

CAUSE NO. 15-10574-211

IN THE INTEREST OF
RYAN BENNETT PURCELL
A CHILD

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§
§
§
§

IN THE DISTRICT COURT
481st JUDICIAL DISTRICT
DENTON COUNTY, TEXAS

MOTION FOR ENFORCEMENT AND CONTEMPT AND REQUEST THE COURT TO ORDER PRODUCTION OF DOCUMENTS AND RECORDS FROM CHILD CUSTODY EVALUATOR AND REQUEST FOR ATTORNEY’S FEES

This *Motion for Enforcement and Contempt and Request for the Court to Order Production of Documents and Records from Child Custody Evaluator and Request for Attorney’s Fees* is brought by THOMAS PURCELL, Respondent. THOMAS PURCELL, Respondent would show in support as follows:

1. On January 21, 2022, the Court signed a Second Amended Order for Child Custody Evaluation. A true and correct copy of said Order is attached hereto as **Exhibit A**, and is incorporated by reference herein as if fully set forth, which states in relevant part as follows:

“14. IT IS ORDERED that following the preparation of the report, the child custody evaluator, at the written request of any Court-ordered guardian ad-litem, Court-appointed attorney ad-litem, Court-appointed amicus attorney, or attorney of record in the case shall make available for inspection and copying all records collected, including but not limited to the following: Copies of the Evaluator’s notes, any written communications, writings, records, memoranda, summaries, data, correspondence, test results, videos, photographs, tape recordings, and other tangible records or documents obtained by or created by the Evaluator in connection with or in any way related to the evaluation ordered herein. The costs of copying the records shall be borne by the requesting party, should that party desire copies of any portion of the records to be made.”

2. On March 18, 2022, Thomas Purcell’s prior counsel, Chrysandra Bowen, sent Child Custody Evaluator, Jennifer Frendle a written request for all records created to date pertaining to the child custody evaluation in the above-referenced case. A true and correct copy

of said correspondence is attached hereto as **Exhibit B** and is incorporated by reference herein as if fully set forth.

3. On April 2, 2022, Jennifer Frendle responded that she was denying Thomas Purcell, Respondent's request in its entirety. A true and correct copy of said correspondence is attached hereto as **Exhibit C**, and is incorporated by reference herein as if fully set forth, which states in relevant part as follows:

"...All of the appropriate records used to formulate the child custody evaluation were either attached to the report filed with the Court and attorneys of record or reviewed and summarized in the case."

4. On April 15, 2022, attorney for THOMAS PURCELL, Respondent sent Jennifer Frendle a second written request for all records created to date – excluding records that had been attached to the January 21, 2022 report itself - pertaining in any way to the custody evaluation in the above-referenced case. A true and correct copy of said correspondence is attached hereto as **Exhibit D** and is incorporated by reference herein as if fully set forth.

5. On or about April 25, 2022, Ms. Jennifer Frendle retained counsel and soon thereafter her retained counsel repeatedly stated that the requested records would be turned over. Since said date no documents have been produced by the attorney for Jennifer Frendle. To date Ms. Frendle has not produced the records as requested and has not provided an explanation as to her failure to produce the records and documents. It has been over four (4) months since the first request for records was made by THOMAS PURCELL, Respondent to Jennifer Frendle. Jennifer Frendle has failed to comply with an Order of the Court and has ignored her obligation to the Court, the parties and the child the subject of this suit.

6. The Second Amended Order for Child Custody Evaluation does not allow Jennifer Frendle to deny and refuse to produce records upon receipt of THOMAS PURCELL, Respondent's records request.

7. The Second Amended Order for Child Custody Evaluation does not restrict the production of records to only the records Jennifer Frenkle unilaterally decides are “appropriate” to release.

8. The Second Amended Order for Child Custody Evaluation does not provide Jennifer Frenkle with the authority to withhold records simply because she alleges to have properly reviewed and accurately summarized them in her evaluation.

9. Jennifer Frenkle also filed in the Court’s record the child custody evaluation which is not permitted. Jennifer Frenkle should have only filed a notice with the court that the report was complete.

10. The Second Amended Order for Child Custody Evaluation, which a true and correct copy of said order is attached hereto as **Exhibit A**, and is incorporated by reference herein as if fully set forth, which states in relevant part as follows:

“13. IT IS ORDERED that the Evaluator shall file notice of the report’s completion with the Court no later than January 21, 2022, pursuant to TEX. FAM. CODE §107.113. The Evaluator shall provide a copy of the report to the attorneys for the parties no later than January 28, 2022.”

11. Jennifer Frenkle failed to comply with the Second Amended Order for Child Custody Evaluation in her act of filing the report with the Court, instead of just the notice of completion. It was pointed out to Ms. Frenkle prior to filing the report that the report should not be filed with the court. Despite the court order and reminder, she still violated the Court Order and the Texas Family Code.

12. Since Jennifer Frenkle filed the custody evaluation with the clerk, there have been additional notes, emails and communications with the parties and/or their attorneys. These additional records have also not been provided even after multiple requests for records and multiple promises that the records would be provided. We are requesting her entire file

including emails and faxes between counsel created prior to the report being written and after the report was drafted and improperly filed with the court.

13. The Second Amended Order for Child Custody Evaluation makes clear no information created or obtained by Jennifer Frenkle is confidential or protected by privilege -- regardless of whether created prior to or subsequent to issuance of her evaluation report.

14. Jennifer Frenkle's continued refusal to produce the requested records is inexcusable, has created great delays in the case, and THOMAS PURCELL, Respondent has incurred a substantial increase in attorney's fees and expenses

15. The Court has specifically provided a Court Order with provisions and mechanisms for the request for documents and Jennifer Frenkle's requirements to produce such documents and records. Over four (4) months is adequate and reasonable time for Jennifer Frenkle to comply with the Court's order on records and documents.

16. Jennifer Frenkle has violated an Order of the Court by refusing to make available for inspection and copying any and all records relating to the Child Custody Evaluation, despite receiving two requests to produce the records, on March 18, 2022 and April 15, 2022.

17. Jennifer Frenkle is in contempt of court for refusing to make the records available upon receiving two written requests to do so; the first request is now over 130 days old and the second over 100 days old.

18. The Second Amended Order for Child Custody Evaluation (a true and correct copy of said order is attached hereto as **Exhibit A**), and is incorporated by reference herein as if fully set forth, which states in relevant part as follows:

“Information provided by the parties may be shared with other involved in the evaluation (including where necessary and appropriate, child and collateral sources) so that verification of information provided can be sought and so that others are afforded the opportunity to respond to allegations that may have been made.”

For at least 19 allegations stated in the evaluation report, Jennifer Frenkle did not provide THOMAS PURCELL, Respondent an opportunity to give a response or provide additional information or documents to support his response to these allegations. THOMAS PURCELL, Respondent did not know of these 19-plus allegations, all of which he adamantly states are patently false, until he read them in Jennifer Frenkle's final report subsequent to it being inappropriately filed with the court.

19. THOMAS PURCELL, Respondent believes based on Jennifer Frenkle's repeated violations of the Court's orders for well over six months and counting, Jennifer Frenkle will continue grossly violating this order in a glaring display of abject disrespect for the Court's authority, THOMAS PURCELL, Respondent's basic rights, and society's need for child custody evaluators to abide by all Court orders and all sections of Family Code regardless of what their personal opinion of such orders and statutes might be.

20. The Second Amended Order for Child Custody Evaluation (a true and correct copy of said order is attached hereto as Exhibit A), and is incorporated by reference herein as if fully set forth, which states in relevant part as follows:

“Any alleged impropriety or unethical conduct by the evaluator shall be brought to the attention of the Court in writing, and IT IS SO ORDERED.”

21. It was necessary for THOMAS PURCELL, Respondent to file this motion to bring the issues up to the Court's attention.

22. As of the date of this motion, the records have not been produced or made available for inspection or copying.

23. By the actions of Jennifer Frenkle as outlined herein, THOMAS PURCELL, Respondent has been denied the opportunity to review all of the records in connection with Jennifer Frenkle's evaluation in this case. THOMAS PURCELL, Respondent has incurred substantial legal costs and fees in his effort to acquire records that per the Court's orders were

supposed to have been provided within a reasonable amount of time for compliance and without any conduct by Jennifer Frenle that could constitute impropriety or unethical conduct by failing to turn over properly requested documents.

