

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

ORDERING THE CESSATION OF THE
CREATION, MAINTAINENCE, AND USE
OF ROSTERS BY THE FAMILY
DEPARTMENT

ADMINISTRATIVE ORDER
No. 2020-180

The Maricopa County Superior Court Family Department currently maintains rosters of eligible private individuals for appointment to evaluate and provide reports to the Court in contested legal decision-making and parenting time proceedings, and in other custody proceedings if a parent or the child’s custodian so requests. These include psychiatrists, psychologists, behavioral health professionals, registered nurses or nurse practitioners, or attorneys. Persons who apply to be on the rosters are initially screened to make sure they meet the requirements for appointment listed in A.R.S. § 25-406. Litigants in contested cases have historically chosen evaluators from the rosters maintained by the Family Department. In other cases, judicial officers have appointed evaluators from the rosters.

The Family Department also maintains a roster of qualified private individuals for appointment to act as real estate special commissioners. In accordance with Rule 95(g) of the Rules of Family Law Procedures, these individuals assist the parties in dividing and disposing of community real property.

It is the intention of the Family Department to cease creating and maintaining rosters of eligible individuals for appointment as evaluators and special real estate commissioners. Instead, the litigants themselves will be free to stipulate to the appointment of a specific evaluator or special real estate commissioner. Absent a stipulation as to the evaluator or special real estate commissioner, the parties may seek a specific appointment by the court through the procedure set forth in Attachment “B.”

IT IS THEREFOR ORDERED that, effective immediately, the Family Department Administration will no longer maintain rosters of evaluators and real estate special commissioners and all such rosters shall be removed from the Court Website. Instead, parties will select their own evaluators and real estate special commissioners for appointment by the Court or may seek such appointment through the procedure set forth

in Attachment "B." Written guidance on the selection and appointment of evaluators and real estate special commissioners in accordance with applicable statutes and rules is provided in Attachment "A" to this Order.

Dated this 30th day of December, 2020.

Bruce R. Cohen

Hon. Bruce R. Cohen
Family Department Presiding Judge

Original: Clerk of the Superior Court

Copies: Hon. Joseph Welty, Presiding Judge
All Family Department Judges
All Family Department Commissioners
Raymond Billotte, Judicial Branch Administrator
Shawn Friend, Deputy Court Administrator
Brian Bledsoe, Family Department Administrator

ATTACHMENT "A"

Behavioral Health Providers

The Court may sometimes appoint evaluators, at the parties' expense, who provide a variety of services, all of which are described below. The Court expects the parties to determine that the provider meets the requirements set forth in statute or rule, is licensed, and has avowed to complete the Court's required training. The parties are encouraged to do independent research in choosing a provider.

Licensure of Certification:

Depending on the services provided, one of the following are required:

- A. **Psychiatrist:** A physician who is licensed to practice medicine by the State of Arizona pursuant to Title 32, Chapter 13, and a Medical Doctor or Chapter 17 as a Doctor of Osteopathy, and who is Board Certified in Psychiatry or Board eligible in Psychiatry;
- B. **Psychologist:** A person who is licensed to practice psychology by the State of Arizona pursuant to Title 32, Chapter 19.1;
- C. **Behavioral Health Professional:** A person who has a master's degree and who is certified by the State of Arizona pursuant to Title 32, Chapter 33 as a social worker, counselor, marriage and family therapist, substance abuse counselor.
- D. **Registered Nurse or Nurse Practitioner:** A person who is licensed by the State of Arizona Board of Nursing with a sub-specialty in mental health and has a master's degree.
- E. **Attorney:** A person who is licensed by the State of Arizona to practice law and is in active standing.

REQUIREMENTS FOR PROVIDERS FOR APPOINTMENT

The Court requires any provider appointed to meet the following minimum requirements outlined in Arizona Revised Statutes § 25-406:

- Six initial hours of domestic violence training
- Six initial hours of child abuse training
- Four subsequent hours of training every two years on domestic violence and child abuse

The Court also requires any provider appointed to meet the following additional requirements.

- Eight hours of forensically relevant continuing education every two years (which may include the four hours of domestic violence and child abuse training required above).

Post licensure experience and a minimum of 40 hours of initial training in the service area provided are preferred.

A resource listing willing providers is maintained by the Arizona Psychological Association at https://azpa.org/Family_Court_Roster.

