

1 Innocence Legal Team
1600 S. Main Street, Suite 195
2 Walnut Creek, CA 94596
Telephone: 925 948-9000
3 Attorney for Defendant

4
5 SUPERIOR COURT OF CALIFORNIA, COUNTY OF

6 THE PEOPLE OF THE STATE OF) Case No.
7 CALIFORNIA,)
8 Plaintiff,) ADMIT EVALUATION OF FAMILY
9 vs.) COURT EVALUATOR AND
10) HIS/HER RECORDS
11 Defendant.) Date:
12) Time:
) Dept:
)

13 **FACTS**

14
15 (Set forth the particular facts of your case, i.e., that the
16 victim/victims is/are or were the subject of a custody dispute,
17 that a family court evaluation was done at a particular time and
18 contains information favorable to your client in the current
19 criminal proceeding, specifying what that information is.)
20

21
22 **(Name of Evaluator) IS NOT A MEDIATOR AND AS SUCH**

23 **THERE IS NO EXPECTATION OF PRIVACY**

24
25 (Name of evaluator) was not a mediator, he/she was
appointed as an evaluator to ascertain what would be the best

1 custody arrangement for the alleged **victim(s)**. The evaluation
2 is not a mediation and it is believed that no confidentiality
3 agreements exist.

4 **BECAUSE THIS IS A CRIMINAL ACTION,**
5 **STATUTORY PROTECTIONS FOR NON-DISCLOSURE**
6 **DO NOT APPLY.**
7

8 Evidence Code § 703.5 states in pertinent part, "no
9 arbitrator or mediator shall be compelled to testify in a
10 subsequent civil proceeding..." Evidence Code § 1119 provides
11 for confidentiality for and non-disclosure of statements or
12 admissions during or writings generated during mediation "in any
13 civil action, or other non-criminal proceeding, in which,
14 pursuant to law, testimony can be compelled to be given." The
15 instant case is a criminal action, therefore these two evidence
16 code sections do not apply.
17

18 **CONCLUSION**

19 It is therefore requested that the family court evaluator's
20 testimony and records be admitted in this case.

21 Dated:

22 Respectfully submitted,
23
24
25

Attorney for Defendant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25