

ADDENDUM TO JUDICIAL COUNCIL FORM FL-327 – PRIVATE EVALUATOR

<b>STIPULATION AND ORDER APPOINTING CHILD CUSTODY PRIVATE EVALUATOR</b>	CASE NUMBER:
	DEPARTMENT NUMBER:
	FCS NUMBER:

The following Orders are stipulated to by and between the parties and their respective counsel:

**Counsel for the Petitioner:**

**Counsel for the Respondent:**

**THIS IS A COURT ORDER FOR A CHILD CUSTODY/VISITATION EVALUATION.**

**1. a. EVALUATION RECOMMENDATIONS:**

The recommendations resulting from the evaluation shall address the issues checked below:

- (1)  Legal Custody, may include division of authority for decision making
- (2)  Physical Custody
- (3)  Visitation
- (4)  Whether visitation shall be supervised, and, if so, by what type of program and for how long
- (5)  Exchange provisions designed to protect the child from exposure to extreme conflict or domestic violence, and to protect the safety of all of the parties
- (6)  Move-away issues
- (7)  Whether either party shall be required to attend counseling, rehabilitation, parenting or co-parenting programs, substance abuse counseling, domestic violence programs, and, if so, which programs, and for how long
- (8)  Other: \_\_\_\_\_
- (9)  Whether it is the following child's best interests to address the Court under California Rule of Court Rule 5.250(C)(3)A – E: *[Name(s)]*: \_\_\_\_\_
- (10)  What are the preferences, if any, of the child regarding custody or visitation: *[Name(s)]*: \_\_\_\_\_
- (11)  Other recommendations related to any of the above issues necessary for clarification or implementation of the recommended order, or otherwise required to address the health, safety, welfare, and best interests of the child.

**b. PSYCHOLOGICAL TESTING:**

- The following parties and/or children may be psychologically tested at the discretion of the evaluator: \_\_\_\_\_

**2. OTHER ORDERS:** Both parties shall comply with the **ADDITIONAL ORDERS** below and on page 2 attached.

**3. APPOINTMENTS AND DOCUMENTATION**

- a. Each party shall contact the private evaluator pointed above no later than five (5) court days from the filing of this order to schedule an appointment. **Any initial fee deposits required by the evaluator shall be paid within 10 days from the date of this order, unless other arrangements are agreed upon with the evaluator. Both parties shall pay the fees required by the evaluator and in a timely manner.** The parties shall appear at the evaluator's office for all appointments set for them by the evaluator. The parents shall insure that the children appear at all appointment times set for the children by the evaluator. The attorneys for the parties shall attend any appointments that are set for them by the evaluator.
- b. The parties shall provide the evaluator, upon request, with information relative to the names, addresses, and telephone numbers for all individuals involved with the care, day care, medical-dental-mental health treatment, and education of the children.
- c. The attorneys for the parties or parties, if representing themselves, shall provide a copy of this order to the custody evaluator within five court days of the filing of this order. The evaluator shall have access to the court file in the matter, except for any confidential documents. Both parties and their attorneys shall cooperate in providing the

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evaluator with copies of filed court documents on request. In the event that the evaluator is not able to obtain copies of filed court documents from the parties or their attorneys in a timely manner, he or she may request copies from the clerk's office and there shall be no charge for the copies

- d. Both parties shall provide copies of documents requested by the evaluator in a prompt and timely manner. In accordance with the Local Rules, any documents provided to the evaluator shall be provided to the other party at the same time and in the same manner.
- e. If either party or the evaluator contends that a party is unduly delaying the evaluation process, a party or the evaluator may place the matter on the next Case Management Conference calendar for review.

