

June 9, 2009

Be [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] CA 92118

**Michael Roddy**  
**Executive Office – San Diego Superior Court**  
**220 West Broadway**  
**San Diego, CA 92101**

*Dear Mr. Roddy*

*I am writing to you over the California State Rules of the Court that are copied and pasted into the end of this letter. They are from Title Five, Family and Juvenile Rules (Rules 5.1 - 5.830). If you open the .pdf that can be downloaded from*

*<http://www.courtinfo.ca.gov/rules/...> then go to > Chapter 5 > 5.225. > (j) Responsibility of the Courts & (k) Child custody evaluator; see that said rules match those from the CA State website.*

*It is my understanding that you are responsible for administration and procedures having to do with the court. Please tell me where I can find information that shows you are following these rules. I cannot find anywhere on California's or San Diego's Court websites information related to these rules. I cannot find a description or set of instructions over how to file complaint over anything having to do with these rules.*

*I discovered you through a number of phone calls from office names and numbers that were, at the very least, listed on San Diego's Superior Court website. There were no descriptions of what each office does. It just states Executive Office and the phone number, and your name is not provided anywhere on the websites. So it's somewhat miraculous that I found you, and in the process I had to ask numerous questions followed by evasive answers before I could get to your job name, what you do, and who fills the role. You have no forms, no PDF downloads from the website anywhere that reveals a process of complaint. Quite simply, it appears there is no process for filing complaint against a 730 Code Custody Evaluator, or is there?*

*Before I file complaint, I have some questions to ask you. Please answer each and every following question.*

Redaction is necessary here as care taken to be highly respectful of my child and my child's Mother is important. Moreover, this letter could have been written by any litigant in San Diego as San Diego Superior Court is NOW only ignoring, denying, hiding, oppressing, and doing anything possible to keep these violations as quiet as possible, and to many others who have followed in realizing that they now only ever had illegal Custody Evaluations—the court is oppressing and suppressing others' complaints. These letters represent the first attempts or notice to the Judiciary that these rules have been violated for nine years, more or less. This June 9, 2009 letter is the first. On July 24, 2009 Michael Roddy put out a proclamation via the court to amend these State rules to the local rules. You can find the proclamation and amended rules at the very bottom of this PDF. The proclamation and amended rules were separate documents on the Court web-site, and notice how M. Roddy doesn't say what rules are being amended in his letter, and notice that the amended rules are not given a date. However, the original documents downloaded from the web-site have within their file properties factual information of who they were created by and where they came from. Michael Roddy and the Court was hiding the facts that they were in violation for nine years, more or less of the following mandatory rules of court. It took these letters, a 10News I-Team Investigative report <http://www.10news.com/news/19985926/detail.html>, the lawsuit of Tadros vs. Doyne, and an official letter from Retired San Diego City Attorney Mike Aguiree for these court violators to comply—they are still not in compliance as they have not done anything for those who have stepped forward in complaint, trial motion, or appeals court filings.

CC: Honorable Judge Lorna Alksne

*Where or what is your process for the Public to find qualified evaluators in your jurisdiction? No process exists on your websites.*

*I would like copies of forms FL-325, FL-326, and FL-327 over my court case. Stephen E. Doyne, PhD was my 730 Code Evaluator. Do you have those copies that the court must make sure he fills out, and that he must be responsible for filling out too? Please make them available to me by sending them to my address above.*

*Have you provided the Judicial Council with copies as well? Please show proof that you have.*

*Have you made sure that Stephen E. Doyne is qualified as afforded by FL-325 that he must fill out?*

*Do you have all applicable forms and documentation that Dr. Doyne must file with you/the court?*

*Where do these forms reside?*

*If you don't have them, where are they?*

*If they don't exist, why?*

*I request that you provide all applicable documentation to me. Please respond only in writing; do not call me. I request that you file this letter and any applicable answers to my court case, No. [REDACTED]. I request that your Honor Judge Lorna Alksne do the same. Note that Judge Thomas C. Hendrix is no longer my Judge therefore you are the next best option, plus I am also CC'ing you, the Supervising Judge.*

