

## Expert Witnesses

In virtually every custody contest, the parents and the children are subjected to what is known as a "custody evaluation" by a qualified "expert;" usually a child psychiatrist with a lot of experience in custody cases. The selection of a custody evaluation expert can be one of the most critical decisions made in a custody case. A favorable evaluation should give you a significant leg up in the case to come—an unfavorable evaluation means more of an uphill battle. Your attorney should obtain the proposed expert's curriculum vitae and should brief you on the pros and cons of each proposed expert. Again, be sure to work with an attorney who has plenty of experience in this area. Your attorney will have to obtain from the expert the raw data used in any evaluations and will have to prepare to cross-examine any hostile experts and help bolster any private experts you may retain. Our attorneys are familiar with the tendencies of many experts and their history of ruling for or against mothers and fathers and the extent to which they weigh various aspects of the parent-child relationship.

The custody evaluation usually consists of a mental status exam, personal observations, personal interviews and, possibly, psychological testing. The mental status exam is on-going. It's happening nearly every minute from the time the expert is appointed until the final report is submitted. Each of these aspects of the custody evaluation is considered below.

**Mental Status Exam:** The mental status exam begins even before the parent contacts the examining psychiatrist.<sup>1</sup> In general, the expert is considering the subject's overall presentation and demeanor. Failure to timely schedule a meeting, argumentativeness in scheduling, arriving late to a scheduled meeting, arriving without an appointment, and arriving late are usually reported.

The mental status exam may also consider cognitive functioning and memory by having the subject perform small tests (comparing photos, reciting a series of numbers, etc.) though this is not done in all cases.

**Personal Observations:** Once the meeting is underway, the examiner considers the examinee's appearance, hygiene, gait, clothing, vocabulary and methodology of speech (rate of speech, volume, tone, inflection), etc. Showing up to a meeting drunk, for example, would be an obvious no-no. Similarly, scheduling a meeting with an expert immediately before or after a big meeting at work is probably a bad idea: you don't want to carry over any emotional stress from the rest of your life into one of these meetings.

**Personal Interviews:** The expert will probably interview alone each of the parents two or three times, maybe more. Interviews are also usually done with each parent and the child(ren) and then with the child(ren) alone. Interviews of collateral players, step-parents, grandparents, other relatives, child care-givers, etc. may be had, but they are rare.

A personal history is taken—sometimes beginning with childhood, sometimes just relating the subject's history relative to the case. Remember, the expert is coming in to the case cold; she needs to build up a knowledge base from which to ask other questions and figure out where things stand, where things are going, and where things should probably end up. Questions will be asked about your residence, your workplace (schedule, commute time, flexibility) your education and work history along with all the other questions needed to educate the expert on the status of your case.<sup>2</sup>