

**Hot Tip: Creative Uses Of Mental Health Professionals**  
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**Intro:** Mental health professionals are typically involved in family law cases as therapists or evaluators. The collaborative movement has recognized the value the mental health community can provide to a divorcing family, and has expanded the role of mental health professionals. However, not every family is able to successfully complete the collaborative process. The increased role of mental health professionals can be utilized in the litigation process. This can lead to a higher quality process for the client, better results for the client, and a greater source of referrals for the attorney.

**Child Specialist/Parenting Consultant:** Rather than hire an “evaluator,” try working out an agreement with counsel to retain a mental health professional as an advisor for the parties to reach their own arrangement for the child. The child specialist/consultant would talk to the parties individually and together, talk to the child, and then meet again to talk to the parents. The child specialist could also talk to collateral sources, such as other parents, teachers, doctors, etc. Rather than giving a “recommendation” or imposing a particular placement schedule, the child specialist would provide feedback to the parents on the child’s perspective and individual needs, feedback on how the child is doing, information on the child’s strengths and weaknesses, and information on other people’s perspective. All of the information is conveyed in a healthy, helpful manner. With this information, the child specialist can work with the parties to draft a parenting plan that accommodates the information, and other information on the child’s developmental needs as the information relates to a particular placement schedule and family

- Pros:**
- Gives the child a healthy “voice” in the process without allowing the child to take control.
  - Involves the parents directly in the process to determine the outcome.
  - Less expensive than a formal “evaluation” and avoids the battle of the experts.

- Focuses on information directly relevant to the particular family.
- Provides a healthy forum to resolve postjudgment disputes.

*Cons:*

- If the process does not work, then time and money may have been wasted and the matter may have been delayed.
- People may have revealed something in the process that they would not otherwise have revealed.
- Mental health professional did not do the work in anticipation of litigation.

*The last two concerns can be addressed by using a Stipulation and Order as attached to protect the process from litigation.*

**Coach:** One of the frustrations of family lawyers is to deal with the client's emotional issues during the process. A client's therapist is not always helpful because his or her role is to work on specific mental health issues, and not to aid counsel in his or her work with the client. Further, the therapist's work is confidential, and a breach or waiver of the privilege could lead to unintended consequences. A coach does not act as a therapist; rather, the coach can work directly with the client and counsel on developing techniques and providing information to help the client get through the divorce process. Because the coach is the attorney's consultant the coach is covered under the work product doctrine. The coach can do things such as help the client articulate his or fears, concerns and needs. The coach can give the client techniques in communicating with the other spouse and children, assistance in making judgment calls under the stress of the divorce, and assistance with techniques in dealing with the spouse in settlement conferences, depositions, hearings, and trials. The coach can also provide feedback to counsel on how counsel can most effectively work with the client.

**Communication/co-parenting counseling:** A mental health professional can be invaluable in meeting with both parents to work out how the two will communicate and co-parent in two different households. The mental health professional can counsel the couple in communication techniques and strategies, and educate each on the possible consequences of certain communication styles on the children. The mental health professional can work through ways in which the parents can introduce third parties to each other and the children. See the attached explanation for more information.

**Mediation:** Mental health professionals trained in mediation can be excellent mediators. In theory, the mental health professionals are not as influenced and bound to the law as lawyers, and can focus on more meaningful underlying interests of the parties. Mental health professionals carry credibility on issues that affect children that can be used to effectively resolve a conflict.

***Conclusion:*** Not only can the mental health professional be an invaluable resource in a family law matter, but expanding your connections in the mental health community can greatly increase your source of referrals. Many parties will seek mental health counseling, or marriage counseling, prior to taking the first step in starting a divorce action.

In re the marriage of:

Petitioner,

Case No.

-and-

Case Code:  
FAMILY BRANCH

Respondent.

**STIPULATION AND ORDER**

WHEREAS, the parties are currently in a divorce action, and they have \_\_\_ minor children, specifically: \*\*

WHEREAS, the parties believe that the parents and children will benefit from the assistance of a child specialist/parenting consultant;

WHEREAS, the parties wish to obtain such services independent from any court action so that the services are not affected by the litigation process now or in the future;

THEREFORE, the stipulation is set forth below and may be entered by the court without further notice to either party.

\_\_\_\_\_  
\*\*, Petitioner

\_\_\_\_\_  
\*\*, Respondent

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**STIPULATION**

1. The parties shall jointly retain \_\_\_\_\_ to act as a child specialist/consultant. Both parents will have access to \_\_\_\_\_ and be able to receive input from him/her about the children. Both parents will be able to provide information to \_\_\_\_\_ about the children. Both parents will sign the appropriate releases as requested by \_\_\_\_\_ to obtain any necessary information about the children, and both agree that \_\_\_\_\_ may meet and talk to the children.

2. \_\_\_\_\_ notes and any other contents of his/her file shall not be subject to subpoena or discovery in any matter or method. \_\_\_\_\_ shall not be called as a witness in any court proceeding, now or in future. The intent of this agreement is to ensure that both parents use \_\_\_\_\_ to help them resolve any

placement issues in the best interests of the children, and each agree and understand that the confidential nature of the process will help each provide the necessary information freely and without fear of the information being used against him or her in the future.

3. This stipulation and order is in the children's best interests.
4. This stipulation and order shall survive the Judgment of Divorce and shall remain in full force after the entry of the Judgment of Divorce. This stipulation and order shall be enforceable now and in the future.
5. This stipulation and order may be amended only by written agreement of the parties.

### **ORDER**

Based upon the foregoing,

IT IS ORDERED.

Dated at \_\_\_\_\_, Wisconsin this \_\_\_\_ day of \_\_\_\_\_, 2006.

BY THE COURT:

\_\_\_\_\_  
Honorable \*\*  
Circuit Court Judge

**DRAFTED BY:**

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