

# PARENTING TIME EVALUATION VS BRIEF FOCUSED ASSESSMENT

Choosing and Using Expert Analysis in Family Law Cases

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## TYPES OF FAMILY LAW INTERVENTIONS



### **SETTLEMENT FOCUSED**

EXAMPLES:  
MEDIATION OR SETTLEMENT  
CONFERENCE



### **FAMILY FOCUSED INTERVENTIONS**

EXAMPLES:  
SUPERVISED VISITATION OR  
REINTEGRATION THERAPY SERVICES



### **ASSESSMENT AND EVALUATION**

EXAMPLES:  
PARENTING TIME EVALUATIONS OR  
BRIEF FOCUSED ASSESSMENTS

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## PARENTING TIME EVALUATION VS BRIEF FOCUSED ASSESSMENT

### Parenting Time Evaluation (PTE)

- The purpose of a parenting time evaluation is to provide the court with information it may consider to make decisions regarding custody and parenting time arrangements that are in the child's best interest.
- Provides recommendations for shared parenting time and/or a custody schedule.
- Analysis of "Best-Interest Factors" as set forth in Idaho Code 32-717

### Brief Focused Assessment (BFA)

- The purpose of the assessment is to provide the judge with information generated through reliable procedures regarding focused questions that have been identified by the court as important to the resolution of a child custody dispute.
- Does not provide recommendations for shared parenting time.
- More limited in scope.

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## WHO CAN CONDUCT PTES OR BFAS?

### Profession and Licenses

- Licensed physician who is Board certified in psychiatry;
- Licensed psychologist; or
- Individual with a minimum of a master's degree in a mental health field that includes formal education and training in the legal, social, familial, and cultural issues involved in custody and access decisions. Must be licensed in their field (LCPCs and LCSWs).
- Recommended two years experience under supervision of an experienced evaluator or assessor.

### Recommended Training

- Must possess the same or similar qualifications, expertise, and trainings as outlined in the Association of Family and Conciliation Courts (AFCC) Model Standards of Practice for Child Custody Evaluations.
- Areas of expected training for evaluators include:
  - (1) the psychological and developmental needs of children,
  - (2) family dynamics
  - (3) the effects of separation, divorce, domestic violence, substance abuse, child alienation, child maltreatment including child sexual abuse, the effects of relocation, sexual orientation issues, and inter-parental conflict on the psychological and developmental needs of children, adolescents, and adults;
  - (4) the significance of culture and religion in the lives of parties;
  - (5) safety issues that may arise during the evaluation process
- .....and many, many more

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## PARENTING TIME EVALUATIONS: THE BASICS

- PTEs are comprehensive, family-focused evaluations focused on the best interests of children related to parenting time.
- Evaluators will assess a variety of issues
- Recommendations are offered by the evaluator.
- Typically take 90-120 days, or more, to complete.
- Are useful to examine complex issues or safety concerns.
- Parents can feel that their concerns have been heard and examined.

### RISKS

- Lengthy, invasive, and expensive
- Added stress for families, children are likely to be exposed to the process of litigation as they will take part in the evaluation process.
- Likely to increase conflict between the parents
- If the PTE is “bad” it can lead to more issues, ongoing litigation, and further turmoil for families.
- Scope is limited to best interests of children

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## ANATOMY OF A PARENTING TIME EVALUATION: WHAT TO EXPECT

- Individual Interviews with each parent
- Interviews with the child or children if developmentally appropriate
- Observation of the child or children with each parent and significant caregiver
- Review of records and other sources of information
- Contact with professional and personal collaterals
- Summary of findings of parent concerns and best interest of the child factors
- Written report with specific recommendations regarding parenting time and other issues pertaining to the child or children's wellbeing

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## BRIEF FOCUSED ASSESSMENTS: THE BASICS

- BFA's are limited scope assessments focused on concerns related to shared parenting time.
- Evaluators will provide information on specific areas of concern (up to three).
- No recommendations are offered by the evaluator.
- Can be completed in shorter time frames depending on issues (ie. 30-60 days)
- Less invasive than a Parenting Time Evaluation
- Reduced costs due to limited scope.

