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**PSYCHOLOGICAL EXPERTS
IN DIVORCE ACTIONS**

F O U R T H E D I T I O N

**Marc J. Ackerman
Andrew W. Kane**



Wolters Kluwer
Law & Business

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PSYCHOLOGICAL EXPERTS IN DIVORCE ACTIONS FOURTH EDITION

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As psychologists, we are aware of the fact that one's psychological makeup is a function of a combination of genetic predisposition and environmental influences. Our parents were obviously a strong influence on our development, resulting eventually in our professional choices and the characteristics necessary to be effective clinicians. For that reason, we dedicate this book to our parents, Bette and Donald Ackerman, and Mary and Harry Kane.

PREFACE

This book was written for the purpose of aiding attorneys in the difficult task of examining and cross-examining psychological experts in court actions. Attorneys entering into the areas of psychological expertise often find themselves confused and easily led astray. Unfortunately, as a result, much useful testimony is lost because the attorney does not know which questions to ask and how or when to ask them.

The book is not written from the point of view of “how to get the expert.” Instead, it is written to provide “the information that you need” to do an intelligent examination and cross-examination of psychological experts and to address client-related psychological factors.

It is important to note that each chapter of this book is a summary of information used to teach an entire course in the training of psychologists. As a result, the authors selected the information that they felt attorneys were most likely to need in dealing with these matters, rather than including all of the available information. Most chapters are followed by a list of suggested questions for examination and cross-examination. The attorney is cautioned not to assume that every question will apply to every case. The questions are followed by references to the chapters within the book that will help the attorney understand the basis for the question. It is essential to read the chapter and understand the basis for each question, not merely list off the questions in court.

This is the fourth edition of this text. As much time has transpired between the third and fourth edition as occurred between the first and third editions. As a result, significant and profound changes have taken place within the field of child custody evaluations. Most of the chapters have been completely rewritten since the third edition was published and literally hundreds of new references have been added. Many of the issue areas that were prominent during the tenure of the first and second editions are no longer considered to be valuable components of custody work and have been eliminated from the current text.

Chapter 1 Since the writing of the last edition, the *Daubert Standard* has gained a foothold in the area of forensic psychology and has changed the direction and focus of work that is performed in this area. **Chapter 1** provides a lengthy explanation of how *Daubert* is relevant to custody cases.

Chapter 2 discusses the new 2002 American Psychological Association Code of Ethics. In particular, it emphasizes the changes that have taken place between the 1992 and 2002 Code and how they affect the interaction between psychologists and attorneys.

Chapter 3 covers psychological evaluations, test administration and standards, and the most recent research that has been published, since the third edition regarding psychologists’ practices and family lawyers’ and family judges’ expectations in child custody evaluations.

Chapter 4 was almost completely rewritten to identify the variables that need to be considered when addressing how divorce affects families. Developmental milestones, recent research, and gender differences are discussed.

Chapter 5 provides a list of do's and don't's for attorneys and their clients involved in divorce actions. The attorney can evaluate how many of the do's the client is doing and how many don't's the client is doing, and make a subjective determination as to how the client is likely to fare in a custody case.

Chapter 6 Children are being asked to serve as witnesses more and more frequently. **Chapter 6** discusses how to prepare a child for court testimony, addresses a child's ability to remember events, and discusses what a child needs to anticipate in a court setting. Major new works have addressed the issue of suggestibility in young children's memory.

Chapter 7 deals with statistical concepts that will help the attorney interpret data from tests used in custody evaluations.

Chapter 8 discusses the major intelligence tests in use today. Since the publication of the last edition, almost all of the intelligence tests have gone through major revisions. The Kaufman Assessment Battery for Children, Wechsler Intelligence Scale for Children-Fourth Edition, the Wechsler Pre-School and Primary Scale of Intelligence-Third Edition, the Stanford Binet-Fifth Edition, and the Brief Intelligence Test all have new editions since the third edition of this book was published.

Chapter 9 The primary emphasis of **Chapter 9** is the utilization of the Minnesota Multiphasic Personality Inventory-2nd Edition (MMPI-2). Over 18,000 articles and books have been written about the MMPI/MMPI-2. A summary of these works, in addition to discussion of the Minnesota Multiphasic Personality Inventory-Adolescents (MMPI-A), the Millon Clinical Multiaxial Inventory-Second and Third Editions (MCMI-II and MCMI-III), and other similar tests is presented. Specific discussion centers around the use of the MMPI-2 in custody cases. The controversy about the use of the MCMI instruments in custody evaluations is addressed.

Chapter 10 covers the projective personality tests, including the Rorschach Psychodiagnostic Series, Thematic Apperception Test (TAT), and the Children's Apperception Test (CAT). In recent years there has been controversy over the use of the comprehensive system for scoring Rorschach. That controversy is discussed in detail in this chapter.

Chapter 11 has been virtually rewritten since the third edition. The emphasis of **Chapter 11** focuses on the utility of custody-related instruments as they apply to the *Daubert* Standard.

Chapters 12 and 13 cover physical and sexual abuse in detail. Hundreds of articles are written on these subjects each year. These chapters synthesize that research and quote the most recent findings as they apply to abuse and custody cases.

Chapters 14, 15, and 16 present special considerations involving mental disorders, alcohol and other drug abuse, and criminal history.

Chapter 17 discusses the fourth edition of the *Diagnostic and Statistical Manual* (DSM-IV), prepared by the American Psychiatric Association. It also compares the DSM-IV with the *International Classification of Diseases, 10th Edition* (ICD-10) and describes the advantages and shortcomings of each work. Some discussion about the preliminary work of DSM-V is included in this chapter.

Most chapters contain case digests that are presented to serve as a guide to relevant cases. The reader is encouraged to go to the original source for a full description of these cases.

Milwaukee, Wisconsin
September 2004

MARC J. ACKERMAN
ANDREW W. KANE

ACKNOWLEDGMENTS

Because this is the fourth edition of this book, there have been scores of people who have provided support and help over the years in bringing it to this level. They have been previously acknowledged in their continued support is greatly appreciated.

We discovered that writing this fourth edition was a much more arduous task than had been anticipated originally because we were updating three previous editions. Christine Vincent has been enormously helpful and supportive during this process, and has helped maintain our focus on what is important and what direction we should take in various areas. Without her help and support, the fourth edition would not be what it is today.

As noted in previous editions our wives, Stephanie Ackerman and Carole Kane, know better than anybody else the difficulty in preparing a text of this nature and the sacrifices that go along with doing so. In this particular case, producing this volume affected our personal lives, our vacation time, and our professional practices. Our wives' support and encouragement in completing this task has often gone above and beyond what would be expected of any spouse. Lynn Spencer, Marc Ackerman's former office manager, had been involved in all previous editions. She helped kick-off this edition, and her efforts are greatly appreciated. Lynn passed the ball to Roseanne Rech, who has done a yeomen's job of dealing with the pressures of timelines, the mountains of clerical work, and serving as a liaison between the authors and the publishers. While learning in trial by fire, her work is also greatly appreciated.

ABOUT THE AUTHORS

Marc J. Ackerman, Ph.D., is a licensed psychologist in the state of Wisconsin and has been involved in over 2,000 divorce-related cases in Wisconsin and throughout the United States. He has testified in hundreds of family law cases in more than 25 states during his career. Dr. Ackerman co-developed the Ackerman-Schoendorf Scales for Parent Evaluation of Custody (ASPECT), published in 1992 by Western Psychological Services and the Ackerman-Schoendorf Scales for Parent Evaluation of Custody-Short Form (ASPECT-SF) in 2000. In addition, he has authored the *Clinician's Guide to Child Custody Evaluations, Second Edition* (John Wiley & Sons, 2001), *The Essentials of Forensic Psychological Assessment* (John Wiley & Sons, 1999), *Does Wednesday Mean Mom's House or Dad's* (John Wiley & Sons, 1997), and the recently completed *Forensic Psychology Textbook* with Randy Otto, Ph.D. (John Wiley & Sons, 2005).

He served as a founding faculty member and dean of the Wisconsin School of Professional Psychology from 1981 to 1987 and the director of Clinical Training from 1981 to 1990. He is currently a full professor at the school. Dr. Ackerman also served as the president of both the Wisconsin Psychological Association and Milwaukee Area Psychological Association and is the current president of the Wisconsin Psychology Foundation. In addition, he served on the Wisconsin Psychological Association Ethics Committee for seven years, chairing its parent group for one year. A co-director of North Shore Psychotherapy Associates, Dr. Ackerman is also listed in the National Register of Health Service Providers in Psychology, and a member of the American Psychological Association, the Wisconsin Psychological Association, the Milwaukee Area Psychological Association, and the Academy of Family Mediators.

He has written dozens of professional publications and given dozens of professional seminars throughout the United States to various bar and psychological associations. In April 1997 he gave two presentations at the joint American Bar Association and American Psychological Association Conference in Los Angeles. He has received two awards from the Wisconsin Psychological Association, one for outstanding contributions to the advancement of psychology as an applied profession, and the other for outstanding contributions to the profession of psychology through leadership.

Andrew W. Kane, Ph.D., is a licensed psychologist in private practice in Milwaukee, Wisconsin. He is a diplomate of the American Board of Assessment Psychologists. He is listed in the National Register of Health Service Providers in Psychology, and is a recipient of the Certificate of Professional Qualification in Psychology of the Association of State and Provincial Psychology Boards. Dr. Kane has been designated as an expert in more than 2,800 cases involving involuntary civil commitment, guardianship, family law, personal injury, children's court, criminal court, and other cases.

Dr. Kane was a founding faculty member of the Wisconsin School of Professional Psychology and is currently a professor at the school. He is also a clinical professor in the Department of Psychology at the University of Wisconsin–Milwaukee, and an associate clinical professor in the Department of Psychiatry and Behavioral Medicine at the Medical College of Wisconsin. He is the author or co-author of seven books and some four dozen professional papers and chapters.

Dr. Kane was a member of the Expert Panel on Psychiatric and Psychological Evidence of the American Bar Association's Commission on Mental and Physical Disability Law. Dr. Kane is a former president of the Wisconsin Psychological Association and of its Division of Forensic and Correctional Psychologists. He is also a former president of the Milwaukee Area Psychological Association. Dr. Kane served as a member of the board of the Wisconsin Psychological Association's forensic division, and of the Board of Governors of the Wisconsin Society of Clinical and Consulting Psychologists as well. Dr. Kane served as the chair of the Professional Issues Committee, and for ten years as a member of the Ethics Committee, of the Wisconsin Psychological Association.

Dr. Kane founded the Wisconsin Coalition on Sexual Misconduct by Psychotherapists and Counselors, a national model program in this problem area.

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