*Sincerely,*

Ben [REDACTED]

CC: Honorable Judge Lorna Alksne

*See the following CA State Rules of the Court:*

*(j) Responsibility of the courts*

**Each court:**

*(1) **MUST** develop local court rules that:*

<<  
See on p.4 of  
this PDF how  
me saying "FL-325"  
here, reveals how  
Lorna Alksne does  
not know the  
mandatory "each  
court must" use  
Rules-rules the  
Judges MUST know!

\*NOTE: FL-325 does not apply in San Diego County. San Diego County has only ever used Private Child Custody Evaluators (FL-326 & and of course FL-327). For example, Riverside uses Court-connected Evaluators (FL-325). All courts must use FL-327.

(A) **Provide** for acceptance of and response to complaints about an evaluator's performance; and  
(B) **Establish** a process for informing the public about how to find qualified evaluators in that jurisdiction;

(2) **MUST** use an Order Appointing Child Custody Evaluator (form FL-327) to appoint a private child custody evaluator or a court-connected evaluation service. Form FL-327 may be supplemented with local court forms;

(3) **MUST** provide the Judicial Council with a copy of any local court forms used to implement this rule;

(4) As feasible and appropriate, may confer with education and training providers to develop and deliver curricula of comparable quality and relevance to child custody evaluations for both court-connected and private child custody evaluators; and

(5) **MUST** use form Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications (form FL-325) to certify that court-connected evaluators have met all the qualifications for court-connected evaluators under this rule for a given year. Form FL-325 may be supplemented with local court rules or forms.

(Subd (j) amended and relettered effective January 1, 2007; adopted as subd (l); previously amended and relettered as subd (k) effective January 1, 2005.)

**(k) Child custody evaluator**

A person appointed as a child custody evaluator **MUST**:

(1) Submit to the court a declaration indicating compliance with all applicable education, training, and experience requirements:

(A) Court-connected child custody evaluators practicing as of January 1 of a given year **must** submit a Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications (form FL-325) to the court executive officer or his or her designee by January 30 of that year.

Court-connected evaluators beginning practice after January 1 **MUST** file form FL-325 before any work on the first child custody evaluation has begun and by January 30 of every year thereafter; and

(B) Private child custody evaluators **MUST** complete a Declaration of Private Child Custody Evaluator Regarding Qualifications (form FL-326) and file it with the clerk's office no later than 10 days after notification of each appointment and before any work on each child custody evaluation has begun;

(2) At the beginning of the child custody evaluation, inform each adult party of the purpose, nature, and method of the evaluation, and provide information about the evaluator's education, experience, and training;

(3) Use interview, assessment, and testing procedures that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards;

(4) Have a license in good standing if licensed at the time of appointment, except as described in (c)(2) and Family Code section 3110.5(d);

(5) Be knowledgeable about relevant resources and service providers; and

(6) Before undertaking the evaluation or at the first practical moment, inform the court, counsel, and parties of possible or actual multiple roles or conflicts of interest.

(Subd (k) amended and relettered effective January 1, 2007; adopted as subd (m); previously amended and relettered as subd (l) effective **January 1, 2005.**)

The Superior Court  
OF THE  
State of California  
SAN DIEGO

CHAMBERS OF  
LORNA A. ALKSNE  
JUDGE

MAILING ADDRESS  
P.O. BOX 122724  
SAN DIEGO, CA 92112-2724

July 15, 2009

Here, Alksne admits vaguely that they were never used in San Diego, and even confuses the forms and their numerical designations—clearly does not even know the Rules of Court that qualify Custody Evaluators to legally perform 730 Code Evaluations—clearly does not know the MANDATORY, "each court must" use forms that provide for legal due process for litigants.

