

The Use of Special Masters in High Conflict Divorces

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Over the years, considerable research has shown that high conflict between parents is a significant factor in children's adjustment to divorce. In recent years, several jurisdictions, in particular Northern California Counties, have increasingly looked for ways to reduce the conflicts between parents and assist them in the day-to-day parenting of their children. One method which has shown increasing use is the appointment of a Special Master to help solve ongoing conflicts between the parents.

By definition, a Special Master is a professional who is appointed by the court to act in a quasi-judicial manner and make day-to-day decisions for divorced families in conflict. In practice, Special Masters are typically mental health professionals with significant experience in working with high conflict families of divorce, but they may be attorneys, as well. While the major task of the Special Master is to make decisions that help a family stay out of court; in practice, most Special Masters utilize a blend of skills which include evaluator, therapist, mediator, parent educator, etc. The skillful Special Master will work with each family according to its needs, with the primary purpose of assisting the family in reducing conflict, staying out of court, and meeting their children's needs.

In order for a Special Master to be effective, a degree of trust must be developed between the parents and the Special Master. Unfortunately, by the time a Special Master is appointed, most parents are very distrustful of the court system and everyone associated with it. Many parents have already been through a custody evaluation (it is the author's opinion that the Special Master's best asset is a thoroughly prepared custody evaluation prior to appointment), and typically, one or both parents is unhappy with the custody arrangement that has been established by the court. With this in mind, the Special Master's first task needs to be the development of trust with the parents. This can best be accomplished with an individual, face-to-face appointment with each client where the issues are discussed and the parents' feelings are heard. Additionally, in this first session it is wise to begin setting the stage for making decisions on behalf of the children. By encouraging the parent to trust that the Special Master will make decisions in the best interests of the child, and not for either parent, we can go a long way toward the development of a positive parent - Special Master relationship.

The author's experience suggests that Special Masters need to be decisive. In reality, many conflicting parents present the same dynamics for a Special Master that conflicting siblings do for parents. Just as young children often have difficulty sharing, divorced parents often have difficulty sharing their children. While the Special Master needs to understand the

parents' position and feelings, it is more important for the Special Master to make decisions that are quick and clearly in the child's interest, without taking a lot of time.

For most psychologists, such quick decision-making is the most difficult task of being a Special Master. Our therapeutic training encourages client self-determination. Typically, psychologists are discouraged from giving advice. Yet, as a Special Master, a psychologist will be faced with major decision-making on a regular and consistent basis. It is critical for the psychologist who accepts the task of Special Master to recognize that their clients are the children of the high-conflict divorce, and that these children have no opportunity for self-determination, relying on us to make decisions on their behalf. When the Special Master keeps the focus on meeting the needs of the child, it becomes much easier to make decisions that will support and promote a healthier adjustment to the divorce of their parents.

Regarding the decision-making, the decisions can best be made with the following system. First, look to the court order for a precedent, and use that in making the decision. Next, look for how the issue affects the children. Since California law is clear in its intent that the "best interests of the children" are paramount, if there is a clear way of determining what is best for the children, use that as the basis for making the decision. If there is no clear understanding of how the issue impacts the children, and there is nothing in the order that gives the Master direction, try and make decisions based on "fairness." In such circumstances, it is best to alternate between parents based on other decisions that have been made. By keeping extensive notes of one's contacts, and a record of all decisions made, it will be easy for the Special Master to determine what seems fair over time.

Finally, it is important to recognize that the Special Master's primary responsibility is to help educate parents and make decisions that are in their children's best interests. Ultimately, the Special Master's responsibility is to adhere to the scope of the role as outlined in the court order and assist in the process of conflict resolution. The parents' responsibility is to keep the Master informed of their concerns. Parents need to do their job without concern about how the Special Master or the other parent views their parenting job, and an effective Special Master can work toward helping parents accept their responsibility to act in a way that promotes conflict resolution and eases the pain and burden on their children.

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