SELECTION OF A PROVIDER

A Provider can be appointed if:

- A. Parties or their counsel, if represented, agree upon a provider to provide the type of service ordered by the court.
- B. If the parties or their counsel, if represented, cannot agree on a provider, the parties shall each exchange three names, and each party shall be entitled to strike two names from the other party's list. The parties shall submit one joint list to the court of the two or more remaining providers without identification as to who has nominated the providers, on the approved form, attached as Appendix A. The Court will then select one of the names.
- C. If neither of the above systems can be used, the judge will appoint a provider on their own motion based on discussion with the parties or absent the above information from the parties.

PAYMENT TO THE PROVIDER

Unless otherwise ordered by the Court, parties shall pay the provider fees as negotiated between the parties and the provider. Fees vary and can be either hourly or a flat fee depending on the service provider.

The Court assumes no responsibility for the collection of fees owing to the individual Providers because of services to persons who were appointed by the Court.

GRIEVANCE

Pursuant to A.R.S. § 32-2081 grievances related to the professional conduct of a provider shall be in writing. It shall be filed in, a copy provided to the other party and the assigned Judge.

Real Estate Special Commissioner

- Licensed real estate agents and/or brokers who are appointed by the court to initiate and complete the sale of real property as ordered by the court.
- Most will be appointed in Family Court cases, but there may be instances where there is a need in other court departments as well.

Applicable Legal Authority

- Rule 95(g) of the Arizona Rules of Family Law Procedure, implemented January 1, 2006, allows for the appointment of a Real Estate Special Commissioner to assist the parties with disposition of community real property when the parties are otherwise unable to agree on such issues.

Basic Requirements

- A Special Commissioner, to be appointed, must:
 - Be licensed in AZ in good standing for 3 years preceding the date of the application pursuant to Title 32 of the Arizona Revised Statutes, Section 2123.
 - Successfully completion of the mandatory online orientation as well as periodic education sessions as the Court may direct.
 - Have a minimum of five transactions each year.
 - Be willing to accept appointments and comply with court orders.
 - Acquire Errors and Omissions insurance to cover any transaction which is the subject of the court appointment.

Selection and Appointment

A Special Commissioner can be appointed if:

- A. Parties or their counsel, if represented, agree upon a Special Commissioner to provide the type of service ordered by the court.
- B. If the parties or their counsel, if represented, cannot agree on a Special Commissioner, the parties shall each exchange three names, and each party shall be entitled to strike two names from the other party's list. The parties shall submit one joint list to the court of the two or more remaining Special Commissioners without identification as to who has nominated the Special Commissioners, on the approved form, attached as Appendix A. The Court will then select one of the names.
- C. If neither of the above systems can be used, the judge will appoint a Special Commissioner on their own motion based on discussion with the parties or absent the above information from the parties.

Compensation

- Upon the close of escrow, the Special Commissioner and the selling broker shall be paid a commission consistent with the reasonable and customary fees paid to realtors in similar transactions in Maricopa County.
- The Court may also impose sanctions for a party's unreasonable behavior, including but not limited to, adding an additional 1% of the selling price as compensation for services rendered as a Special Commissioner, over and above the reasonable and customary fees paid above.

ATTACHMENT "B"

In the event either or both parties seek a court appointment of an evaluator or real estate special commissioner but are unable to agree on who should be appointed to serve in that capacity, the parties shall employ the following procedure:

Step One: Each party shall identify three nominees that are acceptable to that party to serve in the requested capacity. Each nominee must be qualified to serve in that capacity in accordance with the terms set forth in Attachment A.

Step Two: Each party shall provide to the other the name, address and telephone number of each nominated professional.

Step Three: Within no longer than ten (10) calendar days following receipt of the list of nominees, each party shall have the right to strike two of the three nominees from the other party's list and shall provide written notice of the strikes to the other party.

Step Four: Within seven (7) calendar days following receipt of the notice of strikes, the parties shall submit to the court in a joint filing the names, addresses and telephone numbers of the remaining nominees who were not struck by the other party, without designation of which party nominated the remaining nominees.

Step Five: The assigned judge shall make the appointment to serve as an evaluator or real estate special commissioner from the submitted list of nominees and then enter the authorization order for that appointment.

NOTE: If a party fails to provide a list of nominees or otherwise fails to engage in this process, it shall serve as a waiver and the court may appoint a professional nominated by the participating party.