Mr. Ben [REDACTED]  
[REDACTED] CA 92118

Re: Case No [REDACTED]

Dear Mr. [REDACTED]:

I am responding to your letter addressed to Michael Roddy dated June 9, 2009. You have correctly noted that the court is responsible for adopting local rules for a complaint procedure regarding a child custody evaluator's performance as well as a process for informing the public about how to find a qualified evaluator. Local court rules addressing both of these issues will be available beginning January 1, 2010. Your primary concern appears to be the process for filing a complaint against Dr. Doyne. The court's present protocol for filing a complaint regarding a child custody evaluator's performance is to write a letter addressed to the Family Court Supervising Judge explaining in detail what you believe the evaluator did or did not do.

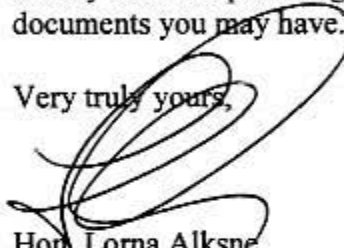
I have provided you with copies of the forms you mention, however for several reasons, they do not seem to apply to your case. First, Judicial Counsel form FL-327 was not adopted for mandatory use until January 1, 2007, which was two years after the appointment in your case. Second, Form FL-326 only applies to court-connected evaluators which does not apply in your case. Third, Form FL-325 was adopted for mandatory use on January 1, 2005. Your court hearing and stipulated use of Dr. Doyne occurred on January 20, 2005, only 14 court days after the form first became available. There is also no indication in the court file that Dr. Doyne ever performed a custody evaluation in your case. In addition, a review of your court file shows there have been no hearings or orders on any substantive issues since February 17, 2005.

Alksne does not know the rules of court here, nor does she know their history. If she knew the rules and the mandatory forms, then she would not be confusing anything here with what I said in my first letter (ref. p.1 of this PDF). In another letter of response from Alksne (not included in this PDF) Alksne apologizes for me "calling her" on confusing FL-325 with FL-326, and admits, stating that FL-326 became mandatory January 1, 2005. Here, she uses a vague excuse of "...only 14 court days after..." — totally unacceptable, totally unprofessional. NO Judge has ANY discretion over these legislated Rules, there is nothing in the rules that says a Judge can deviate from what the rules say MUST be done.

Page Two  
Mr. [REDACTED]  
July 15, 2009

As to your request to file a complaint, the court is limited to responding to an evaluator's performance as it relates to the specific case. Again, in your case and for reasons unknown to me, nothing in the file indicates any evaluation work was ever performed by Dr. Doyne and the case came to a stand still on May 11, 2005. Regardless, as stated above, if you would like to submit a formal complaint to me, you may do so by writing a letter addressed to me as the Family Court Supervising Judge explaining your concerns in detail and attaching any supporting documents you may have.

Very truly yours,



Hon. Lorna Alksne  
Supervising Judge, Family Court

cc: court file  
Michael Roddy

***Amended: March 24, 2010***

Hon. Lorna Alksne,

The following letter was sent to you on November 19, 2009, return receipt/certified, and I received the receipt notice in response but have not received a letter of response to date.

I would like to remind you that I officially served a CPRA notice in the following letter and it has been well beyond 10 days. You are violating the law you are beholden to. I will give you another chance to respond in accordance with the original letter here, so I expect to hear from you within 10 days or else I will proceed to file complaint to The Commission on Judicial Performance.