### RISKS

- May not effectively assess or provide appropriate recommendations to complex issues or safety risks such as domestic violence, child abuse, or relocation.
- Issues must be narrowly defined.
- No recommendations.

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## WHAT IS BEST?

### **You might want a PTE if.....**

- Each parent has multiple issues which impede agreement on parenting time.
- Presence of one, or more complex issues which may affect parenting capacity such as:
  - Relocation of a Parent
  - Resist-Refuse Dynamics (fka Alienation Concerns)
  - Safety Concerns
  - Special Needs Children
  - Domestic Violence

### **You might want a BFA if.....**

- Obstacles to agreement on parenting time are only based on a couple of issues.
- An assessment is appropriate, but there is little time prior to trial or limited financial resources.
- Parents are concerned about the children's exposure to the legal process.

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## NOW WHAT?

### TIPS TO GET THE BFA OR PTE GOING

- Make sure you have an accurate order.
  - Must met IRFLP rules
  - BFA orders may only have up to three narrowly defined issues.
- Make sure your evaluator or assessor is trained in what you want them to assess. (Get a CV!)
- Prepare your litigants
  - Know what information your client will provide to the evaluator or assessor.
  - Help them understand what to expect.

#### Tara's Tips!

- If you have a professional in mind, communicate with them.
- If you need help narrowing down issues to be evaluated or assessed, contact the professional.
- Choose a less invasive assessment if possible (BFA over PTEs) to reduce stress on families.
- I do this for a living, but it's a parent's first time! Encourage clients to ask their evaluator or assessor about the process or what to expect if they are nervous. A good evaluator is always willing to inform parents of procedures and policies of the evaluation or assessment at any time throughout the process.

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## QUESTIONS?



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- SERVICES:
  - Parenting Time Evaluations
  - Brief-Focused Assessments
  - Reintegration Therapy
  - Mental Health and Court-Involved Counseling

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IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

<div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> Petitioner, vs. <div style="border-bottom: 1px solid black; margin-top: 10px;"></div> Respondent.	Case No.: _____  Order for <b>Parenting Time Evaluation</b>
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In order to assist the Court in determining how the parties will share in the care and custody of their child(ren), and how this sharing best can be divided to serve the needs of the parties and the child(ren), IT IS HEREBY ORDERED that the parties submit to and cooperate in a Parenting Time Evaluation consistent with I.R.F.L.P. 1004, to be completed by the Court's Evaluator:

☐ \_\_\_\_\_, (208) \_\_\_\_\_

Each party shall contact the Evaluator within five (5) days of the date of this Order to make arrangements for the Parenting Time Evaluation. If any party fails to make initial contact with the Evaluator within five (5) days of the date of this Order, the Evaluator is directed to advise the Court within five (5) days of said violation.

Costs associated with the Parenting Time Evaluation shall be allocated as follows:

- ☐ Parties shall each pay one-half.
- ☐ Petitioner shall pay \_\_\_\_\_% of the total amount.
- ☐ Respondent shall pay \_\_\_\_\_% of the total amount.
- ☐ Other: \_\_\_\_\_

Distribution of the cost of the evaluation may be subject to reapportionment at the conclusion of the case. Parties shall pay the initial retainer to the Evaluator within seven (7) days of the date of this Order and shall pay the remainder of the cost of the evaluation in

full prior to the delivery of the written report unless other arrangements are made in writing with the Evaluator in advance.

If the parties reach a parenting agreement prior to the date provided by the Evaluator, the parties shall reduce the agreement to writing. The parties shall file the parenting agreement, along with a stipulation that the Court may enter the plan as part of the Court's final order. The parties and attorneys shall notify the Evaluator when an agreement is filed with the Court within five (5) days of filing the agreement or stipulation. The Court will determine if the stipulation entered is consistent with the best interest of the child(ren). If the Court does not enter an order finalizing the agreement of the parties within fourteen (14) days, the parties shall be responsible to pay any fees associated with the evaluator rendering an opinion within their professional ethics and standards of practice.

The parties shall cooperate as requested by the Evaluator, make themselves available for interviews and other processes requested by the Evaluator, and shall cooperate in obtaining the assistance of any other persons the Evaluator may request to see, including the child(ren). If requested by the Evaluator the parties shall make the child(ren) available for interviews and appointments and shall cooperate in arranging home visits in a timely manner.

With the exception of mediation records, unless otherwise directed by the Court, the Evaluator shall have access to all records, public or private, that bear upon the physical or mental health of the parties, the children and other persons who are a part of the household and for any child whose custody is at issue. The records may include but are not limited to: medical and dental records, school records, counseling records, day care records, drug test results, court records including criminal history, civil and criminal domestic violence petitions, orders of protection, previous assessments or evaluations of either party, and child protective services records. Any copy fees, fees for electronic court records, including criminal and civil, and any other court administrative fees associated with obtaining said court records, will be waived for the evaluator. The parties shall cooperate in providing all requested information and upon request of the Evaluator, the parties shall sign releases for such information as requested by the Evaluator. The Evaluator may request any party or child of the parties to submit to random drug testing, including urine, hair follicle, or nail testing.

The Evaluator is appointed by the Court as a Court's Expert pursuant to Idaho Rules of Evidence 706, and as such, the Evaluator may consent to the appointment or deny the appointment. If the Evaluator does not consent to the appointment, he/she is requested to inform the Court within seven (7) days of the date of this Order. If the Evaluator accepts this appointment, he/she shall prepare a written report, unless the Court orders otherwise, or unless the parties reach an agreement on parenting time, which shall be completed and delivered to all parties, counsel, and the Court within 90-120 days of the date of this Order. If the Evaluator is not able to complete the evaluation in that time, he/she is requested to contact the Court as soon as possible. If good cause exists for the Evaluator to terminate the appointment, the Evaluator shall provide written notice to the Court, counsel and/or parties within five (5) days stating the reason for the termination.

The Evaluator may be called to testify by any party or by the Court pursuant to Idaho Rule of Evidence 614(a). The Evaluator shall be subject to cross-examination by each party, including the party calling the Evaluator as a witness. If either party deems it necessary to have the Evaluator present as a witness at trial, deposition, or at any hearing, that party shall be responsible for arranging for the Evaluator's presence and must pay the estimated expert witness fee in full, in advance of the trial, deposition, or hearing, unless arrangements are made in writing by the Evaluator. Parties who wish to review the records of the Evaluator must obtain a specific subpoena from the Court listing specific documents requested to review. The Court will consider whether the requesting party shall have access to any privileged and non-privileged documents. The requesting party must pay, in advance, the costs of copying/duplicating any documents authorized by the subpoena and the estimated time of the Evaluator to comply with the subpoena.

### **Scope of Evaluation**

The Parenting Time Evaluation must be conducted in accordance with the Association of Family and Conciliation Courts (AFCC) Model Standards of Practice for Child Custody Evaluations, American Academy of Matrimonial Lawyers (AAML) Child Custody Evaluation Standards, or the American Psychological Association (APA) Guidelines for Child Custody Evaluations in Family Law Proceedings and shall include, at a minimum:



1. A written explanation of the process that clearly describes the:
  - a. Purpose of the evaluation;
  - b. Procedures used and the time required to gather and assess information and, if psychological tests will be used, the role of the results in confirming or questioning other information or previous conclusions;
  - c. Scope and distribution of the evaluation report;
  - d. Limitations on the confidentiality of the process; and
  - e. Cost and payment responsibility for the evaluation.
2. Data collection and analysis sufficient to allow the Evaluator to observe and consider each party in comparable ways and to substantiate (from multiple sources when possible) interpretations and conclusions regarding each child's developmental needs, the quality of attachment to each parent and that parent's social environment; and reactions to the separation, divorce, or parental conflict. This process shall include:
  - a. Reviewing pertinent documents related to custody, including court records and local police records;
    - i. Any documents provided by the parties to the evaluator must be simultaneously provided to the other party or their attorney, if represented
    - ii. Any documents provided by the parties or their attorney to the evaluator will not be subject to disclosure by subpoena of the evaluator.
  - b. Interviewing parents conjointly, individually, or both conjointly and individually (unless contraindicated in cases involving domestic violence) to assess:

- i. Capacity for setting age-appropriate limits and for understanding and responding to the child's needs;
    - ii. History of involvement in caring for the children;
    - iii. Methods for working toward resolution of the child custody conflict;
    - iv. History of child abuse, domestic violence, substance abuse, and psychiatric illness; and
    - v. Psychological and social functioning.
  - c. Conducting age-appropriate interviews and observation of the child(ren) with each parent, stepparent(s), step-and half-siblings conjointly, separately or both conjointly or separately, unless contraindicated to protect the best interest of the child(ren);
  - d. Collecting relevant corroborating information or documents as permitted by law; and
  - e. Consulting with other experts to develop information that is beyond the Evaluator's scope of practice or area of expertise.
3. The Evaluator must provide a written report unless parties reach agreement and file a stipulation. In any presentation of findings, the evaluator must:
- a. Summarize the data-gathering procedures, information sources, time spent, and present all relevant information, including information that does not support the conclusions reached;
  - b. Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews;
  - c. Only make a custody or visitation recommendation for a party who has been evaluated;

- d. Address each factor set forth in Idaho Code § 32-717, and any other relevant factors including, but not limited to:
- i. \_\_\_\_\_
  - ii. \_\_\_\_\_
- e. In cases in which specific areas of concern exist such as domestic violence, sexual abuse, substance abuse, mental illness, and the Evaluator does not possess specialized training or expertise in the areas of concern, the Evaluator shall consult with those having specialized training or experience. The evaluation shall take into consideration the potential danger posed to the child's custodian and the child;
- f. In cases in which psychological testing is employed it shall be conducted by a licensed individual who is trained in the use of the tests administered. The Evaluator shall adhere to the ethical standards for the use and interpretation of psychological tests in the jurisdiction in which he/she is licensed to practice. If psychological testing is conducted with adults and/or children, it shall be done with knowledge of the limits of the testing and shall be viewed within the context of information gained from clinical interviews and other available data. Conclusions drawn from psychological testing should take into account the inherent stresses associated with divorce and custody disputes; and
- g. Provide detailed recommendations that are consistent with the best interest of the child(ren) and include an example(s) of a parenting time schedule. In cases where the Evaluator concludes the case is inappropriate for a parenting time evaluation or recommendations, or the data available is insufficient for this purpose, the Evaluator shall submit the basis for the Evaluator's decision to terminate the evaluation process and reason for not making recommendations.

The Evaluator's written report shall be submitted to the Court provided that copies are contemporaneously distributed to the parties. The Court may consider the information contained in the report in making a decision on the parenting agreement, and the Idaho



Rules of Evidence do not exclude the report from consideration. The parties shall have an opportunity to cross-examine the Evaluator if the contents of the Parenting Time Evaluation are introduced as evidence in the form of a written report.

Any contacts between the Evaluator and the Court shall either be in writing to all parties, conference call with the parties and/or their attorneys, or at court hearings with the parties and/or their attorneys. Evaluators may communicate with the Court and attorneys separately with respect to scheduling and administrative matters. The Evaluator has the discretion to interview the parties, the children, and other persons in any combination; however the parties and their attorneys do not have the reciprocal right to have ex parte communication with the Evaluator, with the exception of scheduling and administrative matters as outlined above.

The parties acknowledge the Evaluator is appointed by the authority of the Court and is under the direction and control of the Court. The Evaluator is performing a judicial function when conducting the evaluation and is entitled to qualified judicial immunity.

