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| CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
| IN THE INTEREST OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  A CHILD/CHILDREN | IN THE \_\_\_\_\_\_\_ JUDICIAL DISTRICT COURT  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, TEXAS |

**ORDER FOR PREPARATION OF BRIEF FOCUSED ASSESSMENT**

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_, the court considered the Motion for Brief Focused Assessment brought by

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

The court finds that the Motion should be granted as follows:

1. IT IS ORDERED that the following person is appointed as the brief focused assessment evaluator (“the evaluator”) to conduct a child custody evaluation (“the evaluation”) as detailed in Family Code Chapter 107, Subsection D, within the limitations noted below, and prepare a written report containing limited opinions and recommendations to the Court regarding the parties and the child(ren) in question based on the issues, questions, and restrictions outlined below.

Evaluator: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

The Court finds that the evaluator has represented they are qualified to conduct a child custody evaluation pursuant to Texas Family Code §107.104. The parties are each ORDERED to provide a copy of this order along with their completed intake documents and initial retainer to the evaluator within five business days of the signing of this order.

2. The parties and children involved in this case are:

|  |  |  |
| --- | --- | --- |
| Petitioner Name: | Respondent Name: | Intervenor (if any): |
| Child(ren)’s names and dates of birth: | | |

3. IT IS ORDERED that the evaluator’s initial retainer shall be divided between the parties as follows:

|  |  |  |
| --- | --- | --- |
| Petitioner  percentage: | Respondent  percentage: | Intervenor (if any)  percentage: |

The parties are ORDERED to pay their respective portions of these costs at such times and in such fashion as the evaluator may direct.

IT IS ORDERED that, as this is to be a brief focused assessment rather than a full child custody evaluation, the maximum fee for preparing the evaluation shall not exceed fifteen (15) total hours of billable work by the evaluator at the evaluator’s published customary hourly rate unless prior Court approval is obtained in the form of a written order with specific findings concerning the circumstances that justify additional fees.

The court finds this limited time is insufficient for a complete and full child custody evaluation, and ORDERS that the evaluator shall have full discretion as to how to best implement the court’s orders within this time restriction to answer the court’s questions as outlined below. IT IS ORDERED that if the evaluator is unable to complete all procedures as outlined below due to these time constraints the evaluator shall note that in their report.

The parties are ORDERED to pay their respective portions of these costs at such times and in such amounts as the evaluator may direct. The costs of preparing the evaluation do not include the costs of the evaluator testifying at trial, the payment of which is discussed herein below.

4. IT IS ORDERED that the evaluator will complete the report as required herein as follows:

 The report will be filed with the court as soon as possible; or

 The report shall be filed with the court no later than \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; or

 The report shall be submitted to the attorneys as soon as possible.

Consistent with Family Code 107.113 the evaluator shall also file notice the report is complete with the court and provide a copy of the report to each party’s attorney, each party who is not represented by an attorney, and each attorney ad litem, guardian ad litem, and amicus attorney appointed in the suit.

5. IT IS ORDERED that the evaluation will be limited to the minimum necessary steps to address the questions noted by the court. The evaluator may note in their report if additional assessment is recommended. The court ORDERS the evaluation to be limited to only the following procedures for the evaluator to answer the questions the court has posed:

Adult interviews (face-to-face or via telepresence) of:

 each party to the suit seeking conservatorship of, possession of , or access to the child(ren);

 each adult residing on a full-time or part-time time basis in (*check all that apply*):

\_\_\_ the petitioner’s residence \_\_\_ the respondent’s residence \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 other adults: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(*e.g., significant others, grandparents, etc.*)

Child(ren):

 interviews, conducted in a developmentally appropriate manner, with each child who is the subject of the suit who is at least for years of age outside the presence of the party but during a period of possession of (*check all that apply*):

\_\_\_ the petitioner \_\_\_ the respondent \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 interview of each child who is at least four years of age, residing on a full-time or part-time time basis in (*check all that apply*):

\_\_\_ the petitioner’s residence \_\_\_ the respondent’s residence \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 observation of each child at issue in the suit, in the presence of:

\_\_\_ the petitioner \_\_\_ the respondent \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 family group observation of all members of the following households:

\_\_\_ the petitioner \_\_\_ the respondent \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Records review:

Obtaining information from relevant collateral sources, including but not limited to specific review of:

 school records

 physical health records of each party to the suit and each child who is subject to the suit;

 mental health records of each party to the suit and each child who is subject to the suit;

 records of the Department of Family and Protective Services

 criminal history information relating to each child who is subject of the suit, each party to the suit, and each person who lives with a party to the suit;

 other specific records: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other:

 Formal home inspection of the residence of the:

\_\_\_ the petitioner \_\_\_ the respondent \_\_\_ other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Additional Court-Ordered Tasks: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

6. The court finds the following areas and questions, based on available information within the above-noted constraints are to be addressed by the evaluator:

 What are the school related needs for the children in question, such as enrollment in a particular school/district or academic placement in a gifted and talented program, special education program, or other specialized services including, if necessary, further testing and evaluation for the same?

 Does any caregiver or other person involved pose a potential danger to the children in question?

 Are there any issues of abuse or neglect of the children or intimate partner violence or other abuse of the adults involved and, if so, what steps could be taken to mitigate those issues?

 What is the need, if any, for treatment or other mitigation of issues related to substance abuse raised in this case?

 What has been each family member’s participation in individual therapy, group or family counseling, parenting courses, anger management or other related services?

 Is there a need for additional/different mental health services for one or more of the family members and, if so, what?

 Should any person involved with this case submit to a detailed psychological or psychiatric evaluation, what diagnostic areas of concern exist necessitating a detailed evaluation, and how such concerns impact the parenting and care of the children in question?

*Additional case-specific questions to be answered by the evaluator:*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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7. IT IS ORDERED that the evaluator shall comply with each of the provisions in Texas Family Code §107, Subchapter D, regarding child custody evaluations while only completing the elements ordered above. IT IS ORDERED that **the evaluator may not make ultimate recommendations regarding conservatorship, possession of, or access to the child(ren) in question** as they will not complete each “basic element” of a Child Custody Evaluation under Family Code §107.109. IT IS ORDERED that the evaluator shall note in their report the limitations created by not completing any “basic element” or “additional element” set forth in Family Code §107.109.

*Statutorily required listing of basic elements required by Family Code Section §107.109(c) and additional elements in Family Code Section §107.109(d):*

Basic elements of a child custody evaluation:

(1) a personal interview of each party to the suit seeking conservatorship of, possession of, or access to the child;

(2) interviews, conducted in a developmentally appropriate manner, of each child who is the subject of the suit who is at least four years of age during a period of possession of each party to the suit but outside the presence of the party;

(3) observation of each child who is the subject of the suit, regardless of the age of the child, in the presence of each party to the suit, including, as appropriate, during supervised visitation, unless contact between a party and a child is prohibited by court order or the person conducting the evaluation has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

(4) an observation and, if the child is at least four years of age, an interview of any child who is not a subject of the suit who lives on a full-time basis in a residence that is the subject of the evaluation, including with other children or parties who are subjects of the evaluation, where appropriate;

(5) the obtaining of information from relevant collateral sources, including the review of:

(A) relevant school records;

(B) relevant physical and mental health records of each party to the suit and each child who is the subject of the suit;

(C) relevant records of the department obtained under Section 107.111;

(D) criminal history information relating to each child who is the subject of the suit, each party to the suit, and each person who lives with a party to the suit; and

(E) notwithstanding other law, records or information from any other collateral source that may have relevant information;

(6) for each individual residing in a residence subject to the child custody evaluation, consideration of any criminal history information and any contact with the department or a law enforcement agency regarding abuse or neglect; and

(7) assessment of the relationship between each child who is the subject of the suit and each party seeking possession of or access to the child.

Additional elements of a child custody evaluation:

(1) balanced interviews and observations of each child who is the subject of the suit so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;

(2) an interview of each individual, including a child who is at least four years of age, residing on a full-time or part-time basis in a residence subject to the child custody evaluation;

(3) evaluation of the residence of each party seeking conservatorship of a child who is the subject of the suit or possession of or access to the child;

(4) observation of a child who is the subject of the suit with each adult who lives in a residence that is the subject of the evaluation;

(5) an interview, if the child is at least four years of age, and observation of a child who is not the subject of the suit but who lives on a full-time or part-time basis in a residence that is the subject of the evaluation;

(6) psychometric testing, if necessary, consistent with Section 107.110; and

(7) the performance of other tasks requested of the evaluator by the court, including:

(A) a joint interview of the parties to the suit; or

(B) the review of any other information that the court determines is relevant.

