

IN THE FAMILY COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

)	FC-_____ No. _____
)	
_____ ,)	CUSTODY EVALUATION
Plaintiff/Petitioner)	APPOINTMENT ORDER AND
)	RESTRAINING ORDER
vs.)	
)	
_____ ,)	
Defendant/Respondent.)	
_____)	

CUSTODY EVALUATION APPOINTMENT ORDER AND RESTRAINING ORDER

Pursuant to Haw. Rev. Stat. Ann. §571-46(4) (2005 Replacement),

THE COURT FINDS THAT:

_____ The child has a specific physical, mental, or emotional disability.

_____ A parent has a specific significant physical, mental, or emotional disability that could reasonably and foreseeably impact his/her parenting ability.

_____ There is credible information regarding possible domestic violence, child abuse and/or neglect, or substance abuse.

_____ The children are expressing significant fear of and/or anger against one or both parents and/or refusing contact with one or both parents.

_____ The parties have developed or are likely to develop a pattern of adversarial conflict or a high level of acrimony and such conflict or acrimony will cause harm to the child, delays in the case processing, and/or result in a lack of credible and relevant evidence at trial.

_____ This is a post-decree case and there is a material change in circumstances, as follows: _____

_____ (other:) _____

_____ The parties are both indigent.

IT IS HEREBY ORDERED that:

1. _____ is appointed Custody Evaluator (CE) to conduct an investigation and evaluation of custody and shared time/access issues and to prepare reports, as ordered, and according to the requirements stated in the June 1, 2007 memorandum Custody Evaluation Standards and Procedures (downloadable from the Judiciary website).

Address: _____

Phone: _____ Fax: _____ Email: _____

2. Term: This appointment is effective upon filing and remains in effect until a written order of discharge or the Divorce Decree is filed (whichever occurs first).

3. The children involved are (name and date of birth):

4. The parents and their counsel may be contacted as follows:

Mother's Address: _____ Phone: work: _____

Phone: home: _____ cell: _____ email: _____

Mother's Attorney: Name: _____

Address: _____

Phone: work: _____ cell: _____ email: _____

Father's Address: _____ Phone: work: _____

Phone: home: _____ cell: _____ email: _____

Father's Attorney: Name: _____

Address: _____

Phone: work: _____ cell: _____ email: _____

5. The CE shall submit a Custody Settlement Conference Report no later than **14 days prior** to the Custody Settlement Conference which takes place on:

_____ at _____.

The parties and CE are ordered to appear. The CE will submit the original Report and a courtesy copy for the presiding judge to (name of court clerk) _____, phone: _____ at Family Court, P. O. Box 3498, Honolulu, HI, 96811-3498, for filing. The CE will simultaneously give unfiled copies to all counsel and pro se parties. The original Report will be filed and sealed. Only the court, parties, and counsel will have access to the sealed Report.

6. The CE shall focus specifically on the following issues:

- | | |
|---|-------------------------------|
| _____ special needs of child | _____ special needs of parent |
| _____ domestic violence/safety planning | _____ substance abuse |
| _____ child abuse/neglect | _____ relocation |
| _____ supervised/overnight visitation | _____ attachment problems |

_____extreme hostility and/or inability of parents to communicate

_____ other:_____

7. [] Plaintiff/Petitioner [] Defendant/Respondent shall present the CE with a certified copy of this Order within five (5) calendar days from date of filing along with copies of: Complaint for Divorce; MAIS (Matrimonial Action Information Sheet)/HPAI (Hawai'i Paternity Action Information); the latest filed financial information of both parties; all previous CE reports and/or psychological evaluations already completed and held by the parties; and other relevant pleadings already filed.

8. If the parents are unable to reach an agreement about how to raise their child/ren, the CE shall complete a Custody Evaluation Report in the form required by the court according to the timetable and procedure in the June 1, 2007 Memorandum noted above. At that time, the CE shall submit said Report (original and a courtesy copy for the trial judge) to the court clerk noted above and give copies to all counsel and pro se parties. The original Report will be filed and sealed. Only the court, parties, and counsel will have access to the sealed Report.

9. The parents, their agents, and their attorneys are prohibited from releasing or disseminating this Report except as approved or directed by the court in a written order.

10. The parents, their agents, and their attorneys are prohibited from discussing in the presence of or with their child/ren, specific facts, issues, or positions relating to custody or visitation in a manner which disparages the other party or with the intent to influence the child/ren with respect to custody and/or visitation, neither will they discuss the contents of the evaluation report with or in the presence of the child/ren.

IT IS FURTHER ORDERED:

1. COSTS: [] Plaintiff/Petitioner / [] Defendant/Respondent / [] Both parties equally / shall pay an advance of \$_____ to the CE within 5 days of the filing of this Order. All costs are subject to allocation at the time of trial. The CE shall retain copies of any agreements and/or contracts made with the parties.

2. COOPERATION: Parties shall cooperate with the CE (including but not limited to providing timely access to the child/ren and timely production of requested documents) and shall sign waivers, consent, and/or releases of information as requested by the CE.

3. ACCESS: The CE shall receive print-outs of the parties' criminal histories and lists of previous and current cases that one or both parties are included in (gleaned from the HAJIS and JUSTIS databases) from the court clerk noted above and may review all cases identified, including confidential files. There shall be no copying or dissemination of said documents. The CE shall return the print-outs of the parties' criminal histories and the HAJIS/JUSTIS information to the court at time of CE's discharge from the case.

4. THIRD PARTY ACCESS: Upon presentation of this Order, the CE shall have the authority to inspect and receive copies of any records, notes, electronic and digital recordings (including, but not limited to, school, medical, mental health, employment, social service, law enforcement records) concerning the above-named child/ren from and communicate with any private and/or public individual and/or agency, including, but not limited to, all educational and health care professionals and paraprofessionals, financial institutions, and law enforcement officials, without the need for consent by the child/ren, the parties, or the child/ren's caretakers. Except that, nothing in this

paragraph negates the parents' or the child/ren's statutory privileges (including physician, psychologist, attorney, domestic violence counselor).

5. COMMUNICATION WITH COUNSEL AND PARTIES: Except for scheduling and payment issues, ex parte contact between the CE and parties' counsel should be minimized. Except as requested by the CE, parties (or their agents, including the parties' child/ren if done at the request of the parent) should not initiate ex parte communications with the CE. Communications between the CE and the parties, counsel, and child/ren are not confidential. "Communication" includes any contact by face-to-face meetings, phone, email, web posts, IM, text messaging, letters, etc.

6. COMMUNICATION WITH THE COURT: The CE's concerns and requests, if any, should be sent to the court by letter with copies to all counsel and pro se parties. However, such communications should be kept to a minimum and are not encouraged.

7. EXTRA COSTS: If the CE requires the assistance of a specialist or expert to assist in this investigation and evaluation or drug testing, drug or other types of assessments/evaluations of one or both parties or the child/ren, the CE will first request a stipulation concerning this from the parties. If there is no stipulation, the CE's request and the parties' inability to agree will be communicated to the judge as noted above and the court will set a hearing. The CE shall not incur any extra fees and costs without prior written approval of the judge in a court order or a filed stipulation of the parties.

Dated: Honolulu, Hawai'i _____.

JUDGE OF THE ABOVE-ENTITLED COURT