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## **Memorandum of Understanding INFORMATION ABOUT YOUR GUARDIAN AD LITEM (GAL) EVALUATION**

Pursuant to the case of **Parent v Parent** Docket No: \_\_\_\_\_ in its order of the \_\_\_\_\_ What follows is a brief description of important aspects of the evaluation.

### ***What is the general procedure?***

- The first phase of the evaluation typically starts with 2 separate interviews of about 1½ - 2 hours each with each parent conducted virtually. Then there are interviews with your child(ren) alone (depending on age), often as part of a homevisit to each residence. One explanation to offer children before an interview is that I am someone whose job is to help you and their other parent work out how they are going to spend time with each of you after divorce. You may also tell them – as some children are concerned about this – that I will not ask them with whom they prefer to live. That is not their burden to carry. I will explain to them the limits to confidentiality in language appropriate to their age and level of understanding. The goal is to follow the same interview schedule in parallel with the other parent over a period of about 4-6 weeks. I cannot guarantee that I will spend exactly the same amount of time with each of you, since parents vary greatly in how they report the background information and the detail with which they answer the questions. There may also be additional interviews with the children, as the need for information may dictate.
- The individual interviews with each parent commonly cover current issues and concerns, hoped-for outcomes, and then personal (biographical), marital, and parenting history, usually in that order. On occasion, I may ask you complete behavioral checklists on your child(ren). I may ask for you to release criminal, medical, psychiatric, or therapy records. You should discuss this with your attorney and therapist (if you have one currently) about the pros and cons of agreeing to sign a waiver of privilege, because this information is discoverable, as noted below in the section on confidentiality. My interest in such personal information is limited to that which is relevant to the questions asked by the court. If I use such otherwise privileged (private) information in my report, it is likely that the other parent's attorney will also want to review those data.

- You are welcome to submit any relevant documents, e-mails, letters, reports, etc. **However, you must inform your attorney, if you have one, of these submissions and you or your attorney must notify the other party in this case or the other party's attorney about such documents.**
- In a second aspect of the assessment, I will talk to relevant professionals with whom you or your child has been involved, such as teachers or doctors, as well as to a reasonable selection of other people whom you name. All such conversations, as explained in the next section, will be "on the record." This permits me to collect additional information about you and your family from more independent sources. I will need written permission in the form of releases of information to talk to the professionals who have worked with you. I have the right to select those sources that I consider most relevant. I may want to speak with "collaterals." These are people who know you personally. With certain exceptions, generally, family members are the least helpful (likely biased), while professionals are usually the most helpful, with friends, colleagues, or neighbors in between. I will talk with family members only if you have a compelling reason why he should do so, such as if they witnessed some interaction or incident that you consider significant and important to your case. This is often the hardest part of the process because of the necessary "telephone tag" that occurs.
- After most of this information is collected, the third stage of the process involves a final 1-2 hour interview whose purpose is to make sense with you out of all the data, especially the conflicting aspects of it. At this time, you will have a chance to hear and respond to the claims or allegations about you that the other parent has made. I will then complete the report and submit it to the Court.

#### ***What legal rules apply?***

- **In the course of the assessment, I may share any and all information that you offer to me with the other party and I will use that information in the formation of my report; that is, everything is "on the record," including conversations with your child(ren), and letters, e-mails, or histories that you write, as well as discussions with relevant collateral sources.** Please tell them that (the collateral sources) when you ask them to act as references, as some lay people may wish not to be involved. It is also possible that they may be called as witnesses in hearings or trial. Therefore, *confidentiality*, as typically exists with a mental health professional, does not apply in your case or in the case of what your children report, at least within the boundaries of the current litigation.
- Furthermore, though this issue does not arise often, as a *mandated reporter*, I am bound by law to inform appropriate authorities (e.g. DCF) if I has a reasonable basis to believe that your children are suffering or in danger of suffering some form of abuse or neglect. If DCF were to call me about your family pursuant to a 51A complaint filed by someone else, I would have to answer questions specific to the allegations DCF was investigating, but I would require a court order to release any report to DCF. This evaluation is not a health care service under the Health Insurance Portability Act (HIPAA).