24. The numerous records being unjustly withheld by Jennifer Frenle contain information necessary for Respondent and his counsel to adequately prepare for and present his case at trial for this cause. The records are vital to review for pre-trial matters such as preparing for depositions, mediation, and pre-trial motions as well as quite possibly reveal collusion between Jennifer Frenle and the Petitioner's former attorney of record and/or other(s). THOMAS PURCELL, Respondent, respectfully requests this Court ORDER Jennifer Frenle to stop violating the original order by turning over all requested records on or before a near-future date certain – as well as Jennifer Frenle finally afford Respondent his right to review the original of any record related to the custody evaluation, he so requests.

25. The filing of this motion by THOMAS PURCELL, Respondent has become necessary to bring to the court's attention Jennifer Frenle's refusal to provide any of the requested records and possible impropriety related to the requested records of Jennifer Frenle.

Attorney's Fees and Sanctions

26. It was necessary for THOMAS PURCELL, Respondent to secure the services of The Wright Firm, LLP, licensed attorneys, to prepare and prosecute this suit. THOMAS PURCELL, Respondent has incurred substantial expenses and will incur additional substantial legal expenses, including but not limited to attorney's fees, court reporter fees and travel expenses. Under Rule 215.2(b)(8) of the Texas Rules of Civil Procedure, THOMAS PURCELL, Respondent is entitled to recover reasonable expenses, including reasonable attorney's fees, incurred in obtaining an order for sanctions. THOMAS PURCELL, Respondent requests that reasonable attorney's fees, expenses, and costs through trial and appeal be taxed as costs and be

ordered paid directly to THOMAS PURCELL, Respondent's attorney, who may enforce the order in the attorney's own name. THOMAS PURCELL, Respondent requests postjudgment interest as allowed by law.

27. THOMAS PURCELL, Respondent respectfully requests that this Court make a finding of culpability as to whether the expenses incurred by THOMAS PURCELL, Respondent as stated herein above are due to the actions of Jennifer Frenkle or MICHELLE EILAND, Petitioner. THOMAS PURCELL, Respondent requests that this court proportionately allocate an award of attorney fees and costs consistent with its findings of culpability.

28. THOMAS PURCELL, Respondent, further also reserves any claims regarding challenges to the report in accordance with the Texas Family Code, The Rules of Evidence, and the Texas Rules of Civil Procedure including but not limited to a Motion to Exclude.

Prayer

THOMAS PURCELL, Respondent prays this Court, after notice and hearing, make all appropriate ORDERS including but not limited to:

- a. that Jennifer Frenkle be ORDERED to produce records in response to THOMAS PURCELL, Respondent's requests for records by a date certain.
- b. that this Court make an order that if Jennifer Frenkle fails to produce the records and documents, that the Court strike the child custody evaluation in its entirety and exclude the child custody evaluation from this case.
- c. that this Court find Jennifer Frenkle choosing to for several months straight flagrantly and continuously violate multiple sections of Family Code and multiple clear-cut orders of this Court as referenced herein constitute conduct by Jennifer Frenkle so deplorable, so proving of bias, so glaringly polar opposite of acting in the child the subject of this suit's best interests that the Court strike the custody evaluation in its entirety.
- d. that this Court make a finding of culpability between Jennifer Frenkle and MICHELLE EILAND, Petitioner.
- e. that this Court ORDER that THOMAS PURCELL, Respondent's reasonable and necessary attorney fees and costs be paid by the person(s) this Court FINDS to be culpable.

THOMAS PURCELL, Respondent prays for general relief.

Respectfully submitted,

The Wright Firm, L.L.P.
1760 S. Stemmons, Ste. 100
Lewisville, TX 75067
Tel: (972) 353-4600
Fax: (972) 353-4602



By: _____
Patrick A. Wright
State Bar No. 00791959
Attorney for THOMAS PURCELL, Respondent

Certificate of Conference

‘I, the undersigned attorney or party pro se, hereby certify and represent to the Court that:

I have conferred with the attorney for Jennifer Frendle on multiple occasions in an effort to resolve the issues contained in this motion without the necessity of Court intervention. Based on the delay of production of the records from Jennifer Frendle, it is necessary to file this motion and request that the Court intervene in the resolution of the issues=.”



Patrick Wright
Attorney for THOMAS PURCELL,
Respondent

Certificate of Service

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on August 5, 2022.