The Evaluator's findings, recommendations and other privileged information shall not be discussed or disclosed by the parties to the children or anyone else who is not a party to the court action, unless deemed necessary by the Court.

Failure to comply with this Order may subject a party to appropriate sanctions in the discretion of the Court which may include, without limitation, the imposition of costs and attorney fees against the offending party and/or the party's attorney, the dismissal with prejudice of a party's claims or the striking of defenses to a claim or contempt of court.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

Magistrate Judge

### CERTIFICATE OF SERVICE

I certify that on this day I served a copy of the attached to:

Family Court Services

☐ By e-mail

☐ By e-filing

Petitioner/Attorney

☐ By mail

☐ By e-mail \_\_\_\_\_

☐ By e-filing

☐ By personal delivery

Respondent/Attorney

☐ By mail

☐ By e-mail \_\_\_\_\_

☐ By e-filing

☐ By personal delivery

Evaluator

☐ By mail

☐ By e-mail \_\_\_\_\_

☐ By e-filing

☐ By personal delivery

Dated: \_\_\_\_\_ By: \_\_\_\_\_

Deputy Clerk

**Firm**

Address

Telephone: (208)

Facsimile: (208)

E-Mail:

**ATTORNEY FOR  
PETITIONER/RESPONDENT**

Name

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

_____	)	
	)	
Petitioner,	)	Case No. CV-
	)	
vs.	)	ORDER FOR BRIEF
	)	FOCUSED ASSESSMENT
_____	)	
	)	
Respondent.	)	
_____	)	

The above-entitled matter came before the Court on \_\_\_\_\_.

It appears that information provided pursuant to Idaho Rule of Family Law Procedure Rule 1005 regarding the defined issue(s) identified herein could provide the Court with information that would serve the needs of the child/children before a hearing is held on the pending resolution of a child custody dispute. Therefore, pursuant to Idaho Rule of Evidence 706, the Court appoints an expert to conduct a Brief Focused Assessment.



IT IS HEREBY ORDERED that the parties submit to and cooperate in a Brief Focused Assessment, to be completed by the Court's appointed Assessor: (Name)  
(Address) (Phone) (Email)

1. Appointment. The Assessor may consent to the appointment or deny the appointment. If the Assessor does not consent to the appointment, he/she is requested to so inform the Court within seven (7) days of the date of this Order. If the Assessor accepts this appointment, he/she shall prepare a written evaluation, unless the Court orders otherwise, which shall be completed and delivered to all parties, counsel, and the Court within \_\_\_\_\_ days of the date of this Order, unless the Court orders otherwise. If the Assessor is not able to complete the assessment in that time or if other good cause exists to terminate the appointment, he/she is requested to contact the Court as soon as possible. The Assessor shall provide written notice to the Court, counsel and parties within seven (7) days of completion or termination of the evaluation, and if terminated, state the reason for said termination.
2. Child or Children to be assessed, by name and date of birth: \_\_\_\_\_.
3. Obligations of the Parties. Each party is ordered to contact the Assessor within five (5) working days of the date of this Order to arrange for the Brief Focused Assessment including, but not limited to, scheduling and payment of the Brief Focused Assessment. The parties shall each make themselves and their children available for interviews and other processes requested by the Assessor. Parties shall cooperate in obtaining any documents requested by the Assessor. Parties will also cooperate in obtaining the assistance of any other person from which the Assessor may require information. The parties shall cooperate in arranging home visits in a timely manner as requested by the Assessor. The Assessor is directed to advise the Court if one or both parties fail to make the initial or any follow-up contact within five (5) days of the date of the missed appointment. Costs for the assessment shall be allocated as follows:

\_\_\_\_\_ Parties shall each pay one-half.

\_\_\_\_ (Other) \_\_\_\_\_  
\_\_\_\_\_

Distribution of the cost of the assessment may be subject to reapportionment at the conclusion of the case. Parties shall pay the initial retainer to the Assessor within seven (7) days of the date of this Order and shall pay the remainder of the cost of the assessment in full prior to the delivery of the written report unless other arrangements are made in writing with the Assessor in advance.

