

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

Family Court Services
170 Park Avenue
San Jose, CA 95113
(408) 534-5760



EVALUATION

CASE NAME: _____ **CASE #** _____ **FCS #** _____

EVALUATION DATE: _____ **TIME: (circle)** **8:15 AM** * **9:00 AM** *
8:30 AM * **1:30 PM** *

PURPOSE, SCOPE & DISTRIBUTION OF RECOMMENDATIONS: The Court has ordered that an **Evaluation** be done in your case in order to assist in determining the health, safety, welfare and best interests of children with regard to the custody and visitation issues specified by the Court. This evaluation, which usually requires multiple appointments, will be an examination limited in scope to the disputed custody/visitation issues defined by court order. It will result in a written confidential report along with written recommendation to the Court which, will be sent to the attorneys for the parties, parties representing themselves, and the Court. Any orders resulting from the recommendations will become a part of the court file. If you do not agree with the recommendation, you must object to it as directed at that time to stop it from automatically becoming a court order. If settlement efforts, including meetings with the evaluator and conferences with the judge, do not resolve the matter, you are entitled to a court hearing.

TIME REQUIRED: The majority of evaluations average about 10-15 hours of time spread over multiple appointments completed within 60 days of the date of the first evaluation appointment. The evaluator will gather enough information from multiple sources to allow him or her to make a written recommendation regarding those limited issues in dispute. This evaluation time includes information review, as well as file and recommendation preparation. It does not include any follow-up time spent in settlement conferences or testifying, for which there would be additional billing. A small number of cases resolve after one appointment, while a larger number require an amount of evaluation time far beyond the 10 -15 hour average, and some require an extension of the 60 day deadline.

PROCEDURES: At the time the evaluation is scheduled, the Court will also schedule a Custody Settlement Conference (CSC) to take place 90 – 100 days from the initial evaluation appointment. At the initial evaluation appointment, the evaluator may reschedule the CSC date within the same 90 – 100 day window. Parties will have 15 days from the mailing date of the Evaluation Recommendations to file objections. If objections are filed, parties must meet with the evaluator prior to the CSC. The purpose of this meeting is to discuss Objections, to determine if a settlement can be reached and to explain the rationale for the recommendations. If the evaluator requests and is granted an extension to complete the evaluation, the evaluator must set a new CSC date to occur between 30 and 40 days from the new due date.

Evaluations usually include the following action unless the evaluator has justification for not using a specific procedure: Reviews of documents related to the issues in dispute (**FCS will only accept documents or materials from parties that have been copied and submitted to the other parties/attorneys**), including but not limited to: documents submitted by the parties, FCS and Court files, criminal record checks, Child Protective Services reports, police reports; interviews with the attorney/s; interviews with the parents (separately and/or together - victims of domestic violence are interviewed separately); interviews with any step-parents or primary caretaking individuals; interviews/observations with the child(ren); observations of the children interacting with each of the parties and sometimes other family members. Evaluations may also include drug/alcohol testing or assessment, interviews other witnesses or family members in person or by phone (i.e. teachers, day-care providers, pediatricians, counselors, child protection workers, police officers) and additional data be gathering (i.e. school records or medical reports). Home visits are conducted only as needed by the evaluator because of the time and expense involved. The evaluator may also consult with other Family Court Services personnel other than the mediator, or other experts as necessary. You may request that the evaluation process include certain actions, but it is the evaluator and the Court who must ultimately determine how much and what type of information must be gathered.

CHILDREN: Children are not to appear for the first appointment unless: The Court has directed they be available for the first appointment or one of the parties resides more than 100 miles from San Jose or the evaluator directs the party(ies) to bring them. If any of the preceding conditions apply, the children are to be available to FCS within 15 minutes. If they are present at the Court, they need to be under the supervision of a responsible adult other than the party bringing them.

INTERPRETERS: Non English-speaking parties must bring a neutral interpreter who is agreed upon by both parties. FCS may have Spanish speaking evaluators available at any given time but cannot guarantee this.

PSYCHOLOGICAL TESTING: will only be used as a part of an evaluation when the Court or the evaluator determines that this piece of information is necessary. In such cases, psychological tests can assist the evaluator in understanding a parent's behavior and relationship abilities and the potential for matching the parent's abilities with the particular needs of the child(ren). The results of the psychological testing will be viewed only within the context of the information gathered from clinical interviews and other available information. The parenting skills and abilities of the individual parent/caretaker are the primary concern of the evaluator. When the Court orders psychological testing, this service is provided by a psychologist outside of Family Court Services and the parties are responsible for payment for the testing as ordered by the Court.

CONFIDENTIALITY LIMITATIONS: Information disclosed to Family Court Services during the scope of any form of child custody/visitation investigation is not confidential from the Court. This information may be disclosed in reports or testimony made to the Court. Family Court Services may not release information about the case to any other individual except as authorized by the Court or by law such as: Mandatory reports of suspected child abuse/neglect to the police or Child Protective Services; Court authorized exchanges of information between Family Court Services and Child Protective Services, Probate Investigators, and the Probation Department; reports of threats of harm to self or others to the police and intended victims; Court authorized disclosures of information to service providers to which the client(s) has/have been ordered. FCS may review other FCS cases related to either parent.

COST AND PAYMENT RESPONSIBILITY: The fee for an Evaluation conducted by FCS is \$160 per hour divided equally between the parties, unless ordered otherwise by the Court. A deposit of \$750 is required prior to the onset of the evaluation. Expert witness fees for testifying at a deposition or a trial are \$150 per day. Fees for court ordered psychological testing will be as ordered by the court. Applications for Modification of Court Fees and Financial Declaration forms are available from Family Court Services if you believe you are unable to pay the required fees. You may request installment payments. Unreasonable or frivolous requests for modification of fees may result in Court assessed penalties.

CANCELLATION AND RE-SCHEDULING POLICY:

- In the event settlement is reached and the evaluation is no longer necessary, Family Court Services must be immediately notified of the cancellation in writing by both parties/attorneys, must receive a filed/endorsed copy of the stipulation and the appointment time will be made available to others. A fee of \$100 will be charged if notice of a cancellation is received by FCS less than one week prior to the appointment date for the first session. Appointments canceled due to settlement will not be rescheduled.
- If any party otherwise fails to appear, or is more than 30 minutes late for any scheduled appointment, a fee of \$100 will be charged to that person.
- Either party canceling a first appointment as a result of a real and documented emergency must immediately notify FCS and the other party. If the other party agrees to reschedule the appointment, the appointment may be rescheduled, once. If the other party/attorney does not confirm agreement with the rescheduled date or if any party otherwise fails to appear or is more than 30 minutes late for any appointment, Family Court Services will, depending on the circumstances of the case:
 - Begin the evaluation on the original date with the parties/attorneys who do appear at Family Court Services and arrange for additional appointments with the canceling party/attorney, OR;
 - The first appointment may be rescheduled which will result in further delay, OR;
 - The matter may be referred back to Court for further action.