Patrick A. Wright
Attorney for THOMAS PURCELL, Respondent

CAUSE NO. 15-10574-211

IN THE INTEREST OF	§	IN THE DISTRICT COURT
	§	
RYAN BENNETT PURCELL	§	211th JUDICIAL DISTRICT
	§	
A CHILD	§	DENTON COUNTY, TEXAS

SECOND AMENDED ORDER FOR CHILD CUSTODY EVALUATION

The Court considered parties proposed evaluators on an amended child custody evaluation. The mother of the child is Petitioner, MICHELLE EILAND. The father of the child is Respondent, THOMAS PURCELL.

1. Petitioner, MICHELLE EILAND and Respondent, THOMAS PURCELL are ORDERED to personally submit to and cooperate in the preparation of said child custody evaluation. Petitioner, MICHELLE EILAND and Respondent, THOMAS PURCELL are ORDERED to provide a copy of this order along with a completed evaluator’s information form to the evaluator within seven (7) business days of the signing of this order.

2. IT IS ORDERED that Jennifer Frendle is appointed as child custody evaluator (the “Evaluator”) to conduct a child custody evaluation and prepare a written report containing opinions and recommendations to the Court regarding the parties and the child(ren) in question and, without limitation, on the issues set forth below.

The Court finds that Jennifer Frendle is qualified to conduct a child custody evaluation pursuant to section 107.104 of the Texas Family Code. IT IS FURTHER ORDERED that the child custody evaluator shall be in compliance with section 107.107 of the Texas Family Code.

3. IT IS ORDERED that the child custody evaluator shall prepare an evaluation regarding the circumstances and condition of a child the subject of this suit, the circumstances and condition of any party to this suit and the residence of any person requesting conservatorship of, possession of, or access to, the child in question, specifically:

Name:	RYAN BENNETT PURCELL
Sex:	Male
Birth date:	May 8, 2013

4. IT IS ORDERED that the cost associated of preparing the child custody evaluation shall be divided between the parties as follows: 50% for Petitioner, MICHELLE EILAND and 50% for Respondent, THOMAS PURCELL. The parties are ORDERED to pay their respective portions of these costs at such times and in such amounts as the Evaluator may direct. The cost of preparing the child custody evaluation do not include the costs of the Evaluator testifying at trial, the payment of which is discussed herein below.

5. IT IS ORDERED that the welfare and best interests of the child shall be the principal criteria governing the child custody evaluation. To assess those interests the Evaluator shall identify and evaluate each conservator's skills and abilities as they relate to the child's social, emotional and physical development, the family's interaction, each conservator's strengths and weaknesses, and how these factors impact the child. In addition, the Evaluator shall render opinions to aid the Court in determining answers to the following specific questions:

- a. Should Petitioner and Respondent be appointed Joint Managing Conservators of the child?
- b. Which parent should have the exclusive right to designate the primary residence of the child?
- c. Should the child's residence be geographically restricted to a certain location?
- d. What periods of parenting time (possession and access) should be ordered for the child with each parent?
- e. How do each of the parents meet the emotional needs of the child and is one parent better able to do so than the other?
- f. How do each of the parents meet the physical needs of the child and is one parent better able to do so than the other?
- g. What is the nature and quality of parental communication between the Petitioner and Respondent?
- h. What is the effect each parent's communication with each other has on their parenting ability?
- i. What effect does each parent's communication with each other in the presence of the child have on the child?
- j. What effect of a parent's health condition would have on the ability to parent a child?
- k. Is the Mother smoking in the presence of the child?
- l. Is the Mother smoking while in possession of the child?
- m. Will the Mother's health put the child at risk or prevent driving a motor vehicle?

6. IT IS ORDERED that the Court-appointed Evaluator may make any and all other recommendations and/or referrals regarding what the Evaluator believes will aid the Court in determining the best interest of the child.

7. IT IS ORDERED that the Evaluator shall comply with each of the provisions in Texas Family Code §107, Subchapter D, regarding child custody evaluations.