#### 4. EVALUATOR DUTIES, AUTHORITY, AND ACCESS TO INFORMATION

- a. The evaluator shall adhere to the requirements of California Rules of Court Rule 5.220, court-ordered child custody evaluations, Rule 5.225, education, experience, and training standards for court-appointed child custody investigators and evaluators, Rule 5.230, domestic violence training for court-appointed child custody investigators and evaluators, and Rule 2 of the Santa Clara County Superior Court Local Family Rules.
- b. The evaluator shall have the authority to petition the Court to withdraw from a case.
- c. The evaluator shall, at the commencement of the evaluation, provide the parties with a written explanation of the process clearly describing the:
  - (1) Procedures which may be used and the time required to gather and assess information;
  - (2) If psychological tests will be used, the role of the results in confirming or questioning other information or previous conclusions;
  - (3) Limitations on the confidentiality of the process;
  - (4) Cost and payment responsibility for the evaluation consistent with the terms of the appointing order.
- d. An appointed private evaluator shall, upon presentation of a copy of this order to Family Court Services, have the authority to contact any Family Court Services evaluator or emergency screener to obtain background information in the case, and Family Court Services shall be authorized to release such information.
- e. An appointed private evaluator shall, upon presentation of a copy of this order to Family Court Services, have the authority to review the Family Court Services file, with the exception of any mediation notes and criminal records information, at Family Court.
- f. The evaluator shall have the authority to conduct home visits at his/her discretion.
- g. The evaluator shall, at her/his discretion, have access to the children's medical, dental, mental health, and other health care records, school and educational records, and the right to interview school personnel, caretakers, health care providers, mental health professionals, and others who have assessed the children or provided care to the children. Each party shall sign releases for such information as requested by the evaluator.
- h. The evaluator shall have access to any and all reports, test results, and other documents relating to the children from third parties, for example, but not limited to: mental health professionals, school personnel, Child Protective Services workers, medical and dental care providers, and day care providers. Each party shall sign releases for such information as requested by the evaluator. In the event that either party fails or refuses to sign releases required by the evaluator, the issue shall be set on the Law and Motion calendar of the All Purpose Judge for a hearing on the appropriateness of the refusal and for issuance of applicable orders regarding the records requested.
- i. The evaluator shall have the authority to contact any previously court appointed custody/visitation evaluator or assessor shall have the authority to release case related information to the evaluator appointed by this order. Contact with any previously appointed Special Master shall be as specified by court order only.
- j. All information obtained as described above shall be used solely for the purpose of conducting the evaluation.
- k. **The evaluator shall complete and distribute the evaluation report and recommendations consistent with the procedures described in Rule 2 of the Santa Clara County Superior Court Local Family Rules no later than 60 days following the date of the first scheduled evaluation appointment, unless extended by the Court.**

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I. In the event that the Court has checked the box above ordering an evaluation pursuant to Family Code §3118, the Court has determined that there is a serious allegation of child sexual abuse as defined in §3118. The evaluator appointed herein shall fully comply with all applicable requirements of §3118. Any evaluator appointed under §3118 shall have access to all Juvenile Court records pertaining to the child who is the subject of the evaluation. Any Juvenile Court records or information gained from those records shall remain confidential and shall only be released as specified in Family Code §3111. The evaluation shall be suspended if a petition is filed to declare the child a dependent child of the Juvenile Court pursuant to Welfare & Institutions Code §300, and all information gathered by the evaluator shall be made available to the Juvenile Court.

DATED: \_\_\_\_\_

\_\_\_\_\_  
PETITIONER

DATED: \_\_\_\_\_

\_\_\_\_\_  
COUNSEL FOR PETITIONER

DATED: \_\_\_\_\_

\_\_\_\_\_  
RESPONDENT

DATED: \_\_\_\_\_

\_\_\_\_\_  
COUNSEL FOR RESPONDENT

DATED: \_\_\_\_\_

\_\_\_\_\_  
COUNSEL FOR MINOR CHILDREN

<p><b>You are obligated to notify the Family Court Services, Calendar Office at 408-534-5710, to vacate the Custody Settlement Conference, if you settle.</b></p>
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\_\_\_\_\_  
**CUSTODY SETTLEMENT CONFERENCE DATE AND TIME  
(140 – 150 days from the date of this Order)**

**IT IS SO ORDERED:**

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER