

Attorney for Petitioner

Attorney for Respondent

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

In Re the Marriage of:)	CASE NO.:
)	
Petitioner:)	STIPULATION AND ORDER FOR
)	APPOINTMENT AND PAYMENT
and)	OF MARY ELIZABETH LUND,
)	PH.D./ANGUS STRACHAN,
)	PH.D./ and/or _____
Respondent:)	TO CONDUCT A
)	MINI-EVALUATION / BRIEF,
_____)	FOCUSED EVALUATION

PURSUANT TO EVIDENCE CODE, SECTION 730, IT IS HEREBY ORDERED and STIPULATED by and between the parties through their respective counsel of record to the appointment of MARY ELIZABETH LUND, PH.D.and/or ANGUS STRACHAN, PH.D. and/or _____ to interview the parties and the minor child(ren) (insert children's names and birth dates and names of stepparents and/or significant others):_____

and any other person(s) deemed advisable by the evaluator for the purpose of making findings and recommendations to the Court

RE: CUSTODY: _____, VISITATION: _____, OTHER: _____

_____.

Fees may be paid by cashier's check or by credit card with signed authorization. Cashier's checks for fees are to be made payable to LUND & STRACHAN, INC., and delivered or mailed to: 2510 Main Street, Suite 201, Santa Monica, CA 90405.

The parties shall be scheduled for one day of appointments on the first available appointment date after receipt of the signed Stipulation/Order and Fee Deposit.

There will be a half-hour teleconference with the attorneys and the evaluator to discuss the focus of the evaluation. Attorneys should direct the parties to contact the evaluator's office to make initial appointments at the evaluator's office (310) 392-6163.

An Order naming the evaluator or the Conformed Stipulation must be provided two weeks (14 days) prior to the date of the first appointments so the evaluator can file with the court the necessary declaration concerning evaluator education and training prior to the first appointments. If receipt of the Order or Conformed Stipulation is past the due date, the first day of evaluation sessions may be rescheduled to the evaluator's next available date.

Neither counsel nor parties shall engage in unilateral communication, (e.g., by mail or telephone) with the evaluator unless in response to his or her request. The evaluator may discuss procedures or fees with one party's counsel.

An initial Fee Deposit of \$_____ will be charged for approximately seven (7) hours of professional time charged at \$_____ per hour and an administrative fee of \$750.00.

Interviews usually take place on one day. Procedures include individual interviews with parents and child(ren), interaction sessions with each parent and child(ren), limited review of ancillary materials during parents' interviews, and one or two telephone interviews with collaterals. The evaluator has the right to determine whether it is possible to make recommendations based on one day of interviews for a brief/focused evaluation or whether further procedures are required to make recommendations. The deposit may be increased if the evaluator receives requests from counsel to do procedures or review materials that are in excess of what is customary for brief/focused psychological custody evaluation. The administrative fee may be increased if the evaluator's office receives requests that are in excess of what is customary for a brief/focused, psychological custody evaluation. If further procedures or report preparation are required, the evaluator's professional time for interviews, testing, preparation of report, etc., will be charged at: \$_____/hour. After the initial Fee Deposit has been depleted, the parties will pay an additional Fee Deposit prior to further evaluation procedures and report preparation.

The fees for the evaluation shall be paid as follows (please check one): _____ Petitioner; _____ Respondent; _____ 1/2 by each party; or _____ Other. The Court (please check one) _____ may or _____ may not adjust responsibility for fees at the time of hearing.

Counsel should provide information about the judicial officer and the court for the case, the parties' addresses and home and

work telephone numbers, and the hearing date for which the report is needed. It is counsel's responsibility to communicate with the evaluator to determine if it is possible for the evaluator to complete the report in time for the scheduled hearing date. The parties' counsel are responsible for notifying the evaluator of any changes counsel make in the originally scheduled hearing date. The evaluator will notify counsel if the report cannot be completed by the hearing date and provide information about when the report could be completed.

During the first evaluation appointment, the evaluator will discuss the Informed consent regarding Evaluation Procedures and parties shall sign the Informed Consent. The parties and their counsel are provided with the Informed Consent in advance, for their review. Counsel should direct the parties to contact the evaluator's office to make initial appointments at the evaluator's office (310) 392-6163.

Cancellation of the initial evaluation sessions by the parties must be by the parties' or attorneys' joint written agreement and reach Lund & Strachan, Inc., fourteen (14) court days prior to the first scheduled appointment date to avoid additional fee charges. If a Court Order naming the evaluator or a Conformed Stipulation has not been received two court days prior to the scheduled first day of sessions for the evaluation, the evaluator may cancel the first day of sessions and charge for all sessions scheduled for the case within the next 14 days. The fixed administrative fee of \$750.00 plus any fees incurred shall be charged against any canceled evaluation. Other evaluation

appointments not kept or canceled less than seven (7) court days in advance shall be charged at the session rate. The parties are responsible for scheduling and verifying any cancellations of appointments.

Each party hereby waives all statutory and nonstatutory privileges, including his or her respective doctor-patient and psychotherapist-patient privilege so as to permit the evaluator to have access to health, mental health, education, employment, and other similar records, to confer with health care providers, therapists, educators, and other persons whom the evaluator deems necessary for the purpose of performing the evaluation and for them to confer with the evaluator. Each party shall execute authorizations for release of information to provide the evaluator access to such records or persons.

The evaluator may use assistants or consultants in the collection of information for the evaluation. The cost of services by assistants or consultants will be charged at their usual professional rate included in the fees for the evaluation. Any assistants or consultants to the evaluator shall be deemed to perform an arbitral function and have the same quasijudicial immunity that applies to the evaluator. If consultants are called as witnesses in the case, they shall be treated as expert witnesses.

The parties agree to cooperate in the evaluation. When deemed advisable by the evaluator, the parties and/or minor child(ren) shall submit to other assessments; such as, drug and alcohol testing, psychological testing, etc. The cost of such

tests is separate from the fees submitted to Lund & Strachan, Inc., for the primary evaluation. Fees for additional testing shall be paid in advance directly to the designated expert by the party or parties ordered to pay the fees for the evaluation.

The parties will bring three copies of their Detailed History Questionnaire, the Collateral Contact Information Form, and the Custody Release of Information Form to the first day of evaluation appointments. They will provide the original of these forms to the evaluator and give the other party two copies. It is the responsibility of each party to provide his/her attorney copies of these forms from both parties. If either party furnishes any ancillary material to the evaluator, they shall first submit it to their counsel who will copy it to opposing counsel. The evaluator may determine the amount of ancillary material that is acceptable for a brief/focused evaluation and will not accept ancillary material after the day of the appointment. Only copies of materials should be submitted to the evaluator. The evaluator shall not be held responsible for receipt of originals of any materials nor for insuring that parties have provided copies to opposing counsel. If videotaped or audio-taped material is submitted, it is up to the parties' counsel to determine whether such taping was done legally and can be provided to the evaluator.

The evaluator has the right to determine, in his or her professional opinion, the information that he or she deems significant and relevant to the custody matter and the procedures necessary to obtain that information.

The evaluator is permitted to consult with or exchange information with professionals and other collateral informants he or she deems appropriate in conducting this evaluation and preparing the report.

The evaluator may ask for separate voluntary consent from the parties to allow other mental health professionals, who are training to become evaluators, to observe evaluation interviews; if each party does not sign a consent to be observed, there will be no observation. The evaluator may discuss the case with other mental health and legal professionals, without naming the parties or giving specific identifying information, in order to receive consultation on the case and/or for training and research purposes.

No reporting of results and no recommendations will be made prior to completion of the evaluation and the release of the report or a feedback session. The evaluator will not intervene in issues during the evaluation except as required of psychologists to report suspected abuse of children or warn a potential victim of danger. If the parties and their counsel agree, names for several mediators and/or psychotherapists may be provided for urgent problems occurring during the evaluation. The evaluator is not responsible for the services of those psychotherapists and/or mediators. The evaluator may make requests of family members to communicate with each other and/or address ongoing problems as part of assessing issues in the evaluation. The evaluator may or may not disclose information about the case to the parties and

question the parties about the information as part of assessing issues in the evaluation.

The evaluator may determine who should be present for evaluation sessions. All members of both parties' households must attend an interaction session including the minor child(ren) at issue. Both parties will attend an evaluation session together unless there are restraining orders against their contact with each other.

The attorneys are responsible for informing the evaluator prior to the first evaluation sessions of any safety issues that may require a modification of procedures. If there are allegations of domestic violence and/or child abuse in the above captioned matter, parties' counsel shall make a full disclosure of all allegations and provide all ancillary material relating to any incidents. Either party may request special procedures for an evaluation session attended by both parties in order to provide for the parties' security. Any cost for security will be charged to the evaluation. If the evaluator has concerns about safety issues when the report is released, the evaluator may release all copies of the report to the court with a cover letter indicating reasons for concern, and the court shall determine how the report is released.

The evaluator may request that other household or family members (such as stepparents, step-siblings, and/or significant others) consent to participate in the evaluation and, when deemed advisable by the evaluator, submit to other assessment. Unless these other adult household or family members (or both legal

custodial parents of minor household or family members) give written consent to participate in the evaluation, they will be treated as collateral informants and no results of the evaluation will be reported on issues concerning these household or family members.

The evaluator may request, when deemed advisable, that the parties waive their right to access to statements by the minors at issue in the above captioned case. If the parties give written consent to waive their right to minor's statements, the statements of the minors at issue shall be included as an addendum to the report, accessible only to the parties' counsel and judicial officer hearing the case. The report of the results of the evaluation may include reference to children's statements. The parties and their counsel may decide whether to waive their right to a waiver of access to children's statements. Their lack of consent to this waiver of access to children's statements shall not be reported in the results of the evaluation and shall not have any bearing on recommendations in the case.

There shall be no reporting of results prior to payment of all fees due for the evaluation. Payment of fees is due at the evaluator's office within (5) court days of notification of fees due for the evaluation.

The evaluation report shall be released to the Court and copies provided to counsel of record (or parent In Pro Per) at the same time, when final fees for the evaluation are received.

Information contained in the file may be released in the above captioned Family Law matter only by subpoena or Court Order.

There shall be a fee for file retrieval and duplicating expenses. The subpoena shall be mailed or delivered to MARY ELIZABETH LUND, PH.D./ANGUS STRACHAN, Ph.D. or _____ with at least fifteen (15) court days notice. Some materials may not be reproducible due to copyright laws. Counsel and parties are not permitted access to psychological test data. Psychological test data will only be released under conditions of subpoena or Court Order to a psychologist designated in the subpoena or Order as that party's expert who will review psychological test data; the evaluator, as a psychologist, may refrain from releasing test data to protect a client/patient or others from substantial harm or misuse or misrepresentation of the data or the test, recognizing that in many instances, release of confidential information under these circumstances is regulated by law.

The evaluator and/or evaluator's consultants may only be called upon to testify as expert witnesses (not as percipient witnesses) in deposition and/or at trial in the above-captioned case in the Family Law Department of the Superior Court if at least one party via his or her counsel so requests and makes advance payment. Notification shall be by subpoena and delivered or mailed directly to MARY ELIZABETH LUND, Ph.D., ANGUS STRACHAN, Ph.D., or _____ with the fee at least fifteen (15) court days in advance of deposition or trial date. The fee for deposition or court testimony is \$3000.00 per day. An exact date and times of testimony must be scheduled; the evaluator shall not make arrangements to be on call. Expert testimony fees are charged for a full day of the evaluator's time unless the

evaluator specifically agrees to appear for a half day at the rate of \$2000.00 for four (4) hours. This fee includes preparation time. Any appearance time required beyond the first day shall be billed at the same daily rate and is payable prior to testimony. If the appearance at trial or deposition is canceled 72 hours in advance, excluding Saturdays, Sundays, and holidays, the entire deposit shall be refunded. If the appearance is canceled with less than 72 hours notification, but in sufficient time so that the evaluator does not come to court or deposition, one-half of the deposit shall be refunded. There is no refund for cancellations received on the day of the scheduled appearance.

If the evaluator is requested to review his or her deposition related to the above captioned case, the attorney making that request shall furnish to him or her the transcript at no cost for his or her review. The fee for review is \$4.00 per page and shall be paid by Cashier's Check or Money Orders at the time the deposition is submitted for review.

All information gathered for the pending child custody evaluation is restricted to the Family Law Department of The Superior Court and shall not be released for any other purpose or matter except by court order.

The evaluator or the evaluator's consultants shall not be called upon to testify in any other matter related or unrelated to the above-captioned case or as a percipient witness in this matter.

The parties agree that they shall indemnify and hold the evaluator, Lund & Strachan, Inc., the evaluator's assistants,

consultants, and the staff of the evaluator's office harmless from any claims, demands, causes of action, damages of loss or any kind whatsoever resulting from procedures, testing, conclusions, recommendations, reports, or testimony in connection with the psychiatric/psychological child custody evaluation. The evaluator will be engaged in an arbitral function for the Judiciary and shall be entitled to and shall be deemed to possess and hold all common law and statutory privileges and indemnities available. The evaluator is not responsible for the outcome of the legal proceedings.

Counsel may discuss and/or review the contents of the report with the parties, but they may not provide the parties with a photocopy or the original thereof for purposes of photocopying or otherwise retaining in their personal possession.

The evaluator's report shall be received in evidence without foundation or objection. The report shall be sealed and inspected by no one except counsel of record or any subsequent child custody evaluator without prior Order of the Court.

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IT IS SO STIPULATED.

DATED: _____
Attorney for Petitioner

Telephone No.: _____

DATED: _____
Attorney for Respondent

Telephone No.: _____

DATED: _____
Petitioner

DATED: _____
Respondent

ORDER

IT IS SO ORDERED.

DATED: _____
JUDGE OF THE SUPERIOR COURT

Stipulation for BFCE