8. IT IS ORDERED that pursuant to Texas Family Code §107.109 the Evaluator shall complete each of the following "basic elements" of a Child Custody Evaluation or else refrain from offering opinions regarding conservatorship, possession, or access:

- a. a personal interview with each party to the suit;
- b. interviews, conducted in a developmentally appropriate manner, with each child at issue in the suit during a period of possession of each party to the suit but outside the presence of the party;
- c. observation of each child at issue in the suit, in the presence of each party to the suit, including, as appropriate, during supervised visitation, unless

contact between a party and a child is prohibited by Court order or the Evaluator has good cause for not conducting the observation and states the good cause in writing provided to the parties to the suit before the completion of the evaluation;

- d. an observation and, if the child is at least four years old, an interview of any child who is not a subject of the suit who lives on a full-time basis in a residence that this the subject of the evaluation, including with other child or parties who are subjects of the evaluation, where appropriate;
- e. obtaining information from relevant collateral sources, including review of relevant school records, relevant physical and mental health records of each party to the suit and each child who is subject to the suit, relevant records of the Department of Family and Protective Services, criminal history information relating to each child who is subject of the suit, each party to the suit, and each person who lives with a party to the suit, and any other collateral source that may have relevant information;
- f. evaluation of the home environment of each party seeking conservatorship of a child who is the subject of the suit or who has possession of or access to the child;
- g. for each individual residing in a residence subject to the child custody evaluation, consideration of any criminal history information and any contact with the Department of Family and Protective Services or a law enforcement agency regarding abuse or neglect;
- h. assessment of the relationship between each child at issue in the suit and each party who is seeking or has possession of or access to the child.

9. IT IS ORDERED that the Evaluator shall discuss in the report the following “additional elements” set forth in Texas Family Code §107.109 or explain in the report the reason that any element listed therein was not completed:

- a. balanced interviews and observations of each child who is the subject of the suit so that a child who is interviewed or observed while in the care of one party to the suit is also interviewed or observed while in the care of each other party to the suit;
- b. an interview of each individual, including a child who is at least four years of age, residing on a full-time or part-time time basis in a residence subject to the child custody evaluation;
- c. observation of a child who is the subject of the suit with each adult who lives in a residence that is the subject of the evaluation;
- d. an interview, if the child is at least four years of age, and observation of a child who is not the subject of the suit but who lives on a full-time or part-time basis in a residence that is the subject of the evaluation;
- e. psychometric testing, if necessary, consistent with Texas Family Code §107.110.

10. IT IS ORDERED that the Evaluator have the following access and authority in the preparation of the child custody evaluation and report:

- a. With the exception of mediation records or records protected by the

attorney-client privilege, the parties are ORDERED to make available to the Evaluator, in a prompt and timely manner, all records, public or private, that bear upon the physical health, mental health, criminal history, or any other collateral sources of information the Evaluator requests, related to any of the parties and other individuals residing in a residence subject to the child custody evaluation. This includes, but is not limited to medical and dental records, school records, daycare provider records, and Child Protective Services records.

b. Each party is ORDERED to execute any and all authorizations and releases necessary, including but not limited to HIPAA-compliant releases, to allow the appointed Evaluator to obtain information about the child, the parties, or other caretakers in order to make a complete and thorough evaluation. IT IS ALSO ORDERED that any health information protected by HIPAA is only to be used in connection with this litigation and the parties, their counsel, the employees of their counsel, and their respective agents, are prohibited from using or disclosing health information protected by HIPAA for any other purpose other than in connection with this litigation.

c. Each party is ORDERED to cooperate and comply with all requests of the Evaluator for in-person or telephonic interviews or requests for information during the process of conducting the child custody evaluation. The parties are further ORDERED to cooperate and comply with all requests of the Evaluator for the cooperation of each individual residing in a residence subject to the evaluation as outlined in Texas Family Code §107.109.

d. Each party is ORDERED to make the child available to the Evaluator for interview and observation as directed by the Evaluator.

e. Each party is ORDERED to perform other tasks requested of the evaluator by the court, including:

- (1). A joint interview of the parties to the suit; or
- (2). The review of any other information that the Court determines is relevant.

IT IS ORDERED that the child custody evaluator shall identify in the report any basic element or any additional element that was not completed. The evaluator IS ORDERED to explain the reasons the element was not completed and include an explanation of the likely effect of the missing element on the confidence the child custody evaluator has in the evaluator's expert opinion.

