



PSYCHOLOGICAL CENTER  
for Expert Evaluations, Inc.

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**STATEMENT OF UNDERSTANDING of \_\_\_\_\_**

**General Information:**

I have been appointed by the Court to conduct an impartial social investigation/evaluation of comparative custodial fitness. My purpose in conducting this evaluation is to gather information that will enable me to formulate an opinion concerning what custody/visitation arrangement is most likely to be in the best interests of your child(ren). Although my fees are not paid by the Court, the work that I will be doing will be done for the Court. Regardless of who pays the evaluator, an impartial evaluator is expected to operate as though he or she were employed by the Court. It is particularly important that this position be understood when fees are being paid only by one of the two parties. The fee-paying party cannot simply call a halt to the evaluation. The authority to instruct an evaluator to perform no further services rests with the court, not with the party who bears the financial responsibility for payment of the evaluator's fees (nor with that party's attorney).

I do not assume that those whom I am evaluating are being dishonest; however, neither do I assume that they are being truthful. Forensic psychologists are expected to secure verification of assertion made by those whom they are evaluating. Your cooperation will be expected as verification of assertions made by you is sought.

At the conclusion of the evaluation, the final report will be prepared and sent to the Court, to the attorneys for both litigants, and to the attorney representing the children (if applicable). If an individual is representing him/herself, I will follow direction from the Court concerning whether or not to provide that individual with a copy of the report. Your signature on the last page of this document will authorize me to release information to the attorneys and to the Court at any point in the evaluative process, to release to them my final advisory report, and to release my file to anyone who is authorized by law to review it. With the exception of information presented to you in order to afford you an opportunity to respond, information gathered by me is ordinarily not disclosed prior to the completion of the evaluation. Under certain circumstances, however, disclosure of information may be deemed advisable by me or may be requested by the attorneys or by the court. Prior to the completion of my report, information will be released only in response to direction from the court or the joint request of both attorneys. If disclosure is deemed appropriate, only information will be shared. Interim recommendations will not be offered.

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The authority to release copies of this case file (or any portions of it) or to disclose the contents of the file to anyone other than the court and the attorneys in this matter rests with the Court. If a review of the report in my office is deemed inadvisable by me, I will notify the Court that copies will be delivered to the Court with a recommendation that they be distributed to the litigants and to their attorneys at a meeting to be held with the presiding judge.

**Privilege, Confidentiality and Privacy:**

Principles of confidentiality and privilege do not apply within the context of these kinds of evaluations. Information provided by you, regardless of the form in which it has been provided (your statements, tape recordings, journals, correspondence, photographs, etc.) may be shared with others involved in the evaluation (including, where necessary and appropriate, children and collateral sources.) By presenting information to others, verification of information provided can be sought and the other party can be afforded the opportunity to respond to allegations that may have been made. Statements made by children may have to be cited in an advisory report and it is, therefore, important that you not mislead your child(ren). Do not tell a child that what is said is confidential. It is not. Information concerning your payments (amounts, source of payments, form of payments) are also not confidential

Office staff must check my telephone messages, read my mail, and type my correspondence and reports. Those who work for me receive instruction in matters relating to confidentiality. The need may arise for me to discuss the evaluation with other professionals and/or provide a copy of the final advisory report and pertinent supporting documents to colleagues for their review and comments. In either case, all names and identifying information will be changed.

**Limitations, Risks, and Services NOT provided:**

Unless instructed otherwise by the Court, I may, as the evaluation progresses, share information (including preliminary impressions) with a Guardian ad Litem if one has been appointed. Subsequent to the completion of my evaluation and prior to the preparation of my advisory report, I am willing to confer with the attorneys if such a conference is desired by all involved and not objected to by the Court. Detailed information concerning my findings, however, will be communicated in writing only. Be aware that the dispute is not resolved with the issuance of my report. Though the information provided and opinions expressed are intended to assist the court, the court may reject all or portions of the information provided and/or may reject the opinions offered. Also recognize that, though it has not yet occurred, the possibility exists that, even after having completed a thorough examination of the issues, I may not be able to offer an opinion with a reasonable degree of professional certainty. Neither under this circumstance nor under circumstances in which completion of the evaluation becomes either impossible or unnecessary are fees for services already rendered refunded. (If an evaluation has not begun, half of the retainer fee remains non-refundable and the balance will be refunded.)

It is not possible to guarantee that an evaluation will be concluded by a specific date. Ordinarily, judges who have requested that forensic evaluations be performed wish to have advisory reports

prepared prior to the commencement of a trial. Though quite unlikely, it is possible that a judge will begin trial prior to receiving an advisory report.

Reasonable steps are taken to minimize the distress associated with the evaluation process. Nevertheless, although most cases can be resolved without judicial intervention, I must presume that there will be a trial and must conduct myself accordingly. This means that information that you provide will be questioned and, at times, you may feel as though you are being interrogated rather than interviewed. In order to perform my Court-ordered function, I must be an examiner, not a therapist.

It must be understood that I cannot provide psychological advice to individuals whom I am evaluating. If counseling or psychotherapy services are desired, I will be pleased to provide the names of appropriate professionals. If an emergency situation arises, assistance should be sought through the police, the nearest hospital, or your attorney (depending, of course, on the nature of the emergency).

Unless I have been directed otherwise by the court, I will presume that all items in the case file are discoverable (that is, subject to examination) by both parties, their attorneys, the attorney for the child(ren), and any expert(s) who may have been retained by counsel for either party. In the event of a trial, unless I have been directed otherwise by the court, all items in the case file will be brought with me to court any day that I am scheduled to offer testimony.

If there is a trial and if I am requested to testify, it is important that you understand my obligations as an evaluator and as a testifying expert. I am obligated to maintain my impartiality and openness to new information throughout the course of the evaluation and during the trial. It is not my obligation to defend the precision of facts reported, the accuracy of data interpretations made, or the validity of opinions offered in the face of newly introduced information that might reasonably call them into question. Though it is more likely than not that testimony offered by me will explain and be supportive of the contents of my report, no assurances can be offered that this will be the case. A cross-examining attorney may bring to my attention information of which I was unaware (either because it was not brought to my attention during the course of my evaluation or because it pertains to events occurring subsequent to the issuance of my report). The attorney may ask how the new information might affect my professional opinion of you and/or your spouse. I will, of course, respond honestly. You must recognize that I am not an advocate for the person who seeks my testimony and that I am obligated to offer any/all pertinent information that might be of assistance to the Trier of Fact. I must, for example, provide information concerning your parenting deficiencies and your spouse's parenting strengths. Put most simply, fees paid to me represent compensation for time expended. The person paying my fees cannot be assured that my testimony will be helpful to his/her case.

Opinions expressed by me in my advisory report will be formulated on the basis of information provided to me between the day on which I was initially contacted and the day on which the report is prepared.

If any questions arise concerning legal matters, you must consult with your attorney. It is inappropriate for someone not trained in the law to attempt to respond to questions concerning legal matters.

### **Fees**

In some cases, the rates for services associated with the child custody evaluations are itemized and billed separately. In this case, however, your attorney and I have negotiated a flat rate fee, which will be collected up front in the form of a retainer, in the amount of \$5,000. All aspects of this evaluation and subsequent report are included in this rate. Should I be required to testify at depositions or during a trial, you will be billed separately at \$400/hr (portal to portal). It is required that these fees be collected prior to my appearance in court; unused retainer funds will be returned to the retaining attorney(s).

### **Psychological Testing:**

You are strongly advised to come to scheduled testing appointments well rested. If your sleep is disrupted during the night before a scheduled test, please call and arrange to take scheduled tests at another time. It is expected that when individuals being evaluated come to my office for the purpose of taking psychological tests they will arrive unaccompanied. Spouses, children, companions, and friends can serve as sources of distraction. You will be asked to relinquish cell phones and PDAs. If someone must transport the test-taker, that person will be asked to leave and not return until the test-taker has finished.

### **Submission and retention of documents:**

Ordinarily, in consultation with your attorney, it will be possible for you to anticipate what documents I am likely to require. Obtaining pertinent documents prior to the commencement of the evaluation will expedite the evaluative process. Documents that you wish me to consider must be delivered in a manner that ensures their safe transfer into my custody and I must receive assurance that documents submitted for my review have been provided to the other party. Under no circumstances are litigants or others to make unannounced visits to our office in order to deliver documents. Because I may be called upon to produce all items (documents, tapes, photographs, etc.) that I have considered in formulating my professional opinion, it is my policy to retain any items that are presented to me for my consideration. You are therefore strongly encouraged to make copies of any materials that you intend to turn over to me. If you neglect to make copies and if you later require copies, you will be charged for time expended in preparing copies. Documents and other items will be returned only after I have been informed either by the Court or by attorneys for both parties that it is no longer necessary for me to retain them. If, prior to trial, a lawful request is made that I copy and release items in my file for examination by an attorney or by an appropriate reviewing mental health professional, all involved will be notified. Unless an objection to the release of the requested items is brought before the court and honored by the court, the requested items will be released. (You are reminded that your signature on this

document will constitute an authorization to release requested items to those lawfully entitled to receive them. Under most circumstances, those lawfully entitled to receive them include the court, the attorneys for both parties, and any consultants retained by the attorneys.) The attorney requesting copies will pay the costs associated with producing the copies. (Currently, the standard fee for photocopying is \$.05/page. I reserve the right to charge a higher fee for pages both sides of which must be copied and/or for items on non-standard size pages (that is, other than 8.5" x 11").

**Out-of-session contact:**

Out-of-session contact (casual waiting-room conversation, telephone calls, etc.) should be avoided. It is to your disadvantage to communicate information to an evaluator in an informal manner. Phone contact should be limited to scheduling appointments and addressing other procedural matters. Information concerning matters pertinent to the evaluation itself should not be communicated by phone. If you must contact me by phone, leave a message stating the reason for your call; provide a telephone number at which you can be reached; and, specify the times at which you can be reached.

**Obtaining additional information:**

Individuals being evaluated must agree to authorize me to obtain any documents that I may wish to examine and to authorize communication between me and any individuals who, in my judgment, may have information bearing upon the subject of the assessment. In most cases, information needed from professionals (teachers, other mental health practitioners, etc.) will be obtained by telephone. Individuals who are likely to be advocates for one party or the other will be expected to provide information in writing (though I reserve the right to contact such individuals by phone if clarification and/or additional information is required).

Where specific instructions concerning those to be evaluated (and how extensively they are to be evaluated), information to be obtained, etc. has not been included in the Order appointing me, the decisions concerning these matters will be made by me. There may be instances in which I will be asked to review information that I reasonably believe is likely to be more prejudicial than probative and instances in which I will be asked to contact individuals whom it would, in my judgment, be inappropriate to contact. I must be the final arbiter in such situations.

I reserve the right to consider any information regardless of the manner in which it has been obtained (unless it has been obtained illegally). If I am asked to consider information that may have been illegally obtained, I will follow instructions from the attorneys if they are in agreement. If they cannot agree, I will request direction from the Court.

If you wish to have individuals write to me on your behalf, they must include in their correspondence the following statement "I understand that the information I have provided is not confidential." The statement must be signed and the letter must be mailed directly to me. (Letters are not to be forwarded to me by you or by your attorney.) Letters received by me will be reproduced by me and furnished to the attorneys for the parties and the attorney for the child(ren). It is your responsibility to explain to anyone from whom you solicit a letter that the

information contained in the letter may be revealed to any of the individuals involved in the evaluation (including children, if necessary and appropriate) and may be quoted in the advisory report

**Contact with attorneys:**

Once I have received word that I will be conducting an impartial evaluation of comparative custodial fitness, I endeavor to avoid ex parte communication with the attorneys representing the litigants. If a Guardian ad Litem has been appointed, I will speak periodically to him/her and will exchange information with him/her (unless instructed not to do so by the Court). In my judgment, our roles are similar and it is, therefore, appropriate that we share information. During the evaluation, oral communication with attorneys for the parties will occur only if it is not in contravention of a Court directive, only if it can be done by means of a conference or conference call, and only if unusual circumstances make such communication necessary. If correspondence becomes necessary, it must be on a copies-to-all basis. Once the evaluation has been completed and my report has been released, I will engage in oral discussions with the attorneys if I deem it advisable to do so, if no objections to such discussions are raised, and if such discussions are not in contravention of the court's Order or subsequent directives.

**Allegations of abuse/neglect:**

It must be understood that I am required by law to report allegations and suspicions of abuse or neglect towards children and elderly individuals. The penalties imposed on mandated reporters who fail to report such allegations are severe. If allegations are made, they will be reported and my action in reporting them must not be interpreted as a display of support for the individual who has made the allegations or as an indication that I disapprove of the alleged actions of the person who has been accused. Most importantly, it must not be inferred that my reporting of such allegations suggests that I find them credible.

**Post-evaluation developments:**

Following a meeting at which a draft of my report is reviewed, I will take reasonable steps to avoid contact with the litigants and with counsel. No substantive response will be provided to letters, faxes, e-mails, or phone messages. If a trial has been scheduled and either party feels that new information should be considered by me, this will be done only if a formal request is made by both attorneys or ordered by the court and only if each party is afforded an opportunity to present his/her perspective on the additional information. Ordinarily, if the need for an updated evaluation is agreed upon or ordered by the court, psychological tests will not be re-administered. The time-related limitations to the applicability of the test data will be addressed in my testimony.

I do not participate in post-evaluation settlement discussions unless (1) the law permits litigants to waive privilege (2) both litigants, with written approval by counsel, have done so, and (3) this post-evaluation role has been agreed to, in writing, at the outset of the evaluation.

A litigant who believes an evaluator's findings and/or recommendations to be flawed is entitled to request that the evaluator's work be reviewed by another mental health professional. Though the favored party may not wish the evaluator's work to be critically examined, such scrutiny is entirely appropriate and the evaluator's entire file should be made available to the consultants retained by the attorneys for the purpose conducting such a review. It is my policy to cooperate with those seeking to review my work. An exception: Mental health professionals who are related to or involved in social or professional relationships with litigants should not offer their services either as evaluators or as reviewers. Efforts by such individuals to obtain my file will be resisted and the file will be released only in response to a court order.

I ask that you thoroughly review this document. The evaluation will not proceed until both of the parties have expressed their understanding of and willingness to abide by the policies and procedures set forth in this document. Please initial the bottom of all pages and sign this page in the space provided below.

Your signature below indicates (1) that you have received, read, and understand my policies and procedures; (2) that you recognize that neither the principle of confidentiality nor the principle of privilege applies to any information in my file concerning this matter; and, (3) that you are authorizing the release by me, either orally or in written form, of any/all information in my file, including my advisory report, to the Court, the Guardian ad Litem, the attorneys for both parties, and qualified mental health professionals retained to review my work.

With specific regard to information that might ordinarily be protected from disclosure by HIPAA provisions, HIPAA § 164.512 of the Code of Federal Regulations addresses "Uses and disclosures for which an authorization or opportunity to agree or object is not required." More specifically, pursuant to HIPAA Sections 164.512(e)(1)(i) and 164.512(e)(1)(ii)(A), disclosures of otherwise protected health information may be provided in the course of judicial or administrative proceedings. The psychological services offered by me in my practice include traditional healthcare services that involve the use of and disclosure of protected health information (PHI) - information of the type that HIPAA is intended to regulate. For this reason, I am, in HIPAA's terminology, a hybrid entity. Section 164.105 of the HIPAA regulations addresses the obligations of hybrid entities. Briefly, HIPAA regulations are applicable only to the "health care component(s)" of my practice.

Your authorization for the release of my file is not qualified; it includes an authorization to release information provided to me by health service providers who may have been collateral sources of information. You also acknowledge that once records have been released by me to the court, to the attorneys, or to consultants retained by the attorneys, I no longer exercise control over who may access the information contained in those records. It is not to be inferred that you agree with these policies and procedures. Further, by signing this document, you are not waiving any rights you may have to raise objections to any policies or procedures. Though this copy must be signed and returned, you are urged to make a photocopy and retain it for your reference during the course of the evaluation.

PLEASE DO NOT SIGN THIS DOCUMENT UNLESS YOU UNDERSTAND IT.

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Signature of Parent

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Date

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Printed Name