4. Duties of the Assessor. The Assessor shall conduct a Brief Focused Assessment or investigation and report his/her findings to the Court and the parties. The specifically identified focus areas are as follows:

☐ the wishes of the child or children regarding custody, including the context and bases for those wishes;

☐ the child/ren's academic performance and functioning within a defined time period, including, but not limited to, circumstances surrounding the child/ren's attendance at school or lack thereof;

☐ the adequacy of the residence(s) of one or more of the child/ren's physical custodians including, but not limited to, cleanliness and safety;

☐ the adequacy of the physical environment of any or all third-party care providers to the child/ren including, but not limited to, cleanliness and safety;

☐ whether any or all of the parties presently consume drugs or alcohol in a manner that adversely impacts his/her/their ability to provide proper parental care to the child/ren; in so doing, the assessor may request any party or a child of the parties to submit to random drug testing, including urine and hair follicle testing;

☐ whether or not the child/ren are fearful of one of the parties including, but not

limited to, at custody exchanges;

☐ the identification of present mental health issues in any or all parties and, how those issues are likely to impact parenting capacity, and/or the party's ability to provide a consistent and safe environment during custody time;

☐ in cases involving a disabled party, the identification of adaptive equipment or supportive services that are available which enable the disabled party to carry out the responsibilities of parenting the child/ren; and,

☐ The following narrowly-defined issue: \_\_\_\_\_.

5. Assessor's Authority and Access to Information. With the exception of mediation records, the Assessor shall have access to all records, public or private, that bear upon the requirements of this order including the physical or mental health of the parties, the children and other household members. This includes, but is not limited to, medical and dental records, school records, daycare records, drug test results, court records, previous assessments, and evaluations of either party. Each party shall sign releases for such information as requested by the Assessor.
6. Written Report. The Brief Focused Report shall be submitted to the Court and counsel, or parties if not represented. The report shall include a discussion of issues related to the referral question(s), including acknowledgement of the limitation to the data and possible alternative hypotheses; recommendations relevant to the issues raised in the referral question(s); and other concerns or issues arising from the assessment for the consideration of the Court. No person who has access to a report or recommendations by the Assessor will make a copy or disclose the contents thereof to the child/children or to any person not entitled to access pursuant to this Order and I.C.A.R. 32. The parties will not mention or discuss within the hearing of the child/children any statement made to the Assessor by a child/children.



7. Judicial Immunity. The Assessor is entitled to qualified judicial immunity related to all acts performed within the scope of this Order.
  
8. Testimony and Records of Assesor. If either party deems it necessary to have the Assessor present as a witness at trial or any hearing, that party shall be responsible for arranging for the Assessor's presence and must pay the estimated expert witness fee in full in advance of the trial or hearing unless other arrangements are made in writing with the Assessor. Parties who wish to review the records of the Assessor must obtain a specific subpoena from the Court listing specific documents requested to review. The Court will consider whether the requesting party shall have access to any privileged and non-privileged documents. The requesting party must pay in advance the costs of copying/duplicating any documents authorized by the subpoena and the estimated time of the Assessor to comply with the subpoena.

**FAILURE TO COMPLY WITH THIS ORDER MAY RESULT IN THE IMPOSITION OF  
SANCTIONS FOR CONTEMPT OF COURT.**

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
NAME  
Magistrate Judge

**CERTIFICATE OF SERVICE**

I certify that on this day I served a copy of the attached to:

ATTORNEY FOR PETITIONER  
FIRM  
ADDRESS  
Facsimile:  
Email:

Hand Delivery  
U.S. Mail  
Facsimile  
Courthouse Box  
E-File

ATTORNEY FOR  
RESPONDENT FIRM  
ADDRESS  
Email:

Hand Delivery  
U.S. Mail  
Facsimile  
Courthouse Box E-  
File

Assessor

Hand Delivery  
U.S. Mail  
Facsimile  
Courthouse Box  
E-File

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Deputy Clerk