

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF

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| <p>, Plaintiff/Petitioner, vs. , Defendant/Respondent.</p> | <p>CASE NO. CV- ORDER FOR PARENTING TIME EVALUATION</p> |
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THIS MATTER, having come before this Court on the ____ day of _____,
20____, wherein the Plaintiff/Petitioner, _____, by and through her attorney of
record, _____, wherein the Defendant/Respondent, _____, was represented
by _____, and after the presentation of evidence and argument, and good cause
appearing pursuant to Idaho Rules of Family Law Procedure **719**, Parenting Time Evaluation,
now therefore,

IT IS HEREBY ORDERED that the parties submit to and cooperate in a Parenting
Time Evaluation consistent with IRFLP 719, to be completed by the Evaluator:

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- Other _____

IT IS FURTHER ORDERED that each party shall contact the evaluator within five (5)

days of the date of this order to make arrangements for the parenting time evaluation. Costs for the parenting evaluations shall be allocated as follows:

- Parties shall each pay one half (50%)
- Petitioner shall pay _____% of the total amount
- Respondent shall pay _____% of the total amount

Distribution of the cost of the evaluation is subject to reapportionment at the conclusion of the case. The paying party shall pay the initial retainer to the evaluator within seven (7) days of the date of this Order and shall pay the remainder of the cost of the evaluation in full prior to the delivery of the written report unless other arrangements are made with the evaluator in advance.

IT IS FURTHER ORDERED that the parties shall cooperate as requested by the Evaluator, make themselves available for interviews and other processes requested by Evaluator, and shall cooperate in obtaining the assistance of any other persons the Evaluator may request to see.

IT IS FURTHER ORDERED that with the exception of mediation records, the Evaluator shall have access to all records, public or private, that bear upon the physical or mental health of the parties, the children and other persons who are a part of the household and for any child whose custody is at issue, including but not limited to, medical and dental records, school records, counseling records, day care records, drug test results, court records including civil and criminal domestic violence petitions, orders of protection, previous assessments or evaluations of

either party and child protective services records.

IT IS FURTHER ORDERED that upon request of the Evaluator, the parties shall sign releases for such information as requested by the Evaluator.

IT IS FURTHER ORDERED that the Evaluator's findings, recommendations and other privileged information shall not be disclosed by the parties to the children subject to this action, unless deemed necessary by the Court.

IT IS FURTHER ORDERED that the Evaluator is appointed by the Court as a Court's Expert pursuant to Idaho Rules of Evidence 706, and as such, the Evaluator has the opportunity to consent to the appointment or deny the appointment. The Evaluator is under the direction and control of the Court, and as such, is performing a judicial function and is entitled to qualified judicial immunity. If the Evaluator does not consent to the appointment, he/she is requested to so inform the Court within five (5) days of the date of this Order. If the Evaluator accepts this appointment, he/she shall prepare a written evaluation, which shall be completed and delivered to all parties, counsel, and the Court within sixty (60) days of the date of this Order, unless the Court orders otherwise. If the Evaluator is not able to complete the evaluation in that time, he/she is requested to contact the Court as soon as possible. The Evaluator shall provide written notice to the Court, counsel and parties within five (5) business days of completion or termination of the evaluation, and if terminated, the reason therefore.

IT IS FURTHER ORDERED that a deposition of the Evaluator may be taken by any

party and the Evaluator may be called to testify by any party or by the Court pursuant to Idaho Rule of Evidence 614(a). The Evaluator shall be subject to cross-examination by each party, including the party calling the Evaluator as a witness. If either party deems it necessary to have the Evaluator present as a witness at trial or any hearing, that party shall be responsible for arranging for the Evaluator's presence and must pay the estimated expert witness fee in full in advance of the trial or hearing unless other arrangements are made in writing by the Evaluator.

IT IS FURTHER ORDERED that all evaluations must be conducted in accordance with the Association of Family and Conciliation Courts (AFCC) Model Standards of Practice for Child Custody Evaluations, American Academy of Matrimonial Lawyers, or the American Psychological Association (APA) Guidelines for Child Custody Evaluations in Family Law Proceedings and shall include, at a minimum:

- A. A written explanation of the process that clearly describes the:
 - (i) Purpose of the Evaluation;
 - (ii) Procedures used and the time required to gather and assess information and, if psychological tests will be used, the role of the results in confirming or questioning other information or previous conclusions;
 - (iii) Scope and distribution of the evaluation report;
 - (iv) Limitations on the confidentiality of the process; and
 - (v) Cost and payment responsibility for the evaluation.
- B. Data collection and analysis sufficient to allow the evaluator to observe and consider each party in comparable ways and to substantiate (from multiple sources when possible) interpretations and conclusions regarding each child's developmental needs, the quality of attachment to each parent and that parent's social environment; and reactions to the separation, divorce or parental conflict. This process shall include:
 - (i) Reviewing pertinent documents related to custody, including court records and local police records;
 - (ii) Interviewing parents conjointly, individually, or both conjointly and

individually (unless contraindicated in cases involving domestic violence) to assess:

- (a) Capacity for setting age-appropriate limits and for understanding and responding to the child's needs;
 - (b) History of involvement in caring for the children;
 - (c) Methods for working toward resolution of the child custody conflict;
 - (d) History of child abuse, domestic violence, substance abuse, and psychiatric illness; and
 - (e) Psychological and social functioning.
- (iii) Conducting age-appropriate interviews and observation of the child or children with each parent, stepparent(s), step and half siblings conjointly, separately or both conjointly or separately, unless contraindicated to protect the best interest of the child or children.
 - (iv) Collecting relevant corroborating information or documents as permitted by law; and
 - (v) Consulting with other experts to develop information that is beyond the Evaluator's scope of practice or area of expertise.

IT IS FURTHER ORDERED that the written report by the Evaluator shall:

- A. Summarize the data-gathering procedures, information sources, time spent, and present all relevant information, including information that does not support the conclusions reached;
- B. Describe any limitation in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews;
- C. Only make a custody or visitation recommendation for a party who has been evaluated;
- D. Address each factor set forth in Idaho Code Section 32-717, and any other relevant factors;
- E. In cases in which specific areas of concern exist such as domestic violence, sexual abuse, substance abuse, mental illness, and the evaluator does not possess specialized training or expertise in the areas of concern, the Evaluator shall consult with those having specialized training or experience. The assessment shall take into consideration the potential danger posed to the child's custodian and the child.
- F. In cases in which psychological testing is employed it shall be conducted by a licensed individual who is trained in the use of the tests administered. The Evaluator shall adhere to the ethical standards for the use and interpretation of psychological

- tests in the jurisdiction in which he or she is licensed to practice. If psychological testing is conducted with adults and/or children, it shall be done with knowledge of the limits of the testing and shall be viewed within the context of information gained from clinical interviews and other available data. Conclusions drawn from psychological testing should take into account the inherent stresses associated with divorce and custody disputes; and
- G. Provide detailed recommendations that are consistent with the best interest of the child or children and include an example(s) of a parenting time schedule. In cases where the Evaluator concludes the case is inappropriate for a parenting time evaluation or recommendations, or the data available is insufficient for this purpose, the Evaluator shall submit the basis for the Evaluator's decision to terminate the evaluation process and reason for not making recommendations.

IT IS FURTHER ORDERED that the written report shall be submitted to the court provided that copies are contemporaneously distributed to the parties. The Court may consider the information contained in the report in making a decision on the parenting plan, and the Idaho Rules of Evidence do not exclude the report from consideration. The parties shall have an opportunity to cross examine the parenting time evaluator if the contents of the evaluation are introduced as evidence in the form of expert testimony or a written report. If the report is oral, the court shall not hear the contents of the report and findings unless both parties are present.

IT IS FURTHER ORDERED that any contacts between the Evaluator and the Court shall either be in writing to all parties, conference call with the parties and/or their attorneys, or at court hearings with the parties and/or their attorneys. Evaluators may communicate with the court and attorneys separately with respect to scheduling and administrative matters. The Evaluator has the discretion to interview the parties, their attorneys, the children and other

persons in any combination or ex parte; however the parties and their attorneys do not have the reciprocal right to have ex parte communication with the Evaluator, with the exception of scheduling and administrative matters as outlined above.

IT IS FURTHER ORDERED that if any party fails to keep any scheduled appointment or fails to pay for the evaluation, or fails to make initial contact within five (5) days of the date of this Order, the evaluator is directed to so advise the Court within five (5) days of said violation. Failure to comply with this Order may subject a party to appropriate sanctions in the discretion of the Court which may include, without limitation, the imposition of costs and attorneys fees against the offending party and/or the party's attorney, the dismissal with prejudice of a party's claims or the striking of defenses to a claim or contempt of court.

NOTICE is hereby given that pursuant to Idaho Rules of Evidence 706, the Evaluator has been informed of their duties by the Court in writing, a copy of which is filed with the clerk of the court contemporaneously with this Order or at a conference in which the parties have had an opportunity to participate.

Dated this _____ day of _____, 20____.

Magistrate Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the _____ day of December, 2014, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Attorney/Party

- U.S. Mail
- Hand Delivered
- Facsimile to:
- Overnight Mail

Attorney/Party

- U.S. Mail
- Hand Delivered
- Facsimile to:
- Overnight Mail

Anita Engstrom Jones
Family Court Services
P.O Box 126
Twin Falls ID 83303

- U.S. Mail
- Hand Delivered
- Facsimile to: (208) 735-4360
- Overnight Mail

Evaluator:

- U.S. Mail
- Hand Delivered
- Facsimile to:
- _____
- Overnight Mail

Clerk of the Court