Sincerely,

Ben [REDACTED]

***The following letter was sent November 19, 2009:***

November 19, 2009

Hon. Lorna Alksne  
1555 Sixth Ave., Dept. F-5  
San Diego, CA 92101

Hon. Lorna Alksne,

Pursuant to my rights under the California Public Records Act (CPRA), I ask to inspect the following as soon as possible:

1. Verified copies of forms FL-326 and FL-327 and any supplemental documents, regarding the appointment and stipulated use of Stephen Doyne as a custody evaluator in my Family Law Court case.
2. Stephen Doyne's Curriculum Vitae.
3. Records of all correspondence between Supervising Judge Lorna Alksne (and/or Michael Roddy and/or any San Diego Superior Court Officer and/or Administrator) and Dr. Stephen Doyne, pertaining to my case, or letters to the aforementioned, from the date of December 15, 2004 through the present, 2009.
4. Records of all telephonic communication between Supervising Judge Lorna Alksne (and/or Michael Roddy and/or any San Diego Superior Court Officer and/or Administrator), and Dr. Stephen Doyne, pertaining to my case, or letters to the aforementioned, from the date of December 15th, 2009 through the present.
5. All records of Stephen Doyne's training from January 1, 2001 to October 1, 2009, all of his training providers names, dates, and locations where training services were provided, and the certifications he was required to file regarding his custody evaluator training.

As you are aware I've sent you three letters regarding this issue, the first of which went to Mr. Roddy and yourself. Neither you nor Mr. Roddy have provided verified copies of forms FL-326 and FL-327 that would have been filed before Dr. Doyne did any work in my case. Mr. Roddy has not responded at all since my letter dated June 9, 2009; he shows his true colors there. You sent me blank forms of FL-325, 326, and 327, that's not what I've asked for. I can get those online and you sending them does not satisfy the requirement of a meaningful response, in my opinion.

FL-326 and FL-327 apply to me. I've studied the rules. I know who first presented them in 2001, who voted on them then, 2004, and 2006, when and where, the amendments to them and when, and happen to know that they apply to me

As of January 1, 2005, forms FL-326 and FL-327 are **mandatory**. They are not optional. If you can show me otherwise, please do. It is my understanding that it is **mandatory** that each court **must** follow these rules. So there is very clear language in the CRC at issue in the use of the words, "**mandatory**" and "**must**".

You have not answered all of my questions from the June 9, 2009 letter, as well as the others, and I do thank you for answering what you have so far. I do not fully understand, so please, with all due respect, answer all of the following:

1. I would like for you to cite for me in legal terms how you or Michael Roddy, as sworn officers of the court, can legally not answer all of my questions? It is my understanding that it is your duty to do so.



2. I request that you show me in legal terms how officers of the court can lawfully use discretion over the CRC at issue? Please show me the documentation that allows you to do so.
3. Why was I not informed of my right by the court to choose any evaluator that my daughter's mother and I decide to go with (presuming they were qualified to perform a custody evaluation)?
4. Where are my case's FL-326 and FL-327?
5. Your responses in prior letters were not that clear and thorough to me, it is my expectation of you as a Supervising Judge that they would be. Would you please explain to me in clear and understandable legal terms and show me with background documentation as to why you could not provide the forms at issue? It is my understanding that the court would either have the forms properly filled out and verified with the appropriate date, or don't have them at all.
6. If the court does not have them then I want to know very clearly the legal justification for them not being in the file.
7. I would like for you to cite the legal authority the court has for neglecting to follow the California Rules of Court and any local rules pursuant that would apply to the issues that I've asked you to respond to.

As you noted, my stipulated use of Doyne began January 20<sup>th</sup>, 2005, and I have the documentation to corroborate that fact. FL-326 & 327 became mandatory (without option) as of January 1<sup>st</sup>, 2005. According to CRC, FL-326 & 327 should be on file. Again, these forms are mandatory, not optional.

Proof of an Evaluation was sent twice to Roddy and Alksne; they do not acknowledge receiving the proof. What are you two hiding and lying about?