The child custody evaluator shall select a date for each party's first appointment, and each party IS ORDERED to appear at the initial appointment and any appointment thereafter as directed by the child custody evaluator, to facilitate the completion of the evaluation. Each party IS FURTHER ORDERED to make the child available to the child custody evaluator as directed by the evaluator whether these appointments occur during that party's court-ordered periods of possession of or access to the child. The party in possession of the child at the time of the other party's appointment IS ORDERED to release the child to the other party for evaluation with the other party as directed by the

child custody evaluator.

The parties authorize the other party, their respective counsel (and members of their office), any consulting experts, and the evaluator to receive such protective health information and that such information is authorized to be used as evidence in any judicial proceeding for this cause.

11. IT IS ORDERED that the Court-appointed child custody evaluator shall utilize procedures and protocols, and rely upon such facts and data, which are the type reasonably relied upon by other forensic experts in this field, including but not limited to examinations, interviews, testing as deemed necessary by the evaluator, records, and other relevant documents and tangible items.

12. IT IS ORDERED that the Evaluator shall prepare a report containing his/her findings and conclusions and shall therein offer an opinion regarding the conservatorship, possession of, and/or access to the child. The child custody evaluation shall be conducted and the report shall be prepared in accordance with the following standards and requirements:

- a. the Evaluator's actions shall be in conformance with the professional standard of care applicable to the Evaluator's licensure and any administrative rules, ethical standards, or guidelines adopted by the state agency that licenses the Evaluator;
- b. the Evaluator shall disclose to each attorney of record any communication regarding a substantive issue between the evaluator and an attorney of record representing a party in a disputed suit, provided, however, that this requirement does not apply to a communication between the Evaluator and an attorney ad-litem or amicus attorney;
- c. the Evaluator, to the extent possible, shall verify each statement of fact pertinent to the child custody evaluation and shall note the sources of verification and information in the report;
- d. the Evaluator shall state the basis for the Evaluator's conclusions or recommendations in the report;
- e. as required under Texas Family Code §107.108, the report shall contain Evaluator's name, license number, and a statement attesting that the Evaluator has read and meets requirements of Texas Family Code §107.104.

13. IT IS ORDERED that the Evaluator shall file notice of the report's completion with the Court no later than January 21, 2022 pursuant to TEX. FAM. CODE §107.113. The Evaluator shall provide a copy of the report to the attorneys for the parties no later than January 28, 2022. Should the parties wish to submit additional information to the Evaluator, IT IS ORDERED that the material must be provided to the Evaluator no later than December 22, 2021.

14. IT IS ORDERED that following the preparation of the report, the child custody evaluator, at the written request of any Court-appointed guardian ad litem, Court-appointed attorney ad-litem, Court-appointed amicus attorney, or attorney of record in the case shall make available for inspection and copying all records collected, including but not limited to the following: Copies of the Evaluator's notes, any written communications, writings, records, memoranda, summaries, data, correspondence, test results, videos, photographs, tape recordings, and other tangible records or documents obtained by or created by the Evaluator in connection with or in any way related to the evaluation ordered herein. The costs of copying the records shall be borne by the requesting party, should that party desire copies of any portion of the records to be made. This provision does not apply to any unredacted Child Protective Services Records that have been provided to the evaluator which remain confidential pursuant to Texas Administrative Code 700.203 and Texas Human Resources Code 40.005. Parties wanting copies of Child Protective Services Records must either obtain them from the agency directly or request in-camera review by the Court.

15. IT IS ORDERED that no information gathered by the Evaluator, including any conversation between the evaluator and any party, child, investigator, attorney, or collateral source, is confidential or protected by any privilege. The Court finds that pursuant to Rules 509 and 510, Texas Rules of Evidence, NO RIGHT OF CONFIDENTIALITY OR PRIVILEGE attaches to any communications between or with the Court-appointed child custody evaluator, the parties, or any other person with whom the Evaluator interacts, that are relevant to this proceeding. Information provided by the parties may be shared with others involved in the evaluation (including where necessary and appropriate, child and collateral sources) so that verification of information provided can be sought and so that others are afforded the opportunity to respond to allegations that may have been made. The evaluator shall inform any party, child, attorney or collateral source that any information received shall not be confidential or protected by any privilege or discovery.

16. IT IS ORDERED that the Evaluator shall have immunity consistent with Texas law for 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, AND IT IS SO ORDERED.

17. IT IS ORDERED that the Evaluator shall testify at the final hearing or other hearing in this case at the written request of any attorney of record without the necessity of a subpoena; however, unless otherwise ordered by the Court, the requesting party shall be responsible for the Evaluator's customary and usual fees for testifying and said fees shall be paid or advanced prior to the hearing and payment of said fees shall be a condition precedent to the Evaluator's required testimony, unless otherwise ordered by the Court or agreed upon by the Evaluator and the requesting party.

18. THE COURT FINDS that the Evaluator is entitled to any report, record, working paper, or other information in the possession, custody, or control of the Department of Family and Protective Services that pertains to the persons involved in the evaluation. Any unredacted Child Protective Services Records that have been provided to the Evaluator remain confidential pursuant to Texas Administrative Code 700.203. Parties wanting copies of Child Protective Services Records must either obtain them from the agency directly or request in-camera review by the Court.

Date of Order

1/21/2022

SIGNED ON _____



JUDGE PRESIDING

APPROVED AS TO FORM:



Amanda M. Coffey
Attorney for Michelle Eiland



Patrick Wright
Attorney for Thomas Purcell



FAMILY LAW

NAVARRETTE | BOWEN, P.C.
100 W. Oak St. | Suite 301 | Denton, TX 76201
Phone: (940) 566-0606 | Fax: (940) 566-0303

Mach 18, 2022

Via Electronic Mail: jennifer@frendle.com

Mrs. Jennifer Frendle, LPC
P.O. Box 117507
Carrollton, Texas 75011

RE: In the Interest of Ryan Bennett Purcell, A Child;
Cause No. 15-10574-211-60735-393

Mrs. Frendle,

Please allow this letter to serve as a request for any and all records, notes, and correspondence, including correspondence with attorney of record(s) for each party – specifically Amanda Coffey and/or her office, from the date you received the Court’s appointment through today’s date, pertaining to Ryan Bennett Purcell, Thomas Bennett Purcell, and/or Michelle Eiland that were obtained, used, or created in regards to the child custody evaluation completed in the above referenced case. This request is made in accordance with *TFC 107.111 and 107.112(c)*.

I would ask that these records be provided within 21 business days of this request.

If you have any questions or need additional information, please do not hesitate to contact me.

Best regards,

A handwritten signature in blue ink that reads 'Chrysandra S. Bowen'.

Chrysandra S. Bowen
Attorney for Thomas Bennett Purcell

cc: client

Jennifer J. Frendle, LPC
Adoption/Child Custody Evaluator
P.O. Box 117507
Carrollton, TX 75011
214-274-6562
jennifer@frendle.com



April 2, 2022

Via Electronic Mail: Chrysandra@nbfamilylaw.com
Ms. Chrysandra S. Bowen
100 W. Oak St. Suite 301
Denton, TX 76201

Ms. Bowen,

This letter is to deny the request for all records, notes and correspondence pertaining to Ryan Bennett Purcell, Thomas Bennett Purcell and Michelle Eiland. All of the appropriate records used to formulate the child custody evaluation were either attached to the report filed with the Court and attorneys of record, or reviewed and summarized in the case.

Thank you very much,

Jennifer Frendle, LPC

Allison Martin

From: Allison Martin
Sent: Friday, April 15, 2022 1:03 PM
To: jennifer@frendle.com
Cc: Patrick Wright; Amanda Coffey; Alisha Morgan
Subject: ITIO: Ryan Purcell
Attachments: 4.15.22-Ltr to Frendle re request for records.pdf

Ms. Frendle:

Please find attached.

Allison Martin

Paralegal to Patrick Wright



7000 Parkwood Blvd., Ste. E300
Frisco, Texas 75034

469-506-3726 (Firm Cell-accepts calls, messages and texts)

972.353.4600 Telephone

972.353.4602 Facsimile

allison@thewrightlawyers.com

PATRICK A. WRIGHT
ATTORNEY & MEDIATOR
BOARD CERTIFIED - FAMILY LAW
BOARD CERTIFIED - CHILD WELFARE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION
AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
INTERNATIONAL ACADEMY OF FAMILY LAWYERS
Patrick@TheWrightLawyers.com

April 15, 2022

Via Email: jennifer@frendle.com

Jennifer Frendle
P.O. Box 117507
Carrollton, Texas 75011

**Re: In the Interest of R.B.P.
Cause No. 15-10574-211
In the 211th Judicial District Court of Denton County**

Dear Ms. Frendle:

On March 18, 2022, Thomas Purcell's prior counsel, Chrysandra Bowen, sent you a written request for all records created to date pertaining to your court appointment in the above-referenced case.

