

SUPERIOR COURT OF THE STATE OF ARIZONA
FOR THE COUNTY OF MARICOPA

In re the Marriage of:) Case No. FC
)
) Petitioner,) Order to Appoint A Comprehensive
 and) Child Custody Evaluator
) (The Honorable)
 Respondent)
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**ORDER OF APPOINTMENT OF A COMPREHENSIVE CHILD CUSTODY
EVALUATOR**

IT IS ORDERED appointing the following appointee to examine the parties and their minor child(ren) as part of a Comprehensive Child Custody Evaluation (CCE):

Scope:

The evaluator shall conduct a full examination and evaluation sufficient for the evaluator to render a written report and opinions as to the current custody and access/visitation plan which would be in the best interest of the parties minor children after considering all relevant factors including those set forth in A.R.S. §25-403.

The evaluator may make any other recommendation he or she determines the Court should consider to promote the physical, mental, moral or emotional health of the children. The evaluator may also assist the parties to resolve their dispute amicably if possible.

Initial Contact with the Appointee:

Counsel for the parties, or parties if pro per, shall make the initial contact with the examiner through joint conference or conference call within 10 days of receipt of this order and thereafter shall arrange for the appointments for the persons to be examined.

The initial conference with the expert shall be used to summarize the issues present in the case and to allow the expert to request information he or she believes would be pertinent. The acceptance of this appointment by the evaluator indicates a capability of completing a written report by _____ and the ability to appear in court on the stated issue. If the expert appointed cannot comply with the time parameters stated, he or she shall notify counsel or the court immediately upon receipt of this minute entry.

1. THE AUTHORITY OF THE APPOINTEE:

The Appointee shall have the following rights and authority with regard to the minor children and family members:

- The Appointee shall serve as an expert for the court in order to provide data and opinions relevant to the care of, custody of and access to the minor children in this case pursuant to applicable Arizona Statutes and case law.
- The Appointee shall have the authority to collect data and form opinions relevant to statutory issues.
- The Appointee shall conduct any and all assessment needed in order to provide an ultimate opinion as to the specific questions identified above.
- Collection and integration of information as well as referral for adjunct services shall be at the sole discretion of the appointee.
- The Appointee may request that an individual or multiple family members participate in adjunct services, to be provided by third parties, including but not limited to physical or psychological examinations, assessment, psychotherapy, co-parenting work, or alcohol and drug monitoring/testing.

The Appointee may communicate ex-parte with the Court regarding procedural issues. The Court may order additional rules applicable to the Appointee from time to time. The Appointee may seek guidance from the Court in order to achieve clarity with regard to the procedural aspects of the intervention should disputes arise. If the litigant[s] is/are Pro Per, the Appointee may communicate with the judge regarding how to proceed.

The Appointee is permitted to consult with or exchange information with professionals and other collateral informants he or she deems appropriate in this role.

2. RESPONSIBILITIES OF THE PARTIES AND LEGAL REPRESENTATIVES:

The Parties shall keep the Appointee informed of concerns; meet the behavioral expectations outlined in the court order; meet the behavioral expectations outlined by the Appointee during the course of the appointee's term; Seek to promote a healthy relationship between the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.

The attorneys may not engage with the Appointee in ex-parte communications regarding substantive issues unless otherwise expressed permitted by the Court. Procedural issues and scheduling may be discussed at the discretion of the Appointee.

The parties will not engage additional behavioral health professionals (including but not limited to therapists, psychologists, psychiatrists, and social workers) to provide services during the course of the process without the consent or authorization of the Appointee, unless otherwise authorized by court order.

Except as directed by the Appointee or authorized by the Court, the parties and / or their representatives shall not disseminate or publish any reports, opinions, testimony or other written, transcribed or recorded communications from the Appointee to any third parties except behavioral health providers appointed by the Court to provide services (e.g. custody evaluators, parenting coordinators, therapeutic interventionists),

and /or attorneys who are retained or consulted by either party. Under no circumstances shall such information be shared with the parties' child(ren).

The parties shall keep the Appointee advised of their and the child(ren)'s addresses, telephone numbers for home, work and school, mailing address if different than the living address, as well as any other pertinent information. This information shall be immediately communicated in writing to the Appointee.

The parties are to comply fully with this court order and present as requested on time for the evaluation process. The parties shall comply with all requests made by the interviewer.

Should the Appointee determine that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Appointee may recommend to the Court a different allocation for payment of fees.

Should the Appointee find any party is acting in bad faith, and/or not complying with the Court's orders, the Appointee may recommend that the party acting in bad faith pay or reimburse the other party's costs of services provided by the Appointee necessitated by the party acting in bad faith, and the Appointee may recommend additional sanctions which may include modifications of access and/or contempt proceedings.

Parties and legal representatives will not videotape or audiotape any part of the Appointee's process, including recording of the Appointee, the child or the parties without the written consent of the Appointee. If recordings are made in violation of this order, 1) the Court will consider sanctions and 2) all transcripts, tape recordings or videotapes of the proceedings shall be immediately submitted to the Court and the Appointee.

3. INFORMATION AND RECORDS:

All data provided by the parties directly to the appointee shall be copied to the other party, or to the legal representative of that party.

The Appointee shall receive the cooperation of all parties and counsel involved to help ensure that the report is submitted by the due date identified by the Court.

The Appointee may seek information and records that are the result of a privileged or confidential relationship. This order shall act as a release by the parties of all information requested by the Appointee and shall further obligate the parties for any costs associated with the production of those records to the Appointee. The Appointee shall request only the records and information that are necessary and pertinent to further the purpose of the role envisioned by this order. The possessor of the records and information will release relevant information in an effort to retain the integrity of the privileged or confidential relationship, yet cooperate with the needs of the Appointee for the role envisioned by this order. Also at the request of the Appointee, each party shall execute any and all authorizations, releases or consents necessary so as to authorize the Appointee's access to the information contemplated herein above. Any costs shall be paid promptly and by the party/parties as outlined in this order inline with ARS §12-

2295 and ARS §12-351. **Parties, counsel and other professionals shall provide all documents requested by the Appointee within ten days of receipt of this order.**

If the recipient does not comply with this order, the appointee can request sanctions against the recipient to the extent permitted by Arizona law including civil contempt. Consistent with civil contempt, the Court may impose sanctions to obtain compliance with the order, including incarceration, seizure of property, attorney's fees, costs, compensatory or coercive fines. Additionally, action may be taken with a professional's licensing board regarding non-compliance with a Court order.

IT IS FURTHER ORDERED that the Appointee shall have authority to involve the child(ren), parents, siblings, stepparents and any other person who may significantly affect the child(ren)'s best interest. The Appointee is permitted and may seek to:

1. Meet and interview any of the above participants.
2. Visit the home(s) of the parents to determine if the environments are appropriate for the child;
3. Investigate and review both parents', their spouses' and significant others' backgrounds with regard to criminal arrests and convictions;
4. Determine if drug testing by either or both parents is needed. The parties shall immediately comply with any requests by the Appointee for documentation or further evaluation such as random drug testing through TASC, substance use assessment by a licensed medical doctor, or any other form of assessment;
5. Review the child's school/daycare records, Parenting Skills records, psychological evaluations, and counseling records;
6. Review law enforcement, court, or Child Protective Services reports concerning the child.

The Appointee shall also have access to:

1. All therapists of the children and parties;
2. All school and medical records of the children and parties;
3. Any and all psychological testing or evaluations performed on the children or the parties;
4. Arizona Department of Transportation records;
5. Any and all teachers/child care providers for the children.
6. Any and all additional records the Appointee deems necessary and relevant to the evaluation.
7. Any and all CPS records which shall not be redacted unless otherwise ordered by the Court.

The Court has balanced interests consistent with Title IX obligations and determined release of un-redacted CPS records to the Appointee is appropriate. As the Appointee is serving with authority from this Court, this Order should serve as an order to CPS to provide any and all un-redacted records related to this family from prior to the date of this appointment through the term of this appointment upon the request of the Appointee. If there is an active CPS investigation at any time during the course of this evaluation, CPS is ordered to produce all records to the Appointee until the

Appointee submits a final report. *This Order is made pursuant to Ariz. Rev. Stat. Ann. § 8-807(D) and (F)(4) as the information is necessary to promote the safety and well-being of the child or children and is reasonably necessary to promote the safety, permanency and well-being of a child*

As the Appointee is serving with authority from this Court, this Order should serve as an order to the Arizona Department of Transportation to provide any and all un-redacted records related to the above named parties from all dates prior to the date of this appointment through the term of this appointment upon the request of the Appointee.

4. IMMUNITY:

The Appointee shall act in the capacity of a special master in his/her capacity pursuant to this Order, and as such, the Appointee is cloaked with applicable judicial immunity consistent with Arizona case law applicable to quasi-judicial officers of the Court as to all actions undertaken pursuant to the Court appointment and this Order.

5. APPEARANCES:

Each party reserves the right to call the Appointee as a witness. If only one party believes that in addition to his/her written report the Appointee's testimony is necessary, that party shall be responsible for 100% of the costs incurred in connection with the Appointee testifying during the hearing.

The Appointee may appear and may be available to testify at any court hearing upon reasonable notice to the Appointee, the Court, and the opposing party, regarding any issue addressed by the Appointee.

The parties' attorneys are responsible for notifying the Appointee of any changes the attorneys make in the originally scheduled hearing date. If, due to extenuating circumstances, the Appointee is unable to provide a written report prior to the scheduled hearing, the Appointee will notify the attorneys and the court, specifying when the report shall be completed.

If transcripts, tape recordings or videotapes have been made of any portions of the Appointee's proceedings, they shall be submitted to the Court. There will be no videotaping or audio taping of the Appointee, the child or the parties without the written consent of the Appointee.

6. FEES:

The fees ordered to be paid to the Appointee hereunder are considered to be in the nature of and enforceable as child support.

IT IS FURTHER ORDERED the _____ shall be responsible for and pay _____ % of the Appointee's fees and the _____ shall be responsible for and pay _____ % of the fees, until further order of the Court.

All fees shall be paid in advance as determined by the Appointee. The Appointee shall keep accurate records of services rendered and fees paid by each party.

If the Appointee's fee policies include the payment of a retainer, said retainer should be paid by responsible party/parties as determined by the fee pay structure outlined within this order, prior to the first appointment. Payment thereafter should be made in accordance with the Appointee's fee procedures. If at any point a party has not abided by the Appointee's payment procedures, the Appointee may contact the Court and request that the non-paying party be directed to pay in order to continue the role envisioned by this order in a timely fashion.

If the Appointee determines that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Appointee may recommend to the Court a different allocation for payment of fees.

7. **CONFIDENTIALITY:**

There is **no confidentiality** relating to the parties' communications with/to the Appointee or concerning the Appointee's activities, treatment, referrals, data collection or recommendations. This court order constitutes a complete waiver of doctor-patient privilege, as the Appointee is appointed as the court's expert. Additional rules applicable to the Appointee may be ordered by the Court from time to time.

8. **THE APPOINTEE REPORT:**

Should the Appointee submit a report, the report of the Appointee may be received in evidence without the necessity of any foundation and without the objection to hearsay statements contained therein or any other objection. It is agreed that the report shall be provided to the Court, the parties and counsel, unless otherwise ordered by the Court. Upon delivery of the report, the Appointee shall be discharged of his evaluative duties. Any further data collection shall be executed only via court order.

9. **PROFESSIONAL RESPONSIBILITIES:**

The Appointee shall serve pursuant to applicable case law, rules of court, local rules, domestic relations rules, rules of civil procedure, uniform rules, and with behavior consistent with the Appointee's applicable ethical standards.

Any alleged impropriety or unethical conduct by the Appointee shall be brought to the attention of the Court in writing, prior to the submission of such complaints to any administrative bodies. Professional conduct within the scope of this court order shall not be deemed unprofessional conduct by the court or any administrative body.

If any party or attorney on behalf of a party files a licensing complaint against the appointed professional during the pendency of this case, that party shall notify the Court within 3 business days that the licensing complaint has been filed. If the appointed professional is notified by his/her licensing board that a complaint has been filed against the appointed professional in this case, the appointed professional may notify the Court

that a complaint has been filed against the appointed professional if he or she does not believe the party or litigant informed the Court as described above.

As the Court is concerned about the appointee's ability to effectively carry out appointment duties, the Court may review any licensing complaint to determine whether the complaint inappropriately hindered the appointee's role and the Court's process. If the Court determines the complainant has acted in a way to hinder the legal process, the Court may choose to sanction the complainant. Failure to advise the Court as required above may result in contempt proceedings being initiated against the complaining party and that party's attorney.

Nothing in this court order shall be construed to relieve the attorneys or the appointee of their professional responsibilities. The Appointee, parties and the attorneys will engage each in a professional manner at all times. The Appointee does not have to report to the attorneys. The appointee shall report to the Court, any physical threats and may report any threats or intimidation by counsel or the parties towards the Appointee.

IT IS FURTHER ORDERED that by the signing of this minute entry, it shall become a formal Order of this Court without further notice to the parties, pursuant to Rule 54, Arizona Rules of Civil Procedure.

Date

Judge of the Superior Court