



Alerts

Illinois Supreme Court to Consider Whether a Court-Appointed Psychological Evaluator Is Immune From Suit

January 27, 2012

Hinshaw Alert

On January 24, 2012, the Illinois Supreme Court accepted the petition for leave to appeal in [Cooney v. Rossiter, 2011 Ill. App \(1st\) 102129-U](#). Plaintiff mother was granted custody of her two children. Her former husband filed a petition for change of custody; the mother in turn moved for the appointment of a psychological evaluator. Defendant was appointed as the evaluator. He opined that the mother and her parents suffered from the delusional disorder Munchausen's by proxy syndrome and that the children should be removed from the mother's custody.

The mother and her parents filed a civil rights, class action lawsuit in federal court. The court dismissed that case on the ground that court-appointed psychological evaluators are protected by the same immunity extended to other judicial officers. The mother and her parents then filed suit in state court, alleging loss of the children and extreme emotional distress. The trial court granted the evaluator's motion to dismiss, ruling that the state court lawsuit was barred by *res judicata* and the evaluator was immune from suit. The appellate court affirmed. On the issue of immunity, the court held that the evaluator was immune because he was acting at the court's direction. In addition, the material in his report was protected by an absolute privilege.

For more information, please contact Nancy G. Lischer or your regular [Hinshaw attorney](#).

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