Ben [REDACTED]  
Case No [REDACTED]  
[REDACTED]  
[REDACTED] CA 92118

5

As I have stated previously, the family court lost all of my trust and faith in it, therefore I refuse to share my custody evaluation at this point time. However, I have provided the front and last page of my custody evaluation to show proof that Doyne did the work. I have asked Stephen Doyne twice in writing for his Curriculum Vitae, FL-326, and his training and education documentation. He has not fulfilled those requests. So whose responsibility is it to make sure I have the opportunity to inspect his credentials your Honor? I've tried on my own to no avail. Now I'm asking for your help, consider this letter as part of my complaint against Doyne, and of the complaint process that I understand you must provide. This evaluation being closed does not excuse my request to see what I am requesting. I would've never used the so-called Expert Witness Doyne in the first place if I knew he wouldn't share his CV or that he was in violation of CRC. Most competent, high-functioning, moral, ethical, respectful, professionals of any kind would practically be running proud to the copy machine to provide copies of their CV and other documentation upon request. Therefore, I implore that you now take responsibility for producing it for me since Doyne will not cooperate with me.

If you do not have the records I have described, please let me know the identity and contact information of other agency(s) or official(s) more likely to have them, and what, if any, related records you have that may be responsive to my request. As you may know, the following laws apply to this CPRA request:

**Prompt Disclosure: Government Code Section 6253 (b), (d)**

Records not exempt from disclosure are to be made "promptly available. " No provision of the CPRA and FOIA, including the response periods noted below, "shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. "

**Deadlines: Government Code Section 6253 (c)**

You are required "promptly" and in no case more than 10 calendar days from the date of this request to determine, and inform me in writing, whether you are going to decline all or part of the request and the law(s) that you are relying on unless within that period you notify me in writing that you intend to take up to an additional 14 days to make the determination because of your need:

1. to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
2. to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request;
3. for consultation, which shall be conducted with all practicable speed with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein; or
4. to compile data, to write programming language or a computer program/, or to construct a computer report to extract data. Your notice must set forth "the reasons for the extension and the date on which a determination is expected to be dispatched. " If you determine that any of the records I have requested are

Ben [REDACTED]  
Case No. [REDACTED]

7

[REDACTED]  
[REDACTED] CA 92118

disclosable, your written notice must "state the estimated date and time when the records will be made available. "

**Constitutional Rule of Interpretation: Article I, Section 3 (b)**

The California Constitution requires that the Public Records Act "shall be broadly construed if it furthers the people's right of access, and narrowly construed if It limits the right of access." This rule must be heeded in interpreting any exemptions from disclosure you believe to be applicable. Fees: Government Code Section 6253 (b) There is no fee chargeable for inspection of a record (Attorney General's Opinion No. 01-605).

Sincerely,

Ben [REDACTED]

*They never followed through with the CPRA request. See M. Roddy's letter below.*

# The Superior Court of California

COUNTY OF SAN DIEGO

EXECUTIVE OFFICE OF THE COURT

MICHAEL M. RODDY  
Executive Officer and Clerk  
Jury Commissioner

Post Office Box 122724  
San Diego, California 92112-2724  
(619) 450-5478

April 1, 2010

Mr. Ben [REDACTED]

[REDACTED] CA 92118

FL-327 & FL-326 are hand-in-hand, they became mandatory January 1, 2005. "...only 14 court days after..." is not an excuse for mandatory, "each court must" use rules. Roddy is lying on top of Alksne's lies.

**Re: Letter of March 24, 2010 to Judge Lorna Alksne**

Dear Mr. [REDACTED]:

Your letter of March 24, 2010 to Judge Lorna Alksne has been given to me for a response. I will respond to the five questions posed in your previous letter to Judge Alksne:

1. Verified copies of forms FL-326 and FL 327 and any supplemental documents, regarding the appointment and stipulated use of Stephen Doyne as a custody evaluator in my Family Law Court case.

Those forms and any supplemental documents, if available, would be found in your family law case file. However, as Judge Alksne previously explained in her letter to you dated July 15, 2009, and reiterated in her letter dated September 25, 2009, form FL-327 was not adopted for mandatory use until January 1, 2007, which was two years after Dr. Doyne was appointed in your case. Further, Dr. Doyne was appointed only 14 court days after FL-326 first became available and there is no indication in the court file that Dr. Doyne ever performed a custody evaluation in your case. Accordingly, conformed copies of forms FL-326 and/or FL-327 are not available in your case.

