

At a Term of the Supreme/Family Court held in
and for the County of _____ at the
Courthouse located at _____
on the _____ day of _____, 20 _____

P R E S E N T:

Hon. _____
Justice/Judge of the Court

-----x

Index/Docket No. _____

**ORDER APPOINTING MENTAL
HEALTH PROFESSIONAL**

-----x

UPON THE APPLICATION OF _____
made on the _____ day of _____, 20____, IT IS

ORDERED, that _____ whose office is located at
_____ and whose telephone number is
_____, is hereby appointed to conduct a forensic evaluation in the above-
captioned case and is to examine the following persons:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____
_____	_____

and to interview any extended family members of persons affiliated with either party's household, if deemed relevant, and to submit a report to the court by _____, 20____, addressing the following special issues:

- | | |
|---|-------------------------|
| _____ physical custody/parenting time | _____ domestic violence |
| _____ substance abuse | _____ mental illness |
| _____ interference with parental rights | _____ decision making |
| _____ grandparent visitation | _____ relocation |
| _____ other (specify) _____ | |
| _____ | |

and to appear and testify if so directed by the court, and it is further

ORDERED, that upon the request of the evaluator, absent an order limiting such disclosure, the parties shall provide releases such that the evaluator may speak with any healthcare professional, therapist, or school personnel and procure any other records, reports or material, relevant to the parties of child(ren) that the evaluator believes will be of assistance in conducting the evaluation; and it is further

ORDERED, that the appointed mental health professional is not to delegate components of the evaluation to any individual without prior approval of the court, and it is further

ORDERED, that counsel to the parties shall provide copies of any and all documents, papers or other materials requested by the evaluator and shall simultaneously furnish those materials to opposing counsel and counsel for the child(ren) (if any); and it is further

ORDERED, that neither party's counsel, nor the counsel for the child(ren), shall have any contact with the evaluator, except with regard to scheduling, payment issues and in exchanging of documents as provided above; and it is further

ORDERED, that if the evaluator determines that exigent circumstances exist requiring court intervention, the evaluator shall also notify counsel for the parties and the counsel for the child(ren); and it is further

ORDERED, that the evaluator shall include in his/her report a list of all documents and persons consulted; and it is further

ORDERED, that the report shall be submitted to the court, the counsel for the parties, and counsel for the child(ren). The report shall be shown to the parties. However, copies shall not be provided to the parties absent court order; and it is further

ORDERED, upon receipt of a discovery request pursuant to Article 31 of the Civil Practice Law and Rules after submission to the court and counsel of the evaluator's report, the evaluator shall make available to the court and counsel for all parties, including counsel for the child(ren), a copy of all underlying data and notes utilized in preparation of the final report, subject to further order of the court prohibiting or regulating the manner of the disclosure of these materials; and it is further

ORDERED, the evaluator shall shall not make a recommendation to the court as to which parent ultimately should have custody of the child(ren) and further shall shall not make a recommendation as to the other specific issues to be addressed in the evaluation; and it is further

ORDERED, that the parties are to contact the evaluator within one week from the date of this Order to commence the evaluation. In addition, the evaluator's retainer [for use in private pay instances] shall be paid within ten (10) business days of this Order, and it is further

[Use **One (1)** of the following:]

I. [For Use When All Parties are Indigent]

ORDERED, that after making appropriate inquiry into the financial status of the parties, and being satisfied that the litigants are financially unable to pay the costs of the forensic services provided for herein, compensation for said forensic evaluations, and any court appearances in connection therewith, shall be paid proportionately to the ratio of adults seen and evaluated (Article 18-B, Section 722-C of the County Law) and the children seen and evaluated (Section 35 of the Judiciary Law), at a rate not to exceed \$ _____ per hour to a maximum amount of \$ _____.

In this case, the court is directing that a total of _____ adults be evaluated and a total of _____ children be evaluated, and therefore payment shall be _____% pursuant to the County Law (adults) and _____% pursuant to the Judiciary Law (children). The institutional law guardian's office is directed to bear _____% of the costs of the forensic evaluation provided for herein.

If it is anticipated that the cost of the evaluation is likely to exceed the cap set by the court or the statutory maximum, then a supplemental request shall be made to the court for additional compensation. Only upon a written showing of "extraordinary circumstances" will compensation be awarded in excess of the statutory maximum, and it is further

ORDERED, that no less than every sixty (60) days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), an itemization of services rendered.

However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court (if any), then he/she shall make a supplemental request on notice to the court for additional compensation prior to the expenditure of time.

II. [For Use In Mixed Indigent/Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the petitioner shall pay _____% of the evaluator's fees, and the respondent shall pay _____% of the evaluator's fees, including an initial retainer in the sum of \$ _____, subject to reallocation at trial; and it is further

ORDERED, said litigant's proportionate share shall be paid pursuant to Article 18-B, Section 722-C, of the County Law. (Include if applicable): [Having found that the moneyed party is not able to bear the full cost of having the child/children seen and evaluated, it is ORDERED, that the cost of the child's/children's evaluation(s) shall be paid pursuant to Section 35 of the Judiciary Law.]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties and the court having determined that the petitioner respondent is financially unable to pay his/her proportionate share of the forensic services provided for herein; it is further

ORDERED, said petitioner's respondent's proportionate share shall be paid pursuant to Article 18-B, Section 722-C, of the County Law. [Include if applicable: Having found that the moneyed party is not able to bear the full cost of having the child(ren) seen and evaluated; it is ORDERED, that the cost of the child(ren)'s evaluation(s) shall be paid pursuant to Section 35 of the Judiciary Law.]

(Alternatively: if the child/children are represented by an institutional provider)

[The institutional law guardian's office is directed to bear the proportionate share as specified below.]

ORDERED, that the cap on the forensic evaluation ordered is not to exceed a rate of \$ _____ per hour, to a maximum of \$ _____. In this case, the court is directing that a total of _____ adults be evaluated and a

total of _____ children be evaluated, and therefore payment shall be _____ % to the litigant; _____ % to the institutional provider; _____ % pursuant to County Law and _____ % pursuant to Judiciary Law, subject to reapportionment at trial; it is further

ORDERED, that no less often than every sixty (60) days from the date of this order of appointment, the mental health professional shall send to counsel for the parties detailed bills of services rendered.

However, if the evaluator anticipates that the cost of the evaluation and report (not including testimony) is likely to exceed the cap set by the court (if any), then he/she shall make a supplemental request on notice to the court for additional compensation prior to the expenditure of time. Only upon a written showing of extraordinary circumstances will compensation be awarded in excess of the statutory maximum.

III. [For Use In Private Pay Cases]

ORDERED that the cost of the forensic evaluation provided for herein shall be borne _____% by the plaintiff/petitioner and _____% by the defendant/respondent, subject to reapportionment at trial, which shall be determined by the court upon submission by the forensic evaluator of an Affidavit of Services, on notice, detailing the evaluator's customary hourly rate, the nature of the services rendered and the time expended; and it is further

ORDERED, that the report shall be submitted to the court, the law guardian and counsel for the parties. The report shall not be shown to the parties absent permission of the court.

If it is anticipated that the cost of the valuation is likely to exceed the cap set by the court or the statutory maximum, then a supplemental request shall be made to the court for additional compensation. Only upon a written showing of "extraordinary circumstances" will compensation be awarded in excess of the statutory maximum, and it is further

ORDERED, that the report shall be submitted to the court, the law guardian and counsel for the parties. The report shall not be shown to the parties absent permission of the court.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

E N T E R:

Justice/Judge

Please affix stamp