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CONTRACT FOR 730 CUSTODY EVALUATION

I appreciate the opportunity to serve the court, your child/ren, and you in performing a 730 custody evaluation of your family. Obviously it is best for children if parents can develop directly between themselves a custody/visitation plan. However, when this is not the case, and other means to reach agreement such as mediation have not been successful, parties often stipulate to or the court orders a custody evaluation. Such an evaluation is performed to provide the court information relevant to creating an optimal parenting plan for the family. A custody evaluation is one of many data points the court considers in coming to a determination. Hence, the current evaluation – while carefully considered by the court – does *not* “decide” what the custody and child-sharing arrangements will be. Nonetheless, I am well aware of the importance of my task, and will do the most thorough, competent job I can in assessing your particular circumstances to develop recommendations based on the findings that are best for your child(ren).

Evaluation Procedures

The most important data source to understand your family and your child(ren)’s needs is *you and your child(ren)*. Hence, I initially will be interviewing each parent regarding the history of the relationship and marriage, each parent’s individual history, and the child’s developmental history and functioning. The parent’s approach to caregiving also will be an area of focus during the interview process. Once the gathering of this information is completed, I will administer to each parent several tests related to judgment and perceptual style (I am happy to further elaborate on this when meeting).

During the next phase of the evaluation process I will meet with each parent and child(ren) together to observe the interaction. I realize that as the family goes through a divorce children are often under immense stress. I certainly do not want the evaluation process to add to the strain. Thus, during the observation session your child(ren) and you will be involved in fun activities (children often ask when they can come back). I next will arrange for each parent to bring the child(ren) for individual sessions, in which I administer various tests and tasks related to the child(ren)’s psychological functioning and perception of caregivers (again, these evaluation instruments typically are experienced by the child(ren) as fun).

To further understand your general psychological and emotional functioning in regards to caregiving, and gain further information as to your childrearing beliefs and approaches, I will have you complete in my waiting room various empirically-based inventories. I am happy to more fully describe to you the specific assessment instruments *after* you completed them. I also will provide you with my Custody/Visitation Information Form that will focus on certain relevant co-parenting areas, and give you an opportunity to communicate what you believe is essential for me to know in recommending the best parenting plan for your child(ren).

In addition to the above, I will provide you with a release of information form on which you can list individuals with whom you believe it would be important for me to speak. I typically find it helpful to gain information from teachers, mental health providers, pediatricians, child-care providers, and other professionals that have worked with you, your child(ren), and family, although I also will speak with extended family members, family friends, neighbors, employers, coaches, and other individuals that can give me the broadest sense of the family. Such collateral contacts are usually made in the final phase of the evaluation process. Do know that I inform all with whom I speak that what they tell me may be included in my written report, and that I may be required to testify about what I am told.

My other data source is the documents and pleadings the attorneys will be providing for my review. Parents often want me to review family photos and videos showing the closeness shared between the child(ren) and them; they also may want me to review what they believe to be incriminating phone or text messages from the other parent. While such data may be very relevant to the task at hand, it can *only* be provided to me *through the attorney*, who first would provide the material to opposing counsel.

After all the data has been gathered and scored, I meet with the attorneys to review in detail the findings and recommendations. This will give your attorney a complete picture of the data upon which my recommendations are based, including the findings for yourself, the other parent, and your child(ren). Your attorney likely will inform you of the findings and my position. You are welcome to meet with me to directly review your findings and those of your child(ren) (there is an additional charge for this, which will be reviewed in the next section). However, I will protect each parent's privacy by not sharing one parent's findings with the other parent.

Once the findings and recommendations have been shared, I wait a few days to any further input before submitting a *recommendations report* to the attorneys (if a parent is a Self-represented Litigant, I will submit the report to her/him). This report states the procedures I utilized in performing your custody evaluation, a brief summary of the

basis for my recommendations, and a detailed listing of said recommendations. I initially submit this limited report because it has been my experience that frequently parents are able to reach agreement as to a parenting plan once they and their attorneys have the information from the evaluation. Hence, this serves to reach a settlement, while protecting the privacy of the parents and child(ren). The limited report also lessens the evaluation cost (see section below).