2. Stephen Doyne's Curriculum Vitae.

We do not maintain a separate file on the curriculum vitae of custody evaluators appointed in family law cases. **This information, if available, would be found in your family law file.**

Supposed to be filed with the clerk of the Court as well!

3. Records of all correspondence between Supervising Judge Lorna Alksne (and/or Michael Roddy and/or any San Diego Superior Court Officer and/or Administrator), and Dr. Stephen Doyne, pertaining to my case, or letters to the aforementioned, from the date of December 15, 2004 through the present, 2009.

No such correspondence exists.

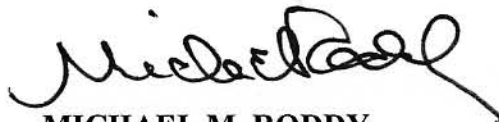
4. Records of all telephonic correspondence between Supervising Judge Lorna Alksne (and/or Michael Roddy and/or any San Diego Superior Court Officer and/or Administrator), and Stephen Doyne, pertaining to my case, or letters to the aforementioned, from the date of December 15, 2009 through the present, 2009.

No such correspondence exists.

5. All records of Stephen Doyne's training from January 1, 2001 to October 1, 2009, all of his training providers names, dates and locations where training services were provided, and the certifications he was required to file regarding his custody evaluator training.

**The court does not maintain a centralized record of this information.**

Sincerely,



**MICHAEL M. RODDY**  
Executive Officer

c: The Hon. Lorna A. Alksne, Supervising Judge, Family Court

FL-326/327 are supposed to be filed with the clerk of the court—the court is supposed to maintain a centralized record of this information! Since 2001, for nine years more or less, San Diego County NEVER adhered to CRC 5.225-5.230. In 2006 Michael M. Roddy became San Diego Superior Court's CEO and still NEVER brought these Rules that he voted for creation of and amendment to as a member of the Judicial Counsel, to San Diego County Litigants in the Family Court. Con-artist, frauds like Stephen Doyne have been charging \$350 per 45-minutes of Evaluation work for years, and funding the Judges' election campaigns. Doyne even states on his Curriculum Vitae that he teaches CRC 5.225-5.230.



## Superior Court of California County of San Diego

CENTRAL COURTHOUSE  
220 WEST BROADWAY  
PO BOX 122724  
SAN DIEGO CA 92112-2724

July 24, 2009

### **PUBLIC NOTICE**

#### **SPECIAL SESSION PROPOSED CHANGES TO THE SAN DIEGO SUPERIOR COURT RULES TO BECOME EFFECTIVE JANUARY 1, 2010**

Additional proposed changes to the San Diego Superior Court local rules, with an effective date of January 1, 2010, have been approved by the Court in principle and submitted to the bar for comment in accordance with Rule 10.613 of the California Rules of Court.

The additional proposed changes have been posted to the Court's website and are available for viewing and downloading at: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) - click on Rules of Court in the list on the left side.

Copies of the proposed rule changes are also available for review at each of the Court's business offices, at each branch of the San Diego County Law Library, and at the San Diego County Bar Association. Anyone desiring a hard copy by mail may make that request to the Rules Coordinator, Skye Resendes, at (858) 634-1621.

