

**LOCAL FORM CI-151: SUPPLEMENT TO ORDER APPOINTING  
CHILD CUSTODY EVALUATOR**

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

**APPOINTMENT**

1. \_\_\_\_\_ is appointed the court's expert, pursuant to Evidence Code section 730 and California Rule of Court, rule 5.220 to conduct a custody evaluation in this proceeding. The address and telephone number of the evaluator is:

\_\_\_\_\_

**SCOPE OF EVALUATION**

2. The evaluator will investigate and advise the Court as to the health, safety, welfare and best interests of the parties' child(ren) in connection with the disputed custody and visitation issues in this matter.

- This will be a full evaluation, investigation, and assessment, intended to provide the Court with a comprehensive examination of the health, safety, welfare and best interests of the child(ren). The major issues to be addressed in the evaluation that have thus far been identified are:

- Legal Custody
- Physical Custody, including:
  - Specific Parenting schedule (Regular)
  - Specific Parenting schedule (Holidays, Breaks, & Vacations)
  - Relocation of minor children
- Areas of specific concern of both or one parent:
  - Domestic violence
  - Drug and/or alcohol abuse assessment of \_\_\_\_\_
  - School assignment
  - Needs of Special Needs Child
  - Health status and needs of child
  - Educational needs of child
  - Physical health of \_\_\_\_\_
  - Psychological status of parent \_\_\_\_\_
- Other: Must be reviewed and approved by the Court

\_\_\_\_\_

The evaluator shall have authority to expand the scope beyond these major issues as the evaluator finds appropriate, provided the evaluator notifies each party/counsel in writing upon determining that scope is going to be expanded and provides each party

an opportunity to present additional information regarding the issues in the expanded scope.

**OR**

This will be a Brief Focused Assessment (BFA), investigation and assessment. See Attachment A for specific issues to be addressed by BFA.

3. The evaluator will make recommendations based on what he or she perceives to be in the best interests of the child(ren); what is necessary to promote the development, emotional adjustment and psychological wellbeing of the child(ren).
4. The evaluator has quasi-judicial immunity.

**PARTIES' COOPERATION WITH EVALUATOR**

5. The court orders the parties to follow all requests made of them by the evaluator so that the evaluator can conduct the evaluation, as required by law. Each party is required to complete any tasks required of him or her by the evaluator in a timely manner, as the evaluator may indicate. Specifically, each party shall:
  - a. contact the evaluator named above within ten (10) court days of this order being filed with the court to set an initial appointment time, to pay the evaluator's fees, and to sign any papers required of the evaluator to begin the custody evaluation process;
  - b. make the scheduling of appointments with the evaluator a priority and will set appointments with the evaluator on a time schedule requested by the evaluator;
  - c. participate in such testing and interviews as directed by the evaluator;
  - d. participate in psychological testing with whomever the evaluator recommends;
  - e. participate in an assessment by an independent specialist such as a substance abuse specialist, a neuropsychologist or other specialist as recommended by the evaluator;
  - f. allow the evaluator the ability to interview members of the immediate and/or extended family of both parents at the evaluator's sole discretion;
  - g. allow the evaluator the ability to interview all other persons whom the evaluator deems to have information relevant to the scope of the evaluation;
  - h. allow the evaluator the ability to interview any service providers who have worked, or had a relationship with, either of the parents or the child;
  - i. determine the protocol of all interviews and sessions to be conducted by the evaluator; and
  - j. sign all releases for records and information requested by the evaluator so that the

evaluator has access to all information relevant to the scope of the evaluation, such as documents and information from outside sources, including, but not limited to: psychiatrists, mediators, psychologists, social workers, teachers and school personnel, physicians, police departments, hospitals and child protection workers. This includes past records as well as reports from professionals who may be involved with any of the parties at the time of litigation, and includes records and information regarding both parties, as well as their child(ren).

6. The parties are ordered to provide the evaluator copies of all pleadings and orders that relate to the issues being evaluated, including any document requested by the evaluator. The parties may submit to the evaluator correspondence or other documents that relate to the issues being evaluated. The parties shall not submit any pleadings, orders, correspondence or other documents to the evaluator without concurrently providing such documents to the opposing party. The evaluator shall not accept any pleadings, orders, correspondence or other document from a party or attorney (other than the evaluator's questionnaires/forms completed by the parties) in person. The evaluator shall not accept any pleadings, orders, correspondence or other document from a party or attorney (other than the evaluator's questionnaires/forms completed by the parties) by email or mail unless the evaluator is able to confirm from the transmittal email or letter that the sending party has provided assurance the opposing party was copied with the same documents (e.g. the opposing party appears on the "cc" line of an email).
7. The parties may submit a list of people that they believe should be interviewed by the evaluator. The evaluator may, or may not, interview any of the people suggested by the parties, at his or her sole discretion.

