Michael K. Jeanes, Clerk of Court
*** Filed ***
06/06/2012 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-090211 06/04/2012

HONORABLE JAMES P. BEENE

CLERK OF THE COURT
L. Mitchell
Deputy

IN RE THE MATTER OF
AARRON BRASKETT

AARRON BRASKETT
4848 E ROOSEVELT #1036
PHOENIX AZ 85008

AND

MELANIE RENE VAN KORT

MELANIE RENE VAN KORT
P O BOX 40244
MESA AZ 85274

STEPHANIE A STROMFORS
DR JOHN SCIALLI
4647 N 32ND STREET SUITE 260
PHOENIX AZ 85018-3344

ORDER APPOINTING A PSYCHOLOGICAL EVALUATOR

IT IS ORDERED granting the Best Interests Attorney's Motion to Request Psychological/Psychiatric Evaluation for Mother.

IT IS FURTHER ORDERED appointing John Scailli to perform an independent psychological evaluation of Respondent/Mother. The evaluation should focus on Mother and any psychological issues, specifically those that might affect parenting.

Counsel for the parties, or parties if pro per, shall make the initial contact with the examiner through joint conference or conference call within 10 days of receipt of this order and thereafter shall arrange for the appointments for the persons to be examined.

The initial conference with the expert shall be used to summarize the issues present in the case and to allow the expert to request information he or she believes would be pertinent. The acceptance of this appointment by the evaluator indicates a capability of completing a written report by October 15, 2012, and the ability to appear in court on the stated issue. If the expert appointed cannot comply with the time parameters stated, he or she shall notify counsel or the court immediately upon receipt of this minute entry.

The parties are to comply fully with this court order and present as requested on time for the evaluation process. The parties shall comply with all requests made by the evaluator. All data provided by the parties directly to the evaluator shall be copied to the other party, or to the legal representative of that party.

Scope: The scope of the evaluation is to assess the mental status of Mother, especially how her mental health affects parenting competency.

THE AUTHORITY OF THE EVALUATOR

The Evaluator shall have the following rights and authority with regard to the minor children and family members:

The Evaluator shall serve as an expert for the court in order to provide data and opinions relevant to the care of, custody of and access to the minor children in this case pursuant to applicable Arizona Statutes and case law. The Evaluator shall have the authority to collect data and form opinions relevant to statutory issues. The expert shall conduct any and all assessment needed in order to provide an ultimate opinion as to the specific evaluation question identified above. Collection and integration of information as well as referral for adjunct services shall be at the sole discretion of the expert. The Evaluator may request that the individual being evaluated participate in adjunct services, to be provided by third parties, including but not limited to physical or psychological examinations, assessment, psychotherapy, co-parenting work, or alcohol and drug monitoring/testing.

The Evaluator shall be *promptly* provided all records, reports, and documents requested and shall receive the cooperation of all parties and counsel involved to ensure that the report is submitted on the date requested. This Stipulation shall act as a release by the parties of all information requested by the Evaluator and shall further obligate the parties for any costs associated with the production of those records to the Evaluator. Any such costs shall be paid promptly and by the party/parties as outlined in this order.

The Evaluator may communicate ex-parte with the Court regarding procedural issues. The Court may order additional rules applicable to the Evaluator from time to time. The

Evaluator may seek guidance from the Court in order to achieve clarity with regard to the procedural aspects of the intervention should disputes arise. If the litigant[s] is/are Pro Per, the Evaluator may communicate with the judge regarding how to proceed.

The attorneys may not engage in ex-parte communications regarding substantive issues with the Evaluator but rather communications shall be conducted personally or through conference calls, unless otherwise determined by the court. Procedural issues and scheduling may be discussed at the discretion of the Evaluator. The Evaluator may choose to communicate with counsel about procedural issues and may refrain from discussing material originating in the intervention sessions at his/her discretion.

Although the Evaluator will espouse collegial inter-professional relations with counsel, the Evaluator does not have to report to the attorneys and any threats or intimidation by counsel or the parties toward the evaluator shall be promptly reported to the court.

No other clinicians (therapists, psychologists, social workers) are to work on this case during the course of the evaluation without the consent or authorization of the Evaluator, unless otherwise authorized by court order.

All information gathered for the pending legal proceeding is restricted for use by the Family Court, neither the parties nor their representatives (to include friends and family members) may disseminate the report, testimony or transcripts to any other source without a court order authorizing release of information.

IMMUNITY

The Evaluator shall act in the capacity of a special master in his/her capacity pursuant to this Order, and as such, the Evaluator is cloaked with applicable judicial immunity consistent with Arizona case law applicable to quasi-judicial officers of the Court as to all actions undertaken pursuant to the Court appointment and this Order. Any alleged impropriety or unethical conduct by the Evaluator shall be brought to the attention of the Court in writing, prior to the submission of such complaints to any administrative bodies. Professional conduct within the scope of this court order shall not be deemed unprofessional conduct by the court or any administrative body.

