

<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: DIVISION: Family Justice Courthouse - Family Law Division</p>	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p>
<p>PETITIONER: RESPONDENT: OTHER PARENT/CLAIMANT:</p>	
<p>ORDER APPOINTING CHILDREN'S COUNSEL</p>	<p>CASE NUMBER: DEPARTMENT NUMBER: FCS NUMBER:</p>

1. **FINDINGS:** The Court finds the best interests of the children in this case will be served by the appointment of counsel to represent the children.

THE COURT ORDERS:

2. **APPOINTMENT:** Pursuant to Family Code Sections 3150 – 3153, the Court appoints:

Attorney Name: _____

Telephone Number: _____

Address: _____

to represent the minor children who is or are:

Name: _____ Date of Birth: _____

Name: _____ Date of Birth: _____

Name: _____ Date of Birth: _____

Additional children are listed on Attachment 2.

3. **IDENTITY OF PARTIES:**

Party 1: Mother Father Other:

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Address (*UNLESS CONFIDENTIAL, see No. 5*): _____

Party 2: Father Mother Other:

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Address (*UNLESS CONFIDENTIAL, see No. 5*): _____

Other Party/Claimant: _____

Relationship: _____

Name: _____

Telephone Number (*UNLESS CONFIDENTIAL, see No. 5*): _____

Address (*UNLESS CONFIDENTIAL, see No. 5*): _____

4. COUNSEL FOR PARTIES:

Party 1 is self-represented

Party 1's counsel:

Name: _____

Telephone Number: _____

Address: _____

Party 2 is self-represented

Party 2's counsel:

Name: _____

Telephone Number: _____

Address: _____

Claimant/Other Party is self-represented

Claimant/Other Party's counsel:

Name: _____

Telephone Number: _____

Address: _____

5. CONFIDENTIAL ADDRESS:

If a party's address is confidential, the Children's Counsel may contact counsel for the party or Family Court Services, if the party is self-represented, to obtain an address and telephone information.

6. KEEPING CHILD OR CHILDREN'S COUNSEL INFORMED OF ADDRESSES/PHONE NUMBERS:

Counsel for the parties, or the parties, if self-represented, shall keep the Children's Counsel informed of current residence and employment addresses and telephone numbers at all times.

7. PRIOR PLEADINGS:

- a. Each party or party's counsel shall serve copies of all of his or her pleadings relating to issues regarding the children and all orders and judgments regarding the children on the Children's Counsel within fourteen days from the date of this order.
- b. In the event pleadings are not provided to the Children's Counsel in a timely manner, the non-complying attorney or party shall reimburse the Children's Counsel for any copying costs incurred for obtaining copies. This reimbursement shall be included in an application for fees (see (12) below).

8. FUTURE PLEADINGS:

Each attorney or party shall serve copies of all future pleadings related to child issues on the Children's Counsel within five (5) calendar days of filing. Any *ex parte* filings or motions relating to child issues, including child support, shall be served on the Children's Counsel in the same manner as if served upon a party. All stipulated orders involving issues regarding the children, including child support issues, shall require the agreement of the Children's Counsel or a statement by the Children's Counsel that he/she takes no position. All orders following hearings and trials involving the Children's Counsel shall be submitted to the Children's Counsel for approval as to form and content.

9. COUNSEL'S RIGHTS:

- a. Counsel and the children shall have a confidential attorney-client relationship.
- b. Children's Counsel shall have a reasonable right to meet and communicate with the children. The parties shall arrange to bring the children to counsel's office and shall make the children available to counsel in the parties' homes or in any other reasonable setting upon request by counsel.
- c. Children's Counsel shall be given advance written notice of any proceeding involving the children which occurs outside of the Family Court, including (but not limited to) Juvenile Court proceedings, Criminal Court, or other court proceedings which might affect the child, Department of Family and Children's Services involvement, and educational processes, such as IEP meetings.
- d. Children's Counsel has the right to reasonable written advance notice of and the right to refuse any examination or evaluation of the children for the purpose of any court proceedings by any professional, including psychological, medical, educational, or legal professionals, which have not been ordered by the Court.
- e. Children's Counsel has the right to assert or to waive any privilege on behalf of the children.
- f. Upon approval by the Court, Children's Counsel has the right to seek independent educational, psychological, or physical examination or evaluation of the children for purposes of any pending proceeding.
- g. Children's Counsel shall have the right to take any action that is available to a party to the proceeding, including but not limited to, filing pleadings, seeking affirmative relief, making evidentiary objections, presenting evidence, and being heard in any proceeding, which may include, but shall not be limited to, hearings, settlement conferences, trials, arbitrations, and appeals. Filing fees are waived for Children's Counsel.
- h. Each party shall provide copies of records as requested by the children's counsel. Children's Counsel shall have access to the children's medical, dental, mental health, and other health care providers, and to mental health professionals, and others who have assessed the children or provided care to the children, subject to