Any comments or concerns regarding these proposed special session changes should be forwarded to Rules Committee Chair, Judge Ronald Styn, c/o Thomas Eral, Esq., P.O. Box 122724, San Diego, CA 92112, **prior to September 8, 2009.**

  
**MICHAEL M. RODDY**  
Executive Officer

Distributed for Publication

## Rule 5.10.4

### Child Custody Evaluations

~~A custody evaluation is a process by which a mental health professional uses appropriate professional techniques to gather information to formulate a custody/visitation recommendation that is submitted to the court pursuant to [California Rules of Court, rule 5.220](#).~~

#### ~~A. Initiating the Evaluation.~~

~~1. The court on its own motion or upon the request of either party may order an evaluation.~~

~~2. The parties may stipulate that the issues of custody and visitation be referred for an evaluation prior to or in addition to other recommendations made by FCS.~~

~~3. An evaluation may be recommended by FCS following mediation.~~

#### ~~B. Scope of the Evaluation.~~

~~1. A formal order must be prepared that specifies: the appointment of the evaluator under Evidence Code section 730, Family Code section 3110, or [Code of Civil Procedure 2032](#); the purpose and scope of the evaluation; the referring issues or questions; the evaluator; and such other matters as the court deems appropriate. Conformed copies of the order must be provided to the evaluator and all parties/attorneys.~~

~~2. Nothing herein may be construed to prevent the evaluator from contacting all attorneys and/or parties when it appears to the evaluator that new and/or additional information is being provided which causes the evaluator to recommend additional issues for evaluation.~~

#### ~~C. Evaluator Qualifications; Selection of Evaluator; Request for Change of Evaluator; Withdrawal by an Evaluator.~~

~~1. **Qualifications.** Evaluators must meet [The court will order child custody evaluations in accordance with Family Code sections 3111, 3118; Evidence Code section 730; Code of Civil Procedure section 2032.010 et seq.; and California Rules of Court, rules 5.220 and 5.225](#). All child custody evaluators must comply with the qualifications, training and continuing education, experience and ethics requirements of Family Code sections 1815, 1816, and 3111 and [California Rules of Court, rule 5.220\(g\)](#), and will be required to acknowledge that they are so qualified and trained. Evaluators appointed pursuant to [Evidence Code section 730](#) (Appointment of Expert by Court) under this rule are protected under Civil Code section 47 (Privileged Publications or Broadcasts) acting in the proper discharge of their official duty as appointed by this court for communications made and will be granted immunity from prosecution so long as the evaluator is acting within the judicial proceedings, for the appointment, or in any other official proceedings authorized by the court or law to achieve the objects of the litigation and in connection with or in a manner logically related to the litigation and the underlying action. [in California Rules of Court, rules 5.220, 5.225, 5.230, Family Code sections 3110.5, 3111, 1816, 3118 and Evidence Code section 730.](#)~~

~~2. **Selection.** The parties may stipulate to the selection of an evaluator subject to the evaluator being approved by the court, or the court may appoint an evaluator.~~

~~3. **Requests for Change.** Requests for a change of evaluator must be made as soon as practicable and based upon good cause. The court will consider the basis and timeliness of the request upon an ex parte application.~~

#### A. Order Appointing Child Custody Evaluator.

1. The court shall issue orders appointing a child custody evaluator using the Judicial Council form [FL-327 \(Order Appointing Child Custody Evaluator\)](#). The Judicial Council form may be supplemented by and/or attached to a separate stipulation prepared by the parties.

2. The content of the order and/or stipulation, including the purpose and scope, must comply with the requirements of [California Rules of Court, rule 5.220](#).

3. The court must determine and allocate any fees and costs of the evaluation in the order and/or stipulation.

4. Counsel or a self-represented litigant must immediately provide a copy of the order to the appointed evaluator.

**B. Child Custody Evaluator Qualifications.** All court-connected evaluators must submit a current qualifications declaration (Judicial Council form FL-325) to the executive officer or their designee in accordance with California Rules of Court, rule 5.225(k)(1)(A). All private evaluators must complete and file a timely qualifications declaration (Judicial Council form FL-326) with the court in accordance with [California Rules of Court, rule 5.225\(k\)\(1\)\(B\)](#).

