

Contents

Acknowledgments	ix
About the Author	xi
Chapter 1: Introduction and Overview	1
The Challenge	1
Meeting the Challenge: Understanding Three Critical Perspectives	3
The Roadmap	5
Notes	6
PART 1	
Three Critical Perspectives	9
Chapter 2: The Emotional Perspective	11
The Emotional Effects of Divorce and Resiliency	12
Three Keys to Understanding Problem Divorces	13
The First Key—Recognizing “His” and “Her” Marriage	14
The Second Key—Understanding the Marital Separation Events	15
The Third Key—Recognizing Sources of Impasses to Resolving the Divorce	16
Notes	18
Chapter 3: The Legal Perspective	21
The <i>Frye</i> Test	22
Introduction and Concerns	22
The Different Faces of <i>Frye</i>	23
The <i>Daubert</i> Test	25
Introduction	25
Applying <i>Daubert</i> in Bench Trials	27
Comparing <i>Frye</i> and <i>Daubert</i>	28
A <i>Frye-Daubert</i> Analysis Model: Applying Shared Principles	28
Step One—Determine Whether the Witness Is Qualified as an Expert. . .	29
Step Two—Determine Whether the Expert’s Methods Follow Applicable Professional Standards of the Relevant Professional Specialty.	30
Step Three—Evaluate the Empirical and Logical Connections Between the Data Arising from the Expert’s Methods and the Expert’s Conclusions.	33

Step Four—Gauge the Connection Between the Expert’s Conclusions and the Proffered Expert Opinion.	34
Summary	35
Notes.	35
Chapter 4: The Psychological Perspective	39
Introduction	39
Step One—MHP Qualifications and Use and the Psychological Perspective.	40
Professional Identities and Qualifications	40
Psychology	40
Psychiatry	42
Social Work	43
Professional Counseling.	43
Marriage and Family Therapy.	44
Sorting Through the Qualifications Maze	44
Choosing MHP Experts: Distinguishing Qualities	45
Using MHP Experts: The Matter of Professional Roles	48
Dual-Role Relationships Between the Lawyer and Expert	49
Recording Dual-Relationship Tensions Between Lawyers and Experts	51
Dual-Role Relationships Between the MHP Expert and the Lawyer’s Client	53
Step Two—Methodology and the Psychological Perspective	55
Guidelines and Protocols Informing Methodology.	55
Forensic Interviews.	57
Third-Party or Collateral Information	59
Psychological Testing.	60
Criteria for Choosing Psychological Tests	63
Seven Keys to Understanding Tests	63
Response Styles of the Examinees	64
Standardization Sample	65
Reliability	66
Standard Error of Measurement	68
Validity	69
Sensitivity and Specificity	70
Computer-Based Test Interpretation (CBTI)	71
Step Three—Drawing Conclusions from Data and the Psychological Perspective.	73
Judgment Biases	74
Countering Judgment Biases.	77
MHP Use of Research and Professional Literature	77
Applying Social Science Research in Court.	77
Research and Its Elements: Deconstructing the Journal Article	79
Abstract	79
Introduction	79

Method 79

Results 82

Discussion 82

Organizing Data and Presenting Conclusions 83

 A Functional Approach 83

 DSM-IV and the Functional Approach 83

 Syndrome Testimony 86

Step Four—The Expert Opinion and the Psychological Perspective 87

Family Evaluations and the Functional Approach: Organizing Principles . . . 89

 The Functional Assessment Model 89

 What Are the Child’s Developmental Needs? 90

 School Performance 90

 Emotional Development 91

 Social Development 92

 Parent-Child Relationship 92

 What Are the Functional Parenting Abilities of Each Parent? 93

 What Causal Factors Explain Parenting Deficits Noted
 in Either Parent? 95

 How Do Each Parent’s Abilities and Deficits Compare with
 the Demands Required to Meet Each Child’s Developmental
 Needs? 96

Summary 96

Notes 97

PART 2

Exposing the Analytical Gaps: Applying a Scientific–Critical Thinking Mind-Set 113

Chapter 5: Scientific–Critical Thinking 115

 The Scientific–Critical Thinking Mind-Set 116

 Critical Thinking Elements 117

 Notes 119

Chapter 6: Exposing the Analytical Gaps 121

 Exposing Overly Abstract Psychological Concepts 121

 Exposing “Common Sense” Notions Used to Support Expert Opinions . . . 123

 Exposing Ipse Dixit Assertions 124

 Exposing Attempts to Invoke the General Acceptance Factor Absent
 Support 126

 Notes 127

Chapter 7: Exposing Misapplied or Misrepresented Research:

The Example of Domestic Violence 131

 Conceptual Challenges in Domestic Violence Cases 131

 Definitions and Legal Implications 132

Looking at the Literatures 133
 The Different Faces of Domestic Violence 134
 The Issue of Female-Initiated Violence 138
 Looking Inside the Literature 138
 Exposing the Gaps in Domestic Violence Testimony 139
 Is the Expert Familiar with the Domestic Violence Literature? 140
 Does the Expert Acknowledge That the Domestic Violence
 Literature Reflects Different Types of Violence That May Have
 Different Causes? 140
 What Methods Does the Expert Use to Generate Data That Inform
 the Evaluation Conclusions and Expert Opinions? 140
 Notes 142

Chapter 8: Exposing Confirmatory Bias: The Example

of Sexual Abuse Allegations 147
 Behaviors and Symptoms: Problems in Sexual Abuse Validation 148
 Definitions 148
 What About Sexualized Behaviors? 149
 Key Principles When Considering Sexual Abuse Allegations 151
 Allegations—True or False? 151
 Children’s Disclosure Statements 152
 Suggestibility and Its Concerns 154
 Approaches 154
 Thinking About Memory 155
 The Different Facets of Suggestibility 156
 The Scope of Suggestibility 156
 The Breadth of Suggestibility 156
 Negative Stereotyping 157
 Source Attribution Concerns 158
 Effects of Incentives and Social Pressures 159
 The Legal Effects of Suggestibility Research 160
 Forensic Interviews 160
 Concerns of Problem Forensic Interviews 161
 Interviewer Mind-Set and Confirmatory Bias 161
 Interviewer Questions 162
 Types of Questions 162
 Other Interview Question Concerns 163
 Interviewer Status 165
 Use of Anatomically Detailed Dolls 165
 The Forensic Interview Structure—Basic Principles 167
 Purposes of Forensic Interviews 167
 The Research-Based Protocol 168
 The Forensic Interview in Context 169
 Notes 170

PART 3	
Obtaining Mental Health Records	179
Chapter 9: Negotiating the Mental Health Records Maze	181
Confidentiality	182
Privacy and HIPAA Requirements	183
Psychotherapist–Patient Privilege	186
Psychologists, Test Data, and Test Materials.....	189
Strategies for Negotiating the Mental Health Records Maze	191
Notes.....	192
APPENDIX: Internet Sources for Relevant Mental Health Ethical Codes and Guidelines	199
Index	201