

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

	:	
Plaintiff	:	
v.	:	Case No.
	:	
Defendant	:	

ORDER APPOINTING COUNSEL FOR CHILD

20 This matter having come before the Court, it is this day of
 , by the Circuit Court for Montgomery County, Maryland

ORDERED, that _____, telephone number _____, is hereby appointed as a **Best Interest Attorney (BIA)** at the rate of _____ per hour with the rights and responsibilities set forth in the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access (hereafter “The Guidelines”) to represent _____.

[children's names and dates of birth]

A Best Interest Attorney is a court-appointed attorney 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. The BIA shall have all the rights and responsibilities of a Child's Privilege Attorney (CPA), including but not limited to deciding whether to assert or waive the

child's/children's statutory privilege, in accordance with *Nagle v. Hooks*, 296 Md. 123 (1983), and it is further

ORDERED, that _____, telephone number _____, is hereby appointed as a **Child Advocate Attorney (CAA)**) at the rate of _____ per hour pursuant to the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access (hereafter "The Guidelines") to represent

[children's names and dates of birth]

A Child Advocate is a court-appointed attorney 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 it is further

ORDERED, that _____, telephone number _____, is hereby appointed as a **Child's Privilege Attorney (CPA)** at the rate of _____ per hour pursuant to the Maryland Guidelines for Practice for Court-Appointed Lawyers Representing Children in Cases Involving Child Custody or Child Access (hereafter "The Guidelines") to represent

[children's names and dates of birth]

A Child's Privilege Attorney is a court-appointed attorney 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; and 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 court-appointed attorney in the performance of the duties instructed by this Court; and it is further

ORDERED, that the court-appointed attorney 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 court-appointed attorney together with a copy of this Order. The court-appointed attorney's access to privileged and confidential information shall be without the necessity of a signed release, including medical, dental, psychiatric/psychological, social services, drug and alcohol treatment, law enforcement and educational records and information; and it is further

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

The court-appointed attorney shall provide representation on a pro-bono basis.

Having met the criteria as a Court Funded Appointment, the court-appointed attorney shall be compensated by the Court at the rate of ***\$1,500 for fees and/or expenses as a BIA or CAA*** (or alternatively ***up to a maximum of \$375 for the fees and/or expenses as a Child's Privilege Attorney***) and that at the conclusion of the case, the court-appointed attorney shall submit a fee petition.

Plaintiff's Payment into court-appointed attorney's trust account. Plaintiff is hereby directed to pay the court-appointed attorney, for deposit into the court-appointed attorney's trust account, the sum of _____ within 10 days of the date of this Order as an initial contribution towards the court-appointed attorney's fees in performance of the services identified herein and file a line indicating same.

Defendant's Payment into court-appointed attorney's trust account. Defendant is hereby directed to pay the court-appointed attorney, for deposit into the court-appointed attorney's trust account, the sum of _____ within 10 days of the date of this Order as an initial contribution towards the court-appointed attorney's fees in performance of the services identified herein and file a line indicating same.

The court-appointed attorney shall not be required to begin work representing the child(ren) until payment is made by the parties into the court-appointed 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 court-appointed attorney. The Court may hold the parties jointly and severally liable for all fees due to the court-appointed attorney, subject to the parties' rights to seek indemnification from each other to the extent that either party pays more than his/her allocated share; and it is further

ORDERED, that, the court-appointed attorney shall send monthly itemized statements of work completed, time spent, expenses incurred, and total fees incurred to counsel of record for each party, or if none, to each party. This provision does not apply to a pro bono or Court-funded attorney; and it is further

ORDERED, that the court-appointed attorney shall be permitted to reasonably delegate tasks to appropriate personnel, including but not limited to associate attorneys, paralegals, and clerical staff, provided however that the court-appointed attorney shall supervise delegated tasks and must appear at substantive child-related court proceedings; and it is further

ORDERED, that if a party objects to an entry on a monthly itemized statement, the party shall indicate that in writing to the court-appointed attorney not later than 30 days from the date of the statement. Once the 30-day period has passed without objection, the amount billed shall be deemed fair and reasonable and court-appointed attorney is authorized to draw the amount billed from his or her trust account; and it is further

ORDERED, that the court-appointed attorney may 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 court-appointed attorney, and the need for additional services and expenses to be incurred. If an opposition is filed to the request, a hearing may be scheduled at the discretion of the Court, in accordance with The Montgomery County Circuit Court Child Counsel Appointment Policies & Procedures; and it is further

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

ORDERED, that 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 attorney to request withdrawal of his/her representation, upon written Motion to the Court; and it is further

ORDERED, that although the minor child(ren) are not parties to this action, the court-appointed attorney shall be entitled to engage in discovery, including but not limited to all methods thereof authorized by the Maryland Rules, Title 2, Chapter 400, as part of the performance of the duties assigned herein, and to file motions or seek orders as appropriate in the fulfillment of the duties appointed herein; and it is further

ORDERED, that although the minor child(ren) are not parties to this action, the service and notice provisions in Title 1 of the Maryland Rule apply as though the child(ren) were parties; and it is further

ORDERED, that within ten (10) days of the date of this Order, the Plaintiff (or counsel)/ the Defendant (or counsel) shall provide to the court-appointed attorney 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 court-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 Departments of Social Services pertaining to any alleged abuse or neglect (including abuse or neglect in which the child(ren) were not involved); and it is further

ORDERED, that within ten (10) days of the date of this Order, each party shall provide the court-appointed attorney 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; and it is further

ORDERED, that the court-appointed attorney 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 court-appointed attorney 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 court-appointed attorney; and it is further

ORDERED, that the court-appointed attorney shall not testify at trial nor file a written report with the Court, except that the CPA may file a document with the Court prior to the hearing or trial at which the privilege is to be asserted or waived; and it is further

ORDERED, that pursuant to The Guidelines, the court-appointed attorney shall ensure that the child(ren)'s position is made part of the record whether or not different from the position the court-appointed attorney advocates; and it is further

ORDERED, that unless otherwise specifically ordered, the court-appointed attorney's appearance shall terminate 30 days after the entry of the Order resolving the issues for which the attorney was appointed.

JUDGE
Circuit Court for
Montgomery County, Maryland