#### **PARTIES' RESPONSIBILITY FOR EVALUATOR FEES**

8. The court orders the parties to pay the evaluator's fees and costs as follows, unless there is a subsequent explicit order to the contrary:
  - \_\_\_\_\_ will pay \_\_\_\_ % of the evaluator's fees and expenses, including the advance deposit and \_\_\_\_\_ will pay \_\_\_\_ % of the evaluator's fees and expenses, including the advance deposit. The deposit will be paid by the parties prior to the onset of the evaluation.
9. Each parent must sign any fee agreement required by the evaluator.
10. The Monterey Superior Court reserves jurisdiction to reallocate the costs of testimony and post-evaluation services provided by the evaluator.
11. Any party requiring the evaluator to testify at a deposition, trial or hearing must first pay the evaluator an additional retainer to cover his or her time in preparing for, and appearing at, the deposition and/or the court hearing.

## **CUSTODY EVALUATION REPORT**

12. The evaluator will take such steps as are necessary to protect the child(ren)'s therapeutic privilege, including to decline to provide any party or counsel with information disclosed by the child(ren) or the child(ren)'s therapist, which would otherwise be privileged. The evaluator will advise the court whether a minor child's therapeutic privilege should be waived by the court for purposes of obtaining the testimony of any mental health professional treating a minor child of the parties. If any privileged information or testimony is required by the court, such information or testimony shall be provided *in camera* outside the presence of the parties. Counsel for the parties are prohibited from disclosing the details of such information or testimony. The evaluator will not release any raw test data and notes from psychological testing except to a qualified psychologist named by the party requesting the information.
13. In those cases where a significant amount of time has passed between the completion of the evaluator's report and the trial date, the evaluator may conduct a brief re-evaluation. A re-evaluation allows the evaluator to present the parties and the court with any developments that may have taken place since the original report by conducting appropriate interviews and reviewing documents. The re-evaluation ensures that everyone has the most recent information related to the issues. A brief evaluation may take place when both parties agree to participate or if the court orders both parties to participate. The parties must pre-pay the costs estimated by the evaluator for any re-evaluation.
14. The court will assume that the original evaluator should be appointed to provide the court with any needed follow-up evaluations if the evaluator is available and willing to perform such updates. If a party believes that the evaluator is unqualified to conduct the re-evaluation for any reason, including being biased, that issue should be raised and determined either during the hearing following the initial evaluation, or, if there was no hearing after the original evaluation, through a noticed motion to resolve the issue.

## **EVALUATOR TESTIMONY**

15. The evaluator serves under the court's appointment and, if required to testify by either party, will testify as the court's witness with the understanding that the evaluator will make recommendations that address the best interests of the child(ren).

## **MISCELLANEOUS**

16. The parties are ordered not to discuss their respective positions on child custody issues, or the contents of the evaluator's written report, with the minor child(ren).
17. Each party is ordered to immediately carry out the terms of this order. To ensure timely compliance, either party may make an ex parte application to the court to compel compliance with the terms of this Order. The Court has the authority to impose monetary sanctions on any party who fails to follow any part of this court order.
18. If enforcement proceedings become necessary to enforce any provision of this order, the

court may order the non-prevailing party to pay attorney's fees and costs.

19. The Monterey Superior Court reserves jurisdiction regarding any dispute regarding fees or any other provision of this order.
20. This matter shall be set for a review hearing on \_\_\_\_\_ at \_\_\_\_\_ in Dept. \_\_\_\_\_ for receipt of the recommendations and further proceedings. The report and recommendations shall be submitted at least 10 calendar days prior to the review hearing.

We stipulate to the appointment of a custody evaluator:

_____ Date	_____ Petitioner
_____ Date	_____ Attorney for Petitioner
_____ Date	_____ Respondent
_____ Date	_____ Attorney for Respondent
_____ Date	_____ Attorney for Minor(s)

Based on the foregoing and good cause appearing

IT IS SO ORDERED

_____ Date	_____ JUDGE OF THE SUPERIOR COURT
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Brief Focused Assessment Attachment A is incorporated into this order by reference.

**BRIEF FOCUSED ASSESSMENT ATTACHMENT A**

**Referral Form for Brief Focused Assessment**

**Part 1: Issues to be investigated and assessed:**

(Check ONLY ONE issue below to be addressed and identify the parent(s) and/or child(ren) being assessed regarding that issue.)

- Drug and/or alcohol abuse assessment of \_\_\_\_\_
  - School assignment
  - Modification to parenting plan, e.g. change in time share
  - Modification to parenting plan to accommodate adolescent needs
  - Assessment of relationship quality and reciprocal connection of \_\_\_\_\_
  - Evaluation of Special Needs Child
  - Health status and needs of the child being met
  - Education status and needs of the child being met
  - Limitations on joint legal custody
  - Physical health of \_\_\_\_\_
  - Other: Must be reviewed and approved by the Court
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**Part 2: The elements of this Brief Focused Assessment may include, but are not limited to, the following:**

- Individual and/or conjoint parent interviews
- Individual child interviews, where developmentally appropriate
- Parent-child observations
- Telephone interviews with relevant neutral collateral parties (e.g. pediatricians, teachers, therapists, religious practitioners, etc.)
- Review of orders and relevant records
- Other investigation, as may be determined by the appointed evaluator.

**Part 3: Evaluator’s obligations pursuant to this Brief Assessment Order:**

The evaluator’s obligations to carry out specific investigations and other duties, otherwise required, are modified pursuant to this Court’s order for a Brief Focused Assessment, as indicated in Part 2 above.