

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 201 North First Street, San Jose, CA 95113 MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, California 95113 DIVISION: Family Justice Courthouse - Family Law Division	FOR COURT USE ONLY
PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:	
ORDER APPOINTING MINOR'S COUNSEL	CASE NUMBER: DEPARTMENT NUMBER: FCS NUMBER:

1. **FINDINGS:** The Court finds the best interests of the child/ren in this case will be served by the appointment of counsel to represent the child/ren.

This is a limited scope appointment regarding the following subject or duration:

_____.

THE COURT ORDERS:

2. **APPOINTMENT:** Pursuant to Family Code Sections 3150 – 3153, the Court appoints:

Attorney Name: _____ Bar No. _____

Telephone Number: _____

Email Address: _____

to represent the minor child/ren who is or are:

Name: _____ Date of Birth: _____

Name: _____ Date of Birth: _____

Name: _____ Date of Birth: _____

Additional children are listed on Attachment 2.

3. **IDENTITY OF PARTIES:**

Party 1: Petitioner Respondent Other

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Email Address: _____

Address (*UNLESS CONFIDENTIAL, see No. 5*): _____

Party 2: Petitioner Respondent Other

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Email Address: _____

Address (*UNLESS CONFIDENTIAL, see No. 5*): _____

Other Party/Claimant: _____

Relationship: _____

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Email Address: _____

Address: (*UNLESS CONFIDENTIAL, see No. 5*): _____

4. COUNSEL FOR PARTIES:

Party 1 is self-represented

Party 1's counsel:

Name: _____

Telephone Number: _____

Email Address: _____

Address: _____

Party 2 is self-represented

Party 2's counsel:

Name: _____

Telephone Number: _____

Email Address: _____

Address: _____

Claimant/Other Party is self-represented

Claimant/Other Party's counsel:

Name: _____

Telephone Number: _____

Email Address: _____

Address: _____

5. CONFIDENTIAL ADDRESS:

If a party's address is confidential, due to a pending Domestic Violence Restraining Order proceeding or participation in California's Safe At Home Program, that party or their attorney if they are represented, must provide the address, email address, and telephone number to counsel for the child/ren within 5 days of this order.

6. KEEPING MINOR'S COUNSEL INFORMED OF ADDRESSES/PHONE NUMBERS:

Counsel for the parties, or the parties, if self-represented, must keep the attorney for the child/ren informed of the parties' current residence, employment addresses, email addresses, and telephone numbers at all times.

7. PLEADINGS:

Once appointed, Minor's Counsel will have access to the Court's electronic file in this matter. Each attorney or party must serve copies of all future pleadings related to child/ren's issues on Minor's Counsel within five (5) calendar days of filing. Any *ex parte* filings or motions relating to child issues, including child support, must be served on Minor's Counsel in the same manner as if served upon a party. All stipulated orders involving issues regarding the child/ren, including child support issues, must include the agreement of Minor's Counsel or a statement by Minor's Counsel that no position is taken. All orders following hearings and trials involving Minor's Counsel shall be submitted to Minor's Counsel for approval as to form and content.

8. MINOR'S COUNSEL'S RIGHT AND RESPONSIBILITIES

- a. Counsel and the child/ren will have a confidential attorney-client relationship. Counsel will not be called as a witness in the proceedings.
- b. Counsel must have reasonable access to the child/ren.
- c. Counsel will be given notice of any proceeding, and all phases of that proceeding, including any requests for examination affecting the child/ren.
- d. Counsel will receive reasonable advance notice of and has the right to refuse any physical or psychological examination or evaluation, for purposes of this proceeding, that has not been ordered by the Court or to seek independent psychological or physical examination or evaluation of the child/ren for purposes of the proceeding on approval by the Court.
- e. Counsel has the right to assert or to waive any privilege on behalf of the child/ren.
- f. Counsel may be heard in any proceeding including presenting motions and orders to show cause and participating in settlement conferences and trials, seeking writs, appeals, and arbitrations. Filing fees are waived for Minor's Counsel.
- g. Each party must provide copies of records as requested by Counsel. Counsel must have access to the child/ren's medical, dental, mental health, other health care providers, and to mental health professionals, and others who have assessed the child/ren or provided care to the child/ren, subject to paragraph k below. Minor's Counsel must have access to any and all reports, test results, and other documents relating to the child/ren from third parties, for example but not limited to, school personnel, medical personnel, and Department of Family and Children Services workers. The release of this information to Minor's Counsel will not constitute a waiver of the confidentiality of the reports, files, and/or any disclosed communications. All privileged documents will continue to be privileged. Each party must sign releases for such information as requested by the Minor's Counsel.