If agreement is not reached, I will submit a *complete report of findings*, which usually takes seven to ten days to write. The report covers the procedures utilized in the evaluation, as well as delineating in detail the parents' perspectives, the information obtained from collateral contacts, the findings from the parent-child observations, and formal test data. While useful in its thoroughness and specificity in providing the basis for the recommendations, such a report exposes each parent and the child(ren) to having their information revealed to the other parent.

Following the completion and submission of the report, I no longer can have contact with either parent. It is unethical of me to perform additional roles with your family after completing my evaluation, although on occasion, per stipulation or an order of the court, there might be a review evaluation performed by me at a later time. I also am willing to confer with the attorneys, if such a conference is desired by all involved and not objected to by the court. Be aware that the custodial dispute may not be resolved with the issuance of my report, as my report is *advisory* only and the court is not obligated to accept my recommendations.

Other Considerations

Given the nature of the topics discussed during the evaluation process, at times parents understandably will ask for advice. In my role as *evaluator* it would be inappropriate for me to give such advice, since this would be more of a clinical function. It also is not uncommon to be asked for interim recommendations. Again, this would not be appropriate for me to do, since I do not have all the data upon which to responsibly make any recommendations.

Obviously, the matter at hand is of enormous importance to each parent. Hence, there is a natural tendency to try to glean from my questions or comments a sense of what I am thinking and in what direction my recommendations may be leaning. My questions truly are intended to obtain the fullest information relevant to the task. I typically do not know what I am going to recommend until I have gathered and scored all the data.

During the evaluation process parents often share very personal and sometimes very painful material. In striving to be as objective as possible, I may appear to be insensitive and unempathic in my lack of response to what is reported. Please understand that

it is not that I am unmoved by what you relate, or do not believe you; I simply need to remain as neutral as possible so as not to be inadvertently perceived as “siding” with either parent. Similarly, there often is a suspicion that an evaluator is reflexively mother- or father-biased; let me assure you that if anything, I am *child*-biased in forming my recommendations.

It further need be emphasized that a custody evaluation is not intended as a means of finally proving how awful the other parent is. If, indeed, one or both parents have difficulties that impair their caregiving abilities, one of the tasks of the custody evaluation would be to formulate interventions that would help the parent(s) more effectively care for the child(ren). Indeed, one aspect of the purpose of a custody evaluation is to develop a parenting plan that gives the child(ren) the best opportunity to have a close and loving relationship with *both* parents.

Related to the above, if there are allegations of substance abuse and/or molestation, I may request that an adjunctive evaluation be performed by a colleague who specializes in the evaluation of the specific area of concern.

If your case does not settle after completion of my report, please note that, unless directed otherwise by the court, all items in my case file are subject to potential examination by both parents, their attorneys, the attorney for the child(ren), and any expert(s) who may have been retained by counsel for either parent. If there is a trial and you request that I testify, it is important that you understand my responsibilities as an evaluator and as a testifying expert. Hence, I am obligated to maintain my impartiality and openness to new information throughout the course of the evaluation and during the trial. I am prohibited by state Rules from having *ex-parte* communications with one side, nor can I help in trial preparation with only one side. Obviously, regardless of the questions asked, I will respond honestly. I will not be an advocate for the person who seeks my testimony. All fees for my testimony are directly related to my time in preparation, travel and testifying, and *not* for any particular testimony.

Nature of Findings and Recommendations

My commitment to you is to perform the most thorough, objective, and competent evaluation that I can. As you can see from the above section – and as will become clearer as you go through the evaluation process – I utilize a broad spectrum of techniques and approaches, including empirically-based assessment instruments. Nonetheless, findings ultimately are *hypotheses* that are best supported by the all data gathered. The interpretive statements from the empirically-based tests are *actuarial* in nature, and are integrated with the clinical observations, reports of collateral contacts,

and the material provided by counsel. It should be underscored that personality test results reflect characteristics of individuals whose test response patterns are similar to those of the parents currently evaluated. Hence, results are ultimately *probabilistic*, necessitating great caution in their interpretation. Given the extensive amount of data gathered in the process of a custody evaluation – some of which can be contradictory – findings presented are those best supported by a variety of data points. Nonetheless, findings should be viewed as describing general characteristics, and weight should not be put on any one statement. It also should be noted that the specific caregiving competencies of the parents cannot be discerned with any exactitude from the test data alone. Again, probabilistically-based parenting attitudes and practices are suggested by the culmination of data.