In your correspondence responding to said request, you state that you are denying the request in its entirety because quote "*all of the appropriate records used to formulate the child custody evaluation were either attached to the report filed with the Court and attorneys of record, or reviewed and summarized in the case.*" You obviously do not have the right to withhold records just because you allege to have properly reviewed and accurately summarized them in your report and/or elsewhere.

I am going to refer you to the Second Amended Order for Child Custody Evaluation, which states in relevant part as follows (section highlighted is for emphasis):

*"14. IT IS ORDERED that following the preparation of the report, the child custody evaluator, at the written request of any Court-ordered guardian ad-litem, Court-appointed attorney ad-litem, Court-appointed amicus attorney, or attorney of record in the case shall make available for inspection and copying all records collected, including but not limited to the following: Copies of the Evaluator's notes, any written communications, writings, records, memoranda, summaries, data, correspondence, test results, videos, photographs, tape recordings, and other tangible records or documents obtained by or created by the Evaluator **in connection with or in any way related to the evaluation ordered herein.** The costs of copying the records shall be borne by the requesting party, should that party desire copies of any portion of the records to be made."*

The Court order does not allow you to deny my client's request for records. Nor is there any provision in the Court order that my client's request for records is restricted to only records you label "appropriate" and attached to the report. Your claim to have the authority to withhold records simply because you allege to have properly reviewed and accurately summarized them in your report and/or elsewhere would be laughable if the issue at hand, a young child's fate for the next eight to nine years, weren't so very serious.

Excluding only: A) records you provided with your report of January 21, 2022, and B) records provided to you by Thomas Purcell, Chrysandra Bowen, or myself, please provide all records that have a connection with or are in any way related to the evaluation you performed in this case (**regardless of whether created before, on, or after 1/21/2022**), including but not limited to the following: *Copies of the Evaluator's notes, any written communications, writings, records, memoranda, summaries, data, correspondence, test results, videos, photographs, tape recordings, and other tangible records or documents obtained by you or created by you, the Evaluator.*

To be clear, this request includes but is not limited to:

- 1) all written communications between you and opposing counsel, Amanda Coffey, or any member of her staff,
- 2) all written communications between you and the opposing party, Michelle Eiland, or any member of Mrs. Eiland's family,
- 3) all written communications between you and one or more officials of the Northwest Independent School District,
- 4) all written communications between you and one or more law enforcement officials,
- 5) all written communications created by you or received by you in which there is no recipient name stated.

A proper response to the first request sent on Mr. Purcell's behalf on March 18, 2022, is already overdue. If I do not receive the records described in this reiteration of the original Request for Records by Friday, April 22, then my client and I will have no choice but to address with the Court your continued flagrant violation of my client's rights and the clear-cut Court order stated on the previous page.

Sincerely,



Patrick A. Wright
Attorney and Counselor at Law

PAW/am
Enc. as stated

cc: Amanda Coffey
Attorney for Petitioner

cc: Client

Automated Certificate of eService

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Allison Martin on behalf of Patrick Wright

Bar No. 791959

allison@thewrightlawyers.com

Envelope ID: 67030054

Status as of 8/10/2022 8:30 AM CST

Associated Case Party: Michelle Eiland

Name	BarNumber	Email	TimestampSubmitted	Status
DeAnna Puckett		dpuckett@cowlesthompson.com	8/5/2022 5:06:30 PM	SENT
lene derudder		laderudder@cowlesthompson.com	8/5/2022 5:06:30 PM	SENT

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Allison Martin on behalf of Patrick Wright

Bar No. 791959

allison@thewrightlawyers.com

Envelope ID: 67030054

Status as of 8/10/2022 8:30 AM CST

Associated Case Party: ThomasBennettPurcell

Name	BarNumber	Email	TimestampSubmitted	Status
Jeff Philbrick		jeff@thewrightlawyers.com	8/5/2022 5:06:30 PM	SENT
Patrick Wright		patrick@thewrightlawyers.com	8/5/2022 5:06:30 PM	SENT
Allison Martin		allison@thewrightlawyers.com	8/5/2022 5:06:30 PM	SENT