8. IT IS ORDERED that the evaluator have the following access and authority during the preparation of the evaluation and report:

* 1. With the exception of mediation records or records protected by the attorney-client privilege, the parties are ORDERED to make available to the evaluator, in a prompt and timely manner, all records, public or private, that bear upon the physical health, mental health, criminal history, or any other collateral sources of information the evaluator requests, related to any of the parties and other individuals residing in a residence subject to the evaluation. This includes, but is not limited to medical and dental records, school records, daycare provider records, and Child Protective Services records.
  2. Each party is ORDERED to execute any and all authorizations and releases necessary, including but not limited to HIPAA-compliant releases, to allow the appointed evaluator to obtain information about the children, the parties, or other caretakers in order to make a complete and thorough evaluation. IT IS ALSO ORDERED that any health information protected by HIPAA is only to be used in connection with this litigation and the parties, their counsel, the employees or retained experts of their counsel, and their respective agents, are prohibited from using or disclosing health information protected by HIPAA for any other purpose other than in connection with this litigation.
  3. Each party is ORDERED to cooperate and comply with all requests of the evaluator for in-person, telephonic, or virtual interviews or requests for information during the process of conducting the evaluation. The parties are further ORDERED to cooperate and comply with all requests of the evaluator for the cooperation of each individual residing in a residence subject to the evaluation as outlined in Texas Family Code §107.109.
  4. Each party is ORDERED to make the child(ren) available to the evaluator for interview and observation as directed by the evaluator.

9. IT IS ORDERED that the evaluator shall utilize procedures and protocols, and rely upon such facts and data, which are the type reasonably relied upon by other forensic experts in this field, including but not limited to examinations, interviews, testing as deemed necessary by the evaluator, records, and other relevant documents and tangible items.

10. IT IS ORDERED that the evaluator shall prepare a report containing their findings and conclusions and shall therein offer an opinion regarding the issues and questions above. The evaluation shall be conducted, and the report shall be prepared in accordance with the following standards and requirements:

* 1. The evaluator’s actions shall be in conformance with the professional standard of care applicable to the evaluator’s licensure and any administrative rules, ethical standards, or guidelines adopted by the state agency that licenses the evaluator.
  2. The evaluator shall follow evidence-based practice methods and make use of current best evidence in making assessments and recommendations.
  3. The evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a disputed suit, provided, however, that this requirement does not apply to a communication between the evaluator and an attorney ad litem or amicus attorney.
  4. The evaluator, to the extent possible, shall verify each statement of fact pertinent to the evaluation and shall note the sources of verification and information in the report.
  5. The evaluator shall state the basis for the evaluator’s conclusions or recommendations in the report.
  6. As required under Texas Family Code §107.108, the report shall contain the evaluator’s name, license number, and a statement attesting that the evaluator has read and meets the requirements of Texas Family Code §107.104.

11. IT IS ORDERED that following the preparation of the report, the evaluator, at the written request of any court-appointed guardian ad litem, court-appointed attorney ad litem, court-appointed amicus attorney, or attorney of record in the case shall make available for inspection and copying all records collected, including but not limited to the following: Copies of the evaluator’s notes, any written communications, writings, records, memoranda, summaries, data, correspondence, test results, videos, photographs, tape recordings, and other tangible records or documents obtained by or created by the evaluator in connection with or in any way related to the evaluation ordered herein. The costs of copying the records shall be borne by the requesting party, should that party desire copies of any portion of the records to be made. This provision does not apply to any unredacted Child Protective Services Records that have been provided to the evaluator which remain confidential pursuant to Texas Administrative Code 700.203 and Texas Human Resources Code 40.005. Parties wanting copies of Child Protective Services Records must either obtain them from the agency directly or request in-camera review by the court.

12. IT IS ORDERED that no information gathered by the evaluator, including any conversation between the evaluator and any party, child, investigator, attorney, or collateral source, is confidential or protected by any privilege. The court finds that pursuant to Rules 509 and 510, Texas Rules of evidence, **NO RIGHT OF CONFIDENTIALITY OR PRIVILEGE** attaches to any communications between or with the Court-appointed evaluator, the parties, or any other person with whom the evaluator interacts, that are relevant to this proceeding. Information provided by the parties may be shared with others involved in the evaluation (including where necessary and appropriate, children and collateral sources) so that verification of information provided can be sought and so that others are afforded the opportunity to respond to allegations that may have been made. The evaluator shall inform any party, child, attorney or collateral source that any information received shall not be confidential or protected by any privilege or discovery.