paragraph k below. Children's Counsel shall have access to any and all reports, test results, and other documents relating to the children from third parties, for example but not limited to, school personnel, medical personnel, and Department of Family and Children's Services workers. The release of this information to Children's Counsel shall not constitute a waiver of the confidentiality of the reports, files, and/or any disclosed communications. All privileged documents shall continue to be privileged. Each party shall sign releases for such information as requested by the Children's Counsel.

- i. The parties or their counsel shall provide Children's Counsel with the names, addresses, and telephone numbers for all individuals involved with the treatment, care, daycare, and education of the children within 14 days of this order, and shall keep counsel informed of any changes in this information.
- j. There shall be no ex parte communication between the children's counsel and any Family Court Services assessor/evaluator, private assessor/evaluator, and mental health professional appointed by the Court or hired by the parties, except for the parties' own therapists, except where it is expressly authorized by the Court or undertaken pursuant to Family Code §3151 (c)(5) . The above limitations shall not apply under the circumstances set forth in Family Code Section 216 (c)(1) and (2).
- k. Children's Counsel shall be permitted to review the Family Court Services files regarding the case. Any request for copies of a Family Court Services file shall be subject to obtaining appropriate protective orders from the Court and must be consistent with Santa Clara County Local Rules, Family Rule 2 (C)(6).
- l. Children's Counsel may participate in mediation of parenting issues with the parents, whether through Family Court Services or private mediation, subject to the requirements of Family Code §§ 3177 and 3182. All parties shall be responsible for reasonable notice to the children's counsel of any scheduled mediation. Children's Counsel is bound by mediation confidentiality, as are the parents.
- m. If the Children's Counsel is preparing an order, or any time Children's Counsel deems appropriate, he/she may obtain a transcript. The cost of the transcript shall be included in Children's Counsel's next application for fees and costs.

10. REVIEW OF APPOINTMENT:

- a. Children's counsel, counsel for any party, a self-represented party, or the Court may set a Case Management Conference prior to the end of twenty-four months from the filing of this order, for the purpose of determining whether or not a hearing will be required on the question of continuing or ending the appointment. If no one sets a Case Management Conference by the end of twenty-four months from the filing of this order, the appointment shall continue for another twelve months, with the same right to put the question before the Court at the end of each subsequent twelve-month period.
- b. If all parties and Children's Counsel agree that counsel's appointment should end, they shall present a signed stipulation stating the reasons for termination to the court for the Court's review.
- c. Appointment shall terminate upon emancipation of the children, except as to any continuing orders.

11. ATTORNEY FEES AND COSTS:

- a. Children's Counsel shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the Court. Family Code § 3153(a).
- b. The parties are responsible for the payment of Children's Counsel's fees and costs, unless the Court finds that one or both of the parties are unable to pay all or a part of the fees of Children's Counsel . The Court can

order the parties to pay the fees and costs of the Children's Counsel in such proportions as are deemed by the Court to be just and reasonable, and may order payment in advance as a retainer. In certain circumstances, the Court has discretion to order all or part of the fees and costs to be paid by the Superior Court. If payment for fees and costs is made by the Superior Court of Santa Clara County, the Court may order either party to make reimbursement to the Court.

- c. Each party shall pay \$_____ to the Children's Counsel within _____ days of the date of filing of this Order as a deposit toward fees and costs for Children's Counsel.
- d. Each party shall, within _____ days of the date of filing of this Order, serve on all parties and counsel, including Children's Counsel, a fully completed Income and Expense Declaration (Judicial Council Form FL-150), with all required attachments, including three recent pay stubs, or other verification of income.

12. APPLICATION SUBMISSION TO FINANCE:

Attorney to submit one copy of application and billing statements of fees and costs (Exhibit) to Court Finance and another copy to the Courtroom on a quarterly basis. This helps to properly charge expenditures to the correct fiscal year and avoid duplicate claims.

13. OTHER ORDERS:

DATE:

JUDICIAL OFFICER