- You are encouraged to answer all the questions I ask, but it is your right not to respond to a particular question if you so choose. If there is some criminal proceeding that is ongoing or foreseeable (such as violation of a restraining order), you have the right not to answer questions about that, if it would serve to incriminate you with respect to those charges. If you have an attorney, you should consult with him/her first about this kind of concern. I will not accept audio or video recordings of a person that have been made without knowledge of the one recorded or that would not otherwise be admissible in a legal proceeding. If there is any question about such materials, you should consult your attorney.
- Except for issues of child maltreatment, as noted above, my investigative or evaluative role does not include intervening in any way in your legal proceedings. If there are concerns you have about the other party's behavior, please inform the GAL either in writing or in interview. If you believe some action is required, you should consult with your attorney, if you have one.
- Consistent with my professional responsibilities as needed, I reserves the right to consult with appropriate colleagues about the issues in your case. In so doing, I will protect your identities and these colleagues will maintain your privacy.
- Communication by me with your child's therapist, should you think that necessary, will require you to ask the Court to appoint a "special GAL" to evaluate and recommend whether that confidentiality/privilege should be breached. If the therapist has met with you or with the other parent and the children, the information from those meetings is not confidential and would not require such a GAL.
- Regardless of who pays the cost, the GAL is working for the Court. Per custom and order of the Court, I will not give you a copy of his report, though you may be able to read it in the presence of your attorney, if the judge has granted permission to send it to the attorneys. If you represent yourself, you will need the Court's permission to read it.

***What does the evaluation cost and how are you to pay?***

- If the evaluation is court-paid, you will not be responsible for the fee, unless the court stipulates otherwise.
- The typical evaluation runs between 25-40 hours of time at the hourly fee of \$250.00/hour. Individual circumstances will determine whether the evaluation time will vary, more or less, from that average. The Court may/has request that the GAL evaluation not exceed \_\_\_\_\_ hours (including report writing) for an estimated total of \$\_\_\_\_\_. However, given the nature of this evaluation, if it cannot be completed in that time a request for more time may be requested.
- If you are paying all or part of the fee for the evaluation, in order to start, I will require a retainer of \$5000(20 hours). If I exhaust the initial retainer, I will request a second retainer, which will include an estimate of the balance required to complete the work. From first office contact, the GAL averages about 90-120 days per evaluation, though personal (e.g. vacation, illness) or case situations (e.g. legal delays, multiple collaterals, very complex fact patterns, etc.) may create some variation from that estimated period.

- The Court document indicated that the father is responsible for the \_\_\_\_% of the GAL fee and the mother is responsible for \_\_\_\_% according to the appointment request. **Thus, Mr. \_\_\_\_\_ shall provide \$ \_\_\_\_\_ made payable to Larissa Crane, LICSW. prior to the first appointment. Ms. \_\_\_\_\_ is responsible for \$ \_\_\_\_\_ of the retainer prior to the first appointment.**
- **Also, please complete and bring this document along with the data questionnaire with you to the first appointment. Or, if preferable, you may scan and email them.**
- If you terminate the evaluation before its completion, you will receive the unused balance of the retainer, after a deduction of expenses and the possible cost of my writing a report to the Court. I enter data into my report as the investigation proceeds, so the balance returned will reflect that cost to you, depending on when the investigation stops. Because this is a court-ordered investigation, it will require either a court order to terminate it, or a stipulation signed by both parties and attorneys, if you are represented by counsel.
- As part of the cost of the evaluation I will bill all telephone calls (in five minute intervals), document reading, in-person interviews, correspondence time, test material or scoring costs, travel time (and any significant travel expense), conferences with attorneys, and report writing at his current rate. After interview time, report writing is often the largest expense.
- If you miss an appointment without 24-hour notice, I have the right to bill you for it at the above rate for the time that he set aside for the meeting.

***What if you wish to depose or have me testify?***

- In the event of a deposition or hearing, the Court's payment formula does not apply after the report is completed. If you (or your attorney) call me for a deposition or a hearing, a retainer of 10 hours \$2500.00 is required, payable prior to the deposition or hearing. Whichever party calls Dr. Lewis, is responsible for these fees.
  - This shall include the cost of his time for preparation, for travel, for the time of the proceeding, reviewing of the deposition, etc. If the proceeding for which you call me runs longer than the estimate covered by the retainer, I will bill you for that additional time. If the assessment should take less time than anticipated by the retainer, I will hold the balance in escrow, until such time as I receive documentation that the case has settled. At the end, I will provide you and the court with an itemized statement of all the time and services I has performed.
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My signature below attests to the fact that I have read the above document, had it reviewed by my attorney and that I understand the nature of the evaluation, its procedures, the time and costs involved, and the lack of confidentiality. I have had an opportunity to ask any questions about the evaluation and I understand that I can ask additional questions at any time during the process. I give Larissa Crane, LICSW, permission to briefly inform collateral sources the reason he is calling them. I am aware that the full GAL fee is to be paid by the both parties and an initial retainer of \$5000.00 is required prior to the commencement of this evaluation.

If I request, Larissa Crane, LICSW will provide me with an itemized statement at the conclusion of the work, a copy of which, by regulation, she will submit to the Court. Ms. Crane has also explained to me the process by which I am to pay him for this evaluation. I also authorize her to release the report to the Court, as is required, but also to send a copy to anyone whom the Court allows by its order.

\_\_\_\_\_  
Litigant's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Please print your name

\_\_\_\_\_  
Litigant's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Please print your name

\_\_\_\_\_  
Larissa Crane, LICSW

\_\_\_\_\_  
Date