13. IT IS THE ORDER AND JUDGEMENT OF THE COURT that the evaluator is acting pursuant to Orders of, and on behalf of, a Texas court; as such they have immunity consistent with Texas law for actions undertaken pursuant to the Court appointment and this Order and are entitled to comity under the Full Faith and Credit Clause of the United States Constitution when carrying out aspects of this Order in other states. Any alleged impropriety or unethical conduct by the evaluator shall be brought to the attention of the Court in writing, AND IT IS SO ORDERED.

14. IT IS ORDERED that the evaluator shall testify at the final hearing or other hearing in this case at the written request of any attorney of record without the necessity of a subpoena, however, unless otherwise ordered by the Court, the requesting party shall be responsible for the evaluator’s customary and usual fees for testifying and said fees shall be paid or advanced prior to the hearing and payment of said fees shall be a condition precedent to the evaluator’s required testimony, unless otherwise ordered by the Court or agreed upon by the evaluator and the requesting party.

15. THE COURT FINDS that the evaluator is entitled to any report, record, working paper, or other information in the possession, custody, or control of the Department of Family and Protective Services that pertains to the persons involved in the evaluation. Any unredacted Child Protective Services Records that have been provided to the evaluator remain confidential pursuant to Texas Administrative Code 700.203. Parties wanting copies of Child Protective Services Records must either obtain them from the agency directly or request in-camera review by the court.

16. THE COURT FINDS that, notwithstanding any other state law regarding confidentiality, the evaluator is entitled to any records that relate to any person residing in a residence subject to a child custody evaluation from: a local law enforcement authority; a criminal justice agency; a juvenile justice agency; a community supervision and corrections department created under Chapter 76, Government Code; or any other governmental entity. Except as provided by Family Code 107.1111(c), records obtained by the evaluator under this provision are confidential and not subject to disclosure under Chapter 552, Government Code, or to disclosure in response to a subpoena or a discovery request.

Signed on this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Judge Presiding

AGREED:

|  |  |
| --- | --- |
| Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Bar Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Attorney for Petitioner | Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Bar Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Attorney for Respondent |

**Appendix of sample additional questions[[1]](#footnote-1)**

Is the grandparent/aunt/cousin/family friend appropriate to provide supervision for petitioner/respondent?

What are the best explanations for the alleged resist/refuse dynamics raised by the litigation (e.g. alienating behavior, intentional or otherwise; estrangement; developmental issues for the children; alignment, healthy or otherwise, between a child and a parent; etc.)?

Is either parent engaging in unhealthy gatekeeping behavior and, if so, what is motivating that behavior and how can it be corrected?

In the case of a child who appears aligned with one parent to the exclusion of the other, what are the dynamics of the parent-child relationship and what with suggestions on how to improve the relationship, if appropriate to do so, could be useful to the Court?

Does any child over the age of 12 express a preference regarding caregiving arrangements, and what are the reasons behind those preferences?

Based on the peer-reviewed literature regarding children under the age of three, what are the specific factors the court should consider regarding the care of [CHILD’S NAME] given the family issues in this case.

In a case where one parent has been absent from a child's life for a substantial amount of time: Under what conditions might it benefit the child to establish a relationship with the parent and what might be the risks to the child and current caretakers?

Based on information available, what would be reasonable reunification plans for [CHILD’S NAME] with [PARENT NAME]?

In a case where there are allegations of instability in a parent: In what ways might a parent's alleged substance abuse or mental health condition impair their ability to provide a safe and nurturing environment for the child during their parenting time? Or, does the parent suffer from a mental illness or substance abuse, and, if yes, how might this impact their ability to provide a consistent and safe environment during their parenting time?

In a case with a young child and unsubstantiated allegations of abuse: How can access be allowed in a safe, developmentally appropriate and careful manner, especially if there has been a lapse in contact?

1. Taken in part from 2022 State Bar of Texas conference paper by Hufstedler, Rappaport, Scarnecchia, and Bradshaw Schmidt. [↑](#footnote-ref-1)