Stated simply, as thorough and objective as the evaluation procedure is, the data is still imperfect. Recommendations thus are based on all the data gathered, focusing at all times on a parenting plan that optimizes the child(ren)'s present and future well-being.

Do know that in move-away cases I might not even make a specific recommendation, since relocation issues are driven by converging legal factors. I certainly will provide my analysis of the relevant issues which the California statutory and case law demand, as well as any other relevant psychological factors to be considered. However, it is the judge's task to assess those factors, often resulting in my not being able to make as clear a recommendation as I might in other types of custody evaluations. It is not uncommon for me to describe my analysis of all relevant factors and then suggest a set of recommendations based on the potential weighting of the court. This ensures that I do my job (i.e., evaluate and analyze data and factors), while supporting the judge to do her/his job (i.e., weigh those factors and reach a decision).

Confidentiality

Data gathered in a custody evaluation – both through interviews of the parents, child(ren), and collateral contacts, as well as the formal test findings – is extremely sensitive material. There are concerns as to the possibility of information shared in a custody report being used by parents against each other or, even worse, directly or inadvertently against their child(ren). Such concerns are consistent with the Ethical Guidelines of the American Psychological Association, which underscores the responsible dissemination of psychological findings. In addition, relationships with the professionals, extended family members, and friends contacted can be harmed as parents review their observations. Thus, I take extreme care in how data is presented, both in reviewing findings and in submitting them in a report.

Furthermore, all the information gathered is strictly confidential in terms of individuals

not directly participating in the evaluation (thus the need to obtain your signed consent to speak with collateral contacts). Nevertheless, custody evaluations are conducted within the context of a legal proceeding, being ordered by and ultimately for the court. Within this context, there is *no* confidentiality. In fact, to best understand the situation, it may be important for me to share with each parent what the other has said, or inquire about information I have received from the child(ren) or collateral sources. I also may ask your child(ren) about things shared by you or the other parent. I will let your child(ren) know about the limits of confidentiality. However, being very protective of their well-being in relation to the evaluation process and outcome, I will inform you, your attorneys, and the court if I believe it is in your child(ren)'s best interest to protect their confidentiality.

As previously noted, I inform all collateral contacts that I cannot hold confidential what it is they tell me. This protects your due process rights while ensuring that I can gather relevant information for the evaluation. It is understood that I likely will be providing the attorneys with a written report, be it a *recommendations report* or a *full report of findings* (see above as to the difference). In addition, after my report has been submitted, the entire file, including all notes, psychological test data, and any additional data, could be made available to the attorneys and the court upon a legitimate request by either parent.

Additionally, please note that California state law requires reporting to the appropriate agencies when there is reasonable suspicion of child abuse (which includes child pornography or exposure to domestic violence), elder abuse, stated intention to injure another person (which I also would have to report to the potential victim, as well as authorities), and/or imminent danger of harming yourself or inability to care for yourself, or harming others. Do also know that in my role as evaluator, I do not provide any other psychological services, including emergency services, to individuals whom I am evaluating. If an emergency arises, assistance should be sought through the police, the nearest hospital, or your attorney.

Lastly, if convenient for you and with your consent, we can communicate administrative material (e.g., arranging and confirming appointments, exchanging forms I provide you) by way of email and/or text messaging. I take every precaution to safeguard the confidentiality of such information, including using an email platform specifically appropriate for the exchange of confidential transmittals (if you wish, I am happy to explain in more detail during our initial session). Nonetheless, due to the nature of electronic communications, there is the possibility that unauthorized access could occur. I therefore provide a separate statement at the end of this document for you to circle whether to do or do not consent to our communicating electronically.

