

Sample Order

At a Term of the Family Court of the State of New York, Part _____, held in and for the County of _____, at _____, N.Y. _____, on _____ 200 ,

P R E S E N T:

Hon. _____
JUDGE OF THE FAMILY COURT

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In the Matter of a Proceeding for Visitation
Under Article 6 of the Family Court Act

Petitioner,

Docket No.

-against-

**ORDER FOR OBSERVATION
AND EVALUATION**

Respondent.

-----X

After appropriate inquiry into the financial status of _____ and being satisfied that the party/parties is/are financially unable to pay any of the costs of the observation and evaluation,

Upon the application of _____, Esq., made on the ____ day of _____ 200 , it is

ORDERED that _____, whose office is located at _____ and whose telephone number is _____, is herein appointed to conduct an observation and evaluation of the interaction between/among the child(ren) and the following:

<u>NAME</u>	<u>RELATIONSHIP</u>
_____	_____
_____	_____
_____	_____

and to submit a report to the Court by _____, 200 , and to appear and testify if so directed by the Court, it is further

ORDERED that, upon receipt of a copy of this order, the parties are to telephone Mr./Ms. _____, to schedule appointments and cooperate in all respects with the evaluation. Mr./Ms. _____ shall meet with each of the parties and observe a maximum of six one hour interactions between the child(ren) and the _____, it is further

One (1) of the following:

I. [For Use In Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the petitioner shall pay _____ % of the evaluator's fees, and the respondent shall pay _____ % of the evaluator's fees, including an initial retainer in the sum of \$ _____, subject to reallocation at trial; and it is further

ORDERED, that the cap on the observation and evaluation ordered is not to exceed a rate of \$ ____ per hour, to a maximum of \$ ____ . However, if the evaluator anticipates that the cost of the observation and evaluation, and preparation of written report (not including testimony) is likely to exceed the cap set by the court, then he/she shall make a supplemental request on notice for additional compensation prior to the expenditure of time, subject to reallocation at trial; and it is further

II. [For Use When All Parties are Indigent]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, and being satisfied that the litigants are financially unable to pay the cost of the observation and evaluation provided for herein, compensation for said observation and evaluation, preparation of written report, and any court appearances in connection therewith, shall be paid proportionately to the ratio of adults seen and evaluated (Article 18-B, Section 722-C of the County Law, and/or by the office of the Institutional Provider) and to the child(ren) seen and evaluated (Section 35 of the Judiciary Law, and/or by the office of the Institutional Provider), at a rate not to exceed \$ ____ per hour to a maximum amount of \$ _____.

The court is directing that a total of _____ adults shall be observed and evaluated and a total of _____ child(ren) shall be observed and evaluated, and therefore payment shall be _____ % pursuant to the County Law and/or _____ % to be paid by the office of the Institutional Provider, _____, representing the adult(s), and _____ % pursuant to the Judiciary Law, and/or _____ % to be paid by the office of the Institutional Provider, _____, representing the child(ren).

If it is anticipated that the observation and evaluation may exceed the cap previously set by this Court or, the statutory maximum (\$200/\$1,000), then a supplemental request on notice to the court will be made for additional compensation prior to the expenditure of time. Only upon a written showing of "extraordinary circumstances" will compensation be awarded in excess of the statutory limits.

The report shall be submitted to the Court, attorney for the child, and counsel for the parties. The report shall be shown to parties. However, copies should not be provided absent court order.

III. [For Use In Mixed Indigent/Private Pay Cases]

ORDERED, that the court having made appropriate inquiry into the financial status of the parties, the petitioner shall pay _____% of the evaluator's fees, including those apportioned to the child(ren), and the respondent shall pay _____% of the evaluator's fees, including those apportioned to the child(ren), including an initial retainer in the sum of \$ _____, subject to reallocation at trial; and it is further

ORDERED, that the court having made appropriate inquiry into the financial status of the parties and the court having determined that the petitioner/respondent, is financially unable to pay his/her proportionate share of the costs of the observation and evaluation provided for herein; it is further

ORDERED, said petitioner/respondent's proportionate share shall be paid pursuant to Article 18-B, Section 722-C of the County Law or by the office of the Institutional Provider.

Having found that the monied party is not able to bear the full cost of the observation and evaluation of the child(ren); it is ORDERED, that the cost of said services shall be paid pursuant to Section 35 of the Judiciary Law.

Alternatively, if the child(ren) is/are represented by an institutional provider, the institutional office representing the child is directed to bear the proportionate share as specified below.

ORDERED, that the cap on the observation and evaluation ordered is not to exceed a rate of \$ _____ per hour, to a maximum of \$ _____. The court is directing that a total of _____ adults shall be observed and evaluated and a total of _____ child(ren) shall be observed and evaluated, and therefore payment shall be _____% to the petitioner, _____% to the respondent, _____% to the County Law, and/or _____% to the office of the institutional provider, _____, representing the adult, _____% pursuant to Judiciary Law, and or _____% to the institutional office, _____, representing the child(ren), subject to reallocation at trial; it is further

ORDERED, that no less often than every sixty days from the date of this order of appointment, the mental health professional shall send to counsel for the parties, including counsel for the child(ren) (if any), detailed bills of services rendered.

If the evaluator requires the parties to enter into a written retainer agreement, the agreement shall not contain any material terms that conflict with the provisions of this order.

The failure to comply with the provisions of this order relating to payment of the fees of the mental health professional shall be subject to judicial sanction.

Dated: _____

ENTER

Hon.
JUDGE OF THE

FAMILY COURT