- h. The parties or their counsel must provide Minor's Counsel with the names, addresses, email addresses and telephone numbers for all individuals involved with the treatment, care, daycare, and education of the children within 14 days of this order, and must keep counsel informed of any changes in this information.
- i. There must be no *ex parte* communication between the Minor's Counsel and any Family Court Services assessor/evaluator, private assessor/evaluator, and mental health professional appointed by the Court or hired by the parties, except for the parties' own therapists, or where expressly authorized by the Court pursuant to Family Code §3151 (c)(5). The above limitations will not apply under the circumstances set forth in Family Code Section 216 (c)(1) and (2).
- j. Counsel must be permitted to review the Family Court Services files regarding the case. Any request for copies of a Family Court Services file may be subject to a protective order and must be in compliance with Santa Clara County Local Rules, Family Rule 2 (C)(6).
- k. Counsel may participate in mediation of parenting issues with the parents, whether through Family Court Services or private mediation, subject to the requirements of Family Code sections §§ 3177 and 3182. All parties are responsible for reasonable notice to the Counsel of any scheduled mediation. Counsel is bound by the same mediation confidentiality as the parties.
- l. Minor's Counsel is charged with the representation of the child/ren's best interests. The role of Counsel is to gather evidence that bears on the best interests of the child/ren and present that admissible evidence to the Court.
- m. For all issues related to the qualifications, rights, and responsibilities of Minor's Counsel the parties are referred to California Rules of Court, Rule 5.242.

9. REVIEW OF APPOINTMENT:

- a. Minor's counsel, counsel for any party, a self-represented party, or the Court may set a Status Conference before the end of 24 months from the filing of this order, for the purpose of determining whether a hearing will be required on the question of continuing or ending the appointment. If no one sets a Status Conference by the end of 24 months from the filing of this order, the appointment will continue for another 12 months, with the same ability to be heard by the Court at the end of each subsequent 12-month period.
- b. If all parties and Counsel agree that Counsel's appointment should end, they may present a signed stipulation stating the reasons for termination to the court for review. Appointed counsel may also file an Ex Parte Application and Order to be Relieved as Counsel for Minor Child (FM-1187) as described in Family Rule 9 (D).
- c. Appointment will terminate upon emancipation of the child/ren, except as to any continuing orders.

10. ATTORNEY FEES AND COSTS:

- a. Minor's Counsel will receive a reasonable sum for compensation and expenses, which will be determined by the Court. Family Code § 3153(a). Minor's counsel may not include within a request for compensation any billing entries relating to purely clerical or administrative tasks, overhead items, or any compensation for time spent preparing the request for compensation itself.
- b. The parties are responsible for the payment of Minor Counsel's fees and costs, unless the Court finds that one or both of the parties are unable to pay all or a part of the fees. The Court can

order the parties to pay the fees and costs in proportions deemed to be just and reasonable and may order payment in advance as a retainer. The Court has discretion to order all or part of the fees and costs to be paid by the Superior Court. If payment for fees and costs is made by the Superior Court of Santa Clara County, the Court may order either party to make reimbursement to the Court and the rate of payment must be the amount set by the court.

- c. Each party shall pay \$ _____ to the Minor's Counsel within _____ days of the date of filing of this Order as a deposit toward fees and costs for Minor's Counsel.
- d. Minor's Counsel may submit an application for payment of fees and costs upon completion of ten hours of billable time. Once the proposed billable amount reaches \$4,000, Minor's Counsel should submit an application for payment of fees and costs. Applications which do not include billing statements will be rejected by the court.
- e. Whenever Minor's Counsel submits an application and billing statement of fees and costs, each party must file and serve a fully completed Income and Expense Declaration (Judicial Council Form FL-150) which must include recent pay stubs, or other verification of income no later than 21 days after Minor's Counsel's application is submitted. Parties are advised that the court requires updated financial information to determine the ability of the parties to pay all or a portion of counsel's compensation and expenses.
- f. Failure to pay ordered fees and costs may result in the appointed attorney or the court initiating legal action to collect the ordered fees and costs. (Cal. Rules of Court 5.241.) Appointed attorneys may file a Request for Order addressing enforcement remedies for unpaid fees and costs, including a request for the court to issue an Abstract of Judgment.

11. **APPLICATION SUBMISSION TO FINANCE:**

Minor's Counsel may submit one copy of any application and billing statements of fees and costs (Exhibit) to the court on a quarterly basis. This helps to properly charge expenditures to the correct fiscal year and avoid duplicate claims.

12. **OTHER ORDERS:**

DATE:

JUDICIAL OFFICER