**C. Finding a Qualified Private Child Custody Evaluator.** The public may find a private, mental health professional who is qualified to be a court-appointed child custody evaluator by the San Diego court



by contacting the court's Family Court Services for a list of the required qualifications as set forth in the California Family Code and California Rules of Court. (The list is also available on the Court's website: [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).) This list of qualifications may then be used to search through any standard public resource, such as the internet, to find a mental health professional who meets all the legal criteria. A private, court appointed evaluator must be able to sign under penalty of perjury and file a *Declaration of Private Child Custody Evaluator Regarding Qualifications* (Judicial Council form FL-326) within ten days of the appointment. The court does not maintain a list of qualified evaluators nor does it endorse any mental health professional. The parties are responsible for ensuring a private child custody evaluator meets all the legal qualifications.

#### **D. Peremptory Challenges and Challenges for Cause.**

1. There shall be no peremptory challenges allowed for a court-connected evaluator.
2. There shall be no peremptory challenges allowed for a private evaluator appointed by the court.
3. A party may challenge an evaluator for cause by noticed motion upon a substantial showing that the evaluator is biased or prejudiced against one of the parties or otherwise unable to render a fair and impartial evaluation.

~~4. Evaluators~~**E. Withdrawing from a Case.** A private evaluator may petition the court to withdraw from a case, for good cause, in a writing directed to the judicial officer to whom the case has been assigned with copies to parties/attorneys. The evaluator need not be present at the hearing unless directed by the court. Any complaints regarding the evaluator will be directed to the appropriate licensing/regulatory board, for good cause by delivering a letter addressed to the trial judge assigned to the case stating the reasons for their request. A copy of the letter must also be served on all parties and minor's counsel. Any objections to the request to withdraw must be filed with the court and served on the evaluator, all parties, and minor's counsel, within ten days of notice of the petition to withdraw. Based on the court's review of the petition and any objections, the court may schedule a hearing or decide the matter by issuing an ex parte order. All withdrawals require a court order.

~~**D. Writings and Other Materials for the Evaluator's Review.** If either party/attorney wishes to submit writings or other materials to an evaluator for consideration during evaluation, he or she must submit the information to the evaluator with a cover letter describing or itemizing the materials provided. The cover letter must clearly state that the information has also been sent to the opposing party/attorney using the same method of delivery as was used for the evaluator (i.e. mail/hand delivery/fax, etc). The evaluator will not review the writings and other materials unless it has been sent to the opposing party/attorney. If the writings and other materials is a tape recording, video cassette, movie film, personal diary, or journal of the other party, that material must be delivered to the opposing party/attorney at least seven calendar days before submitting the item to the evaluator. If the material is an audio recording, it must be accompanied by a written transcript of the recording. The evaluator must immediately return any submitted writings and other materials that were not sent to the opposing party/attorney in accordance with this section.~~

~~**E. Report of the Evaluator.** The evaluator's report and recommendation will be released simultaneously to the parties/attorneys. The evaluator's report and recommendation will be filed with the court and admitted without further foundation. Either party may call the evaluator, upon reasonable notice, to examine the evaluator on the report and/or the recommendations at the hearing/trial.~~

**F. Complaints.** Any party's complaint about an evaluator's performance must be in writing and addressed to the Supervising Judge of the Family Court. Complaints shall be as specific as possible in describing what the evaluator did or did not do. The Supervising Judge or their designees will investigate, evaluate and respond to the complaint in due course.

~~**F. Communication**~~**G. Ex Parte Communications with the Evaluator.** Communications Ex-parte communications between evaluators, parties, and/or attorneys an attorney, including minors' minor's counsel, is and the court-appointed evaluator, are governed by Family Code sections 216 and 1818.

**H. Recommendation and Cross-Examination.** Upon stipulation by all parties, the evaluator's report and/or recommendation will be admitted and considered by the court without further foundation at the time of the hearing. With or without a stipulation, the parties shall retain their right to cross-examine the evaluator.

**I. Confidentiality of Reports.** All custody evaluator's reports and recommendations are confidential and are available only to those persons allowed access by operation of law or court order.

(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010)