Fees

I typically charge a set fee for conducting a 730 custody evaluation of \$2000 per adult and \$1500 per child age three and older (two-year-old children are \$750, and there is no charge for children under age two). This fee covers the time spent for interviewing the parents and child(ren), and administering the necessary tests and tasks; interviewing collateral contacts; reviewing documents and other submitted content; scoring psychological tests and parenting inventories; meeting with attorneys to review findings and recommendations; and, if necessary, writing a recommendations report. If a complete report of findings is required, there is an additional fee of \$1500 per person (including children). Occasionally, a case has unique complexities and extensive material to review that demand additional time well beyond what is typical. In these circumstances the additional fee is usually \$500 per person, though this can vary depending on the estimated additional time involved. We likely will be able to determine if your case is of this nature during the initial appointment.

At least half of the total fee is due upon the first appointment, with the total balance being due before I begin seeing the children (the percentage of the fee paid by each parent is determined by the court order). Payment may be made by cash, check, Square Invoice, PayPal (account reference “drv@volcani.com), or credit card. Since the fee for this evaluation is to pay for a legal and not a health-related procedure, I do not provide claims for health insurance reimbursement. If, subsequent to my reviewing the findings and recommendations with the attorneys, you wish to meet to directly review your findings and those of your child(ren), there is a session fee of \$175. As noted, I will *not* review the other parent’s findings with you, nor yours with her/him.

The set custody evaluation fee does not include court appearances or depositions. I require a subpoena for either. Since I have to block sufficient time to testify – and the exact duration is unpredictable – I charge a half-day fee of \$1800. This includes time for preparation, as well as travel within in San Diego County. If testimony or the deposition is extended to a full day, there is an additional charge of \$1800. I require a retainer of the full \$1800 at least one week prior to the hearing/deposition date. All fees are the responsibility of the party issuing the subpoena. I will refund the retainer in full if I am given notification of cancellation of the hearing/deposition at least 48 hours in advance. I may provide a partial refund if I am notified of a cancellation at least 24 hours in advance; there is no reimbursement of the retainer if cancellation notification is not given at least 24 hours prior, or I appear for the hearing and the matter is settled.

Similarly, to avoid a session fee of \$175, cancellation of an evaluation appointment must be made at least 48 hours in advance. Missed appointments will be charged the

\$175 appointment fee. Payment is to be paid at the next session.

Settlement Prior to Conclusion or Early Termination of Evaluation

If at any time during the course of the evaluation parents settle their custody or visitation dispute – and with the court’s consent to the early termination of the evaluation – it will be discontinued, and the court will be notified. If I have been paid a fee that exceeds the time I have spent (billed at \$230 per hour), I will refund any amount due at the end of the month, following my receipt of a written statement that the evaluation has been halted. If at any future point either parent wishes to resume the evaluation process, a new evaluation will need to be ordered and new fees will need to be paid.

Consent

I realize contracts can be intimidating, so once more I encourage you to review this one with your attorney.

Let me reiterate that I will perform the current assessment in the most thorough, competent manner I can. However, your cooperation is crucial to the assessment process and, hence, I request that you agree to and sign the following statement:

I hereby contract Yanon Volcani, Ph.D., to perform a psychological evaluation of myself and my child(ren) in regards to custody and visitation. My payment responsibility is \$_____, at least half of which will be paid by the first appointment and the balance by the last appointment. I release Dr. Volcani from any and all legal liability that may arise from his performing this assessment and the recommendations thereof. I, furthermore, agree to give a 48-hour notice of cancellation of any appointments or I will pay \$175 per appointment.

If I do not fulfill my financial responsibility as specified above and it becomes necessary for Dr. Volcani to seek legal recourse to obtain payment, I hereby authorize him to release and/or acquire any information deemed necessary for said purpose. I, furthermore, agree to pay any and all court costs incurred by Dr. Volcani related to the above stated litigation, as well as the cost of his time related to this litigation at \$230/hr.

I also [please circle] DO DO NOT give my consent for Dr. Volcani and myself to communicate through the use of email and/or text messaging.

By my signature below, I acknowledge that I have been encouraged to review this document with my attorney. I have read and I understand all of the terms within this

contract and agree to abide by it. I understand that Yanon Volcani, Ph.D. is an independent practitioner and that this contract is only with him, not any other entity or individual. I authorize Dr. Volcani to complete the evaluation and provide recommendations to the court.

I understand I have a right to a copy of this agreement.

Print Name

Signature

Date

Please Make a Copy of this Contract for your Own Records