared and/or areas of inquiry can be described, enabling the attorney conducting the direct examination to elicit from the friendly expert information that will serve to clarify poorly articulated portions of the advisory report or supplement information that is deficient.
3. Specific questions can be prepared that will enable the expert to explain the nexus between reported findings and criteria that have been statutorily specified or established as pertinent in case law.
4. Assistance can be provided at trial, during the cross-examination of the friendly expert.
5. Specific questions can be prepared for use in the cross-examination of an opposing expert.
6. Assistance can be provided at trial, during the cross-examination of an opposing expert.
7. If appropriate, testimony can be offered in support of the evaluator's methodology. Note that testimony in support of the evaluator's opinions and recommendations cannot be offered.