INFORMATION AND RECORDS

The Evaluator shall be provided copies of all minute entries, orders and pleadings filed in this case.

The Evaluator shall also have access to:

[i] All therapists of the children and parties;

[ii] All school and medical records of the children and parties;

[iii] Any and all psychological testing or evaluations performed on the children or the parties;

[iv] Any and all teachers/child care providers for the children.

[v] Any and all additional records the Evaluator deems necessary and relevant to the evaluation.

[vi] Any and all CPS medical and mental health records.

At the request of the Evaluator, each party shall execute any and all authorizations, releases or consents necessary so as to authorize the Evaluator's access to the information contemplated herein above.

The Evaluator may seek information and records that are the result of a privileged relationship. The Evaluator shall request only the records and information that are necessary and pertinent to further the purpose of this evaluation. The possessor of the records and information will release relevant information in an effort to retain the integrity of the privileged relationship, yet cooperate with the needs of the Evaluator for this evaluation.

APPEARANCES

Each party reserves the right to call the Evaluator as a witness. If only one party believes that the Evaluator's testimony is necessary in addition to his/her written report that party shall be responsible for 100% of the costs incurred in connection with the Evaluator testifying during the hearing.

The Evaluator may appear and may be available to testify at any court hearing upon reasonable notice to the Evaluator, the Court, and the opposing party, regarding any issue addressed by the Evaluator.

The parties' attorneys are responsible for notifying the Evaluator of any changes the attorneys make in the originally scheduled hearing date. If, due to extenuating circumstances, the

Evaluator is unable to provide a written report prior to the scheduled hearing, the Evaluator will notify the attorneys and the court, specifying when the report shall be completed.

If transcripts, tape recordings or videotapes have been made of any portions of the Evaluator's proceedings, they shall be submitted to the Court. There will be no videotaping or audio taping of the Evaluator, the child or the parties without the written consent of the Evaluator.

FEES

IT IS FURTHER ORDERED Mother shall be responsible for and pay 100% of the Evaluator's fees, subject to reallocation. All fees shall be paid in advance as determined by the Evaluator. The Evaluator shall keep accurate records of services rendered and fees paid by each party.

If the Evaluator's fee policies include the payment of a retainer, said retainer should be paid by responsible party/parties as determined by the fee pay structure outlined within this order, prior to the first appointment. Payment thereafter should be made in accordance with the Evaluator's fee procedures. If at any point a party has not abided by the Evaluator's payment procedures, the Evaluator may contact the Court and request that the non-paying party be directed to pay in order to continue the evaluation in a timely fashion.

If the Evaluator determines that one of the parties is using his/her services unnecessarily and is thereby causing greater expense for the other party as a result thereof, the Evaluator may recommend to the Court a different allocation for payment of fees.

CONFIDENTIALITY

There is **no confidentiality** relating to the parties' communications with/to the Evaluator or concerning the Evaluator's activities, treatment, referrals, data collection or recommendations. This court order constitutes a complete waiver of doctor-patient privilege, as the Evaluator is appointed as the court's expert. Additional rules applicable to the Evaluator may be ordered by the Court from time to time.

THE EVALUATOR REPORT

The report of the Evaluator may be received in evidence without the necessity of any foundation and without the objection to hearsay statements contained therein or any other objection. It is agreed that the report shall be delivered to the Court, the parties and counsel, unless otherwise ordered by the Court. Upon delivery of the report, the evaluator shall be

discharged of his evaluative duties. Any further data collection shall be executed only via court order.

CONCERNS:

Any alleged impropriety or unethical conduct by the Provider shall be brought to the attention of the Court in writing within 7 days after that party has determined that such conduct has occurred. Failure to advise the Court as required above may result in contempt proceedings being initiated against the complaining party and that party's attorney.

If any party or attorney on behalf of a party files a licensing complaint against the appointed professional during the pendency of this case, that party shall notify the Court within 3 business days that the licensing complaint has been filed. If the appointed professional is notified by his/her licensing board that a complaint has been filed against the appointed professional in this case, the appointed professional may notify the Court that a complaint has been filed against the appointed professional if he or she does not believe the party or litigant informed the Court as described above. Pursuant to order of this Court, sanctions shall be imposed upon any party who fails to provide such notification to this Court as ordered.

As the Court is concerned about the appointee's ability to effectively carry out appointment duties, the Court may review any licensing complaint to determine whether the complaint inappropriately hindered the appointee's role and the Court's process. If the Court determines the complainant has acted in a way to hinder the legal process, the Court may choose to sanction the complainant

IT IS FURTHER ORDERED that by the signing of this minute entry, it shall become a formal Order of this Court without further notice to the parties, pursuant to Rule 54, Arizona Rules of Civil Procedure.

Dated this 4th day of June, 2012.

/s/ James P. Beene

HONORABLE JAMES P. BEENE
JUDGE OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter.