

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

Plaintiff

v.

Defendant

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*

Case No.: C-21-FM _____

* * * * *

ORDER APPOINTING COUNSEL FOR CHILD

This matter having come before the Court and the Court having determined that the parties have raised such significant issues relating to the minor child(ren) in this matter, it is this _____ day of November, 20____, by the Circuit Court for Washington County, Maryland

ORDERED, that _____, **Esquire**, telephone number _____, is hereby appointed as a **Best Interest Attorney** for the following child or children:

in accordance with the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Best Interest Attorney is a court-appointed lawyer who provides independent legal services for the purpose of protecting a child’s best interests, without being bound by the child’s directives or objectives, and/or

ORDERED, that _____, telephone number _____, is hereby appointed as a **Child Advocate** for the following child or children:

pursuant to the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Child Advocate is a court-appointed lawyer who provides independent legal counsel for a child and who owes the same duties of undivided loyalty, confidentiality, and competent representation as is due an adult client, and/or

ORDERED, that _____, telephone number _____, is hereby appointed as a **Children’s Privilege Attorney** for the following child or children: _____

pursuant to the Maryland Standards of Practice for Court-Appointed Lawyers Representing Children in Custody Cases. A Children’s Privilege Attorney is a lawyer appointed in accordance with *Nagle v. Hooks*, 296 Md. 123 (1983), to decide whether to assert or waive, on behalf of a minor child in a custody action, any statutory privilege; it is further

ORDERED, that the parties, counsel for the parties and all persons who are custodians of records pertinent to this Order, and all persons who otherwise have privileged or confidential information pertaining to the children shall fully cooperate with the attorney appointed herein in the performance of the duties instructed by this Court; it is further

ORDERED, that the attorney appointed herein shall have reasonable access to the child(ren) and to all otherwise privileged or confidential information, including but not limited to any protected health information, about the child(ren), without the necessity of any further Order of Court or without the necessity of a subpoena, but upon written request by the appointed attorney together with a copy of this Order. The appointed attorney's access to, and receipt of copies of, privileged and confidential information shall be without the necessity of a signed release, including medical, dental, psychiatric/psychological, social services (including access to all Child Protective Services and Family Services records), drug and alcohol treatment, law enforcement and educational records and information; it is further

ORDERED, that the attorney appointed herein shall be compensated as indicated:

- The attorney shall be compensated at the rate of \$ \$200.00 per hour. *(Please note that the Court has set a standard rate of \$200 per hour for Child Counsel Appointments, but parties may agree on a different amount, or the Court may set a different amount, if appropriate),*
- Having met the criteria as a Court Funded Appointment, the attorney shall be compensated by the Court's Family Law Fund, an initial retainer in the amount of Two Thousand Dollars (\$2,000.00), and that at the conclusion of the case, an invoice for complete professional services should be submitted to the Family Services Coordinator, Courthouse Annex, 24 Summit Avenue, Room 111, Hagerstown, Maryland 21740.
- Payment into attorney's trust account. Plaintiff** is hereby directed to pay the attorney appointed herein, for deposit into the attorney's trust account, the sum of \$ within 10 days of the date of this Order as an initial contribution towards the attorney's fees in performance of the services identified herein. The attorney is authorized to draw from the trust account as the fee is earned, upon submission of an itemized monthly statement to the court, counsel, and any unrepresented party.
- Payment into attorney's trust account. Defendant** is hereby directed to pay the attorney appointed herein, for deposit into the attorney's trust account, the sum of \$ within 10 days of the date of this Order as an initial contribution towards the attorney's fees in performance of the services identified herein. The attorney is authorized to draw from the trust account as the fee is earned, upon submission of an itemized monthly statement to the court, counsel, and any unrepresented party.

- The attorney appointed herewith shall not be required to begin work representing the child(ren) until payment is made by the parties into the attorney's trust account, as indicated above.
- Final allocation of fees shall be determined by the Court at a hearing on the merits of this case or upon the Petition of the attorney appointed herein. The Court may hold the parties jointly and severally liable for all fees due to the appointed attorney, subject to the parties' rights to seek indemnification from each other to the extent that either party pays the attorney more than his/her allocated share.
- The attorney appointed herein shall submit a bill for services to the Court at the conclusion of the case, or upon earlier motion. The attorney may also submit a motion for interim fees for services rendered and expenses advanced, and for anticipated services or expenses that need to be incurred, which the court shall order to be paid by a date certain; provided that the Court is satisfied as to the necessity of services rendered and expenses incurred by the attorney, and the need for additional services and expenses to be incurred. If opposition is filed to the request, a hearing may be scheduled at the discretion of the Court.
- The attorney appointed herein shall provide representation on a pro-bono basis.
- Either party's failure to make payment in accordance with this Order, in addition to any other consequences, including a finding of contempt of Court, shall be cause for the court appointed counsel to request withdrawal of his/her representation, upon written notification to the Court; it is further

ORDERED, that absent further Order of this Court, the attorney appointed herein shall not be required to participate in any appeal in this matter; it is further

ORDERED, that although the minor child(ren) are not parties to this action, the attorney appointed herein shall be entitled to engage in discovery as part of the performance of the duties assigned herein, and to file motions or seek an order as appropriate in the fulfillment of the duties appointed herein; it is further

ORDERED, that within ten (10) days of the date of this Order, counsel for the party moving for the appointment of child counsel or the party shall provide to the attorney appointed herein copies of all pleadings and papers filed in the above action and any correspondence between the parties or counsel for the parties. Also, each party, or their counsel, shall provide to the appointed attorney, within ten (10) days of the date of this Order, copies of any of the following reports pertaining to the minor child(ren) which are in the possession, custody or control of the party: medical records, school records, reports and/or evaluations pertaining to the physical, mental or emotional condition of any child, learning assessments of any kind, police reports, and reports from the Department of Social Services pertaining to any abuse (including abuse in which the child(ren) were not involved); it is further

ORDERED, that within ten (10) days of the date of this Order, each party shall provide the attorney appointed herein the names and known addresses and telephone numbers of any and all mental health providers who have evaluated or treated the child(ren) and anyone else with whom the child(ren) may have a privilege pursuant to the Statute; it is further

ORDERED, that the attorney appointed herein shall not have any ex parte communications with the Court. In addition, the attorney/client privilege shall be respected at all times. As such, the attorney appointed herein may not speak to the parties without the prior permission of their respective attorneys, and the attorneys for the parties may not speak with the child(ren) without the prior permission of the attorney appointed herein; and it is further

ORDERED, that _____, Esquire, shall schedule a pretrial/settlement conference with all Counsel at least thirty (30) days prior to the date of trial in order for him/her to disclose any recommendations that will be made at the time of trial.

JUDGE

Copies To:
Counsel
Parties
FSC

Circuit Court for Washington County

Child Counsel Appointment Policies & Procedures

The following policies and procedures have been adopted by the Circuit Court for Washington County in order to be in full compliance with Md. Rule 9-205.1, Appointment of Child Counsel and the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, as well as to ensure that the child counsel appointments are made appropriately and on an equitable basis.

I. Roster of Court-Approved Child Counsel

The Court will keep a Roster of Court-Approved Child Counsel for appointment in domestic cases through a shared file maintained by the Family Services Coordinator. Attorneys wishing to be added to the Roster of Court-Approved Child Counsel shall submit a request, including a copy of their resume, to the Family Services Coordinator. If necessary, the Family Services Coordinator will contact the attorney to obtain supplemental information regarding qualifications (e.g., certificates regarding training or determining whether an attorney has malpractice insurance). Requests and all supporting documents are reviewed for final approval by the Administrative Judge.

Attorney Qualifications. In compliance with the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, §§ 4 and 5, the Court requires that attorneys on the Court-Approved Roster meet the following criteria:

- Successfully complete the specific **six-hours of training** for being Child’s Best Interest Attorney, Child’s Advocate Attorney and/or Child’s Privilege Attorney, as set forth in Guideline 4;
- Have at least three (3) years of family law experience or other relevant experience¹;
- Maintain professional liability insurance, at the Attorney’s sole cost and expense; and
- Be willing to take at least one (1) *pro bono* or reduced fee appointment as child counsel per year.

II. Motion Review and Approval Process

The following process will be used to review and approve Motions for Appointment of Child Counsel in domestic cases:

- Motions for the appointment of a child counsel in a domestic case shall be referred by the Clerk’s Office to the Family Services Coordinator, except for cases that have a specially assigned Judge. If a Judge is specially assigned to the case, then the Motion shall be sent directly to that Judge.
- After review, the Family Services Coordinator will send the Motion, along with supporting documents, to the designated Family Law Judge to rule upon the

¹ In evaluating “relevant experience,” the court may consider the attorney’s experience in social work, education, child development, mental health, healthcare, or related fields. (See Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access, § 5 (b)).

motion. The Family Law Judge will then make a ruling on the Motion and send to the Clerk's Office for docketing.

- If the Family Law Judge grants the Motion, he/she will make an appointment from the court-approved Roster of Child Counsel Attorneys for each case, unless the parties and their attorneys agree to appointment of an attorney who is not on the Court's Roster.
- The Family Law Judge will attempt to provide attorneys on the Roster with an equitable share of appointments, while also attempting to ensure that more experienced attorneys are utilized in the more difficult and complex cases.
- The Family Law Judge will also use the standard order in all cases.

The Family Services Coordinator will maintain a record of the appointments from the Court's Roster.

III. Court Funded Child Counsel

Periodically, the Court may assume the costs of child counsel on a limited basis when either one or both parties are indigent, and funding is available. Under those circumstances, the Court may pay \$200/ hour, up to a cap of \$2,500, for the fees and/or expenses of a Best Interest Attorney who is appointed to represent a child(ren) in custody cases. Additionally, for a Children's Privilege Attorney appointed in accordance with *Nagle v. Hooks*, 296 Md. 123 (1983), the Court may pay \$200/ hour or up to a cap of \$750 for the fees and/or expenses. In order to qualify for payment by the Court, one or both parties must be either representing themselves (Pro Se) or represented by a pro bono or a reduced fee attorney.

In order for the Court to consider contributing toward the costs of child counsel, an Affidavit of Indigency must be attached to a Motion for Appointment of Counsel for a Child. This should state: the amount of money in the parent(s) checking and savings accounts, whether the parents are employed, their occupation and the amount of their income. It should also state whether there is any other source of income, including, but not limited to rentals, disability income or any other source of revenues. Finally, the statement must also provide information concerning ownership of real or personal property (such as a home, automobile or other motor vehicles.) See Affidavit form below.

AFFIDAVIT

I represent to the Court that the following statements and answers to the following questions are true:

I hereby certify that:

1. I have the following amount of money in my bank accounts, investments or personal possession: \$_____.

2. **Information about Automobiles.** (*Check all that apply*).

I do NOT own an automobile.

I own the following automobiles:

Make - _____ Model - _____ Year - _____

Make - _____ Model - _____ Year - _____

The car(s) IS in my possession.

The car(s) IS NOT in my possession. It is with: _____

I owe \$_____ on the car to _____ (Lender).

3. **Information about Other Vehicles.** I own the following other vehicles (boats, cars, trucks, recreational vehicles, motorcycles, etc.).

I owe the following amount on those vehicles: \$_____.

4. **Real Estate.** (*List type i.e., condo, townhouse, house and location*)

I own the following real estate:

Address: _____

Type: Condo Townhouse Single Family Home Other

Monthly Mortgage, taxes and insurance that I pay: \$ _____

Monthly income I receive from any renters in my property: \$ _____

I do NOT own real estate.

5. **Other Property.** I own the following additional property (*List type and location*):

6. **Debts I Owe.** I owe the following debts:

\$ _____	To: _____
\$ _____	To: _____
\$ _____	To: _____
\$ _____	To: _____

7. **Money Owed to Me.** The following owe me money:

Who: _____ Address: _____ Amount \$: _____
Who: _____ Address: _____ Amount \$: _____

8. **Employment Income.**

- a. I work full-time OR part-time OR unemployed since: _____
- b. Name of Employer: _____
- c. Job Position: _____
- d. How often are you paid: weekly biweekly monthly or _____
- e. Gross pay each pay period: \$ _____

I. Attach 2 most recent paystubs.

II. If self-employed, attach a copy of your most recent federal income tax return.

III. If receiving unemployment benefits, provide proof.

f. List all other income, including Social Security, disability income, worker's compensation, alimony or child support, military reserves income, pension and retirement income. **Attach proof of disability benefits, unemployment benefits, or social security benefits.**

9. **Other Family Income.** I or a member of my household also receive the following additional income PER MONTH (*Include ALL income earned by yourself, in addition to that listed in Paragraph 8, or income which is received by any other member of your household*):

10. **Household Size.** The total number of persons residing in my household is _____, including my spouse or partner, children who reside with us, extended family members or other residents.

11. **Expenses.**

Child Support. I pay child support for _____ children. The total amount of child support which I pay each month is: \$_____.

Alimony. I pay \$_____ in alimony each month.

Child Care Expenses. I pay \$_____ in child care expenses each month.

Other Extraordinary Expenses. I have the following additional extraordinary expenses (*please explain*):

12. **Other Information.** I would like the Court to know the following additional information in considering my request for a Family Services Fee Waiver:

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT.

Date

Signature

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 20 ____, I mailed a copy of this Motion for Waiver of Family Services Fees and Supporting Affidavit to the following by first class mail, postage prepaid:

Name of Opposing Party or their Counsel

Address

City, State, Zip Code

Sign Your Name Here

Address

Phone Number

Email Address

Mail original completed forms and documents to:

Circuit Court for Washington County
Attn: Family Services Coordinator
24 Summit Avenue, Room 111
Hagerstown, MD 21740