

1
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8
9
10 **SUPERIOR COURT OF THE STATE OF WASHINGTON**
11 **FOR THE COUNTY OF KING**

12 **In Re the Marriage of**

13 **DAVID CHARNEY**

14 **Petitioner,**

15 **and**

16 4 - Name - Whistleblower Regarding Health C...

17 **Respondent**

18 **Case No. 13-3-10288-2 SEA**

19 **DECLARATION OF DANIEL J.**
20 **RYBICKI, PSY.D.,**
21 **REGARDING CRITIQUE AND**
22 **REVIEW OF JENNIFER**
23 **KEILIN, MSW, LICSW**
24 **PARENTING EVALUATION**

25 **Date:**

26 **Time:**

27 **Dept.:**

28
I, Daniel J. Rybicki, Psy.D., DABPS, hereby declare that I am over the age of
eighteen (18) years and am in all respects competent to make this Declaration. I am not a
party to this matter, have no personal relationship with any of the parties, and have no
personal interest in the outcome of this case. While I am submitting this initial
Declaration based on my review of the Keilin Parenting Evaluation, it is possible that I
will be reviewing additional records in this matter at some later date. In that event, I
reserve the right to amend or revise my professional opinions in accordance with any
new data that I consider. I have professional expertise and personal knowledge of each
of the facts and opinions stated herein and would and could competently testify to the
following:

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1
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new data that I consider. I have professional expertise and personal knowledge of each
of the facts and opinions stated herein and would and could competently testify to the
following:

EXPERT QUALIFICATIONS

1
2
3 1. I am a psychologist who has been licensed to practice in the State of Washington
4 since 2005. I am also licensed in the State of Illinois and have held that license since
5 1984. I have been licensed in the State of Indiana since 1980, although I have elected not
6 to renew that license any longer. And, I have been licensed in the State of California since
7 1994, although due to the nature of practice at present, I have elected to put the California
8 license on "inactive" status. My primary practice location is at 7191 Wagner Way, NW,
9 Suite 201, Gig Harbor, Washington, with a second office at 860 SW 143rd St., Burien,
10 Washington. All of my professional correspondence goes to 4810 Pt. Fosdick Dr. NW,
11 PMB#287 in Gig Harbor, Washington.

12
13 2. In my current work I perform child custody evaluations, psychological testing and
14 other forensic services, including consultation and reviews of work done by other
15 evaluators. I have extensive training and experience in the area of family assessment and
16 child custody evaluation and have professional publications and conducted seminars and
17 other professional presentations in this area. I routinely perform parenting evaluations
18 pursuant to WAC 246-924-445, and I have appeared in local jurisdictions as an expert in
19 family law matters. I also have experience in conducting parenting assessments for
20 families with special needs children.

21
22 3. I received my Doctorate Degree in Clinical Psychology from the University of
23 Illinois at Champaign in 1980. Throughout my academic training I have had several
24 advanced courses in child and adolescent development, professional ethics and standards
25 of care, personality theory, chemical dependency and addictions, abnormal psychology,
26 family therapy, and psychological testing, to name only a few domains. I am employed
27 full time in my forensic clinical private practice.
28

1 4. I have been a Registered Custody Evaluator with PACE -- the Professional
2 Association of Custody Evaluators-- since 1989. The Professional Association of Custody
3 Evaluators is a national organization of professional custody evaluators who have met
4 training and experience selection criteria to belong to this association. PACE publishes a
5 newsletter with recent advances in custody evaluation methods and related matters, as
6 well as conducting training and educational functions. I have previously published in this
7 newsletter regarding methods for conducting child custody evaluations.

8
9 5. I have conducted over 400 child custody evaluations and parenting evaluations in
10 Washington, California, Nevada and Illinois and have testified in a number of these cases
11 providing recommendations for the placement and best interests of the children. I am also
12 an active member of the Association of Family and Conciliation Courts (AFCC) and I am
13 the Founding President and Immediate Past President of our local state chapter of AFCC.

14
15 6. I am familiar with published professional guidelines for conducting child custody
16 evaluations (e.g., Association of Family and Conciliation Courts; American Psychological
17 Association), and related research on child custody evaluations. I remain current in the
18 field with reading and attendance at professional seminars, often serving as a presenter. I
19 am also on the editorial board for one of the two primary professional journals in the
20 field, the Journal of Child Custody. I apply information from research and clinical studies
21 to work in my practice which includes using this information as part of my professional
22 critique and review services when I examine custody evaluations done by other
23 evaluators.

24
25 7. I hold a Diplomate in Forensic Psychology awarded by the American Board of
26 Psychological Specialties. This reflects my professional expertise in forensic services.
27 The American Board of Psychological Specialities grants this Diplomate to those
28 professionals with at least five years post-doctoral experience who can document the

1 necessary additional specialty hours of supervised training in forensic work, submit work
2 samples, and pass a written test of proficiency and familiarity with forensic psychological
3 matters. I am also a member and a Fellow of the American College of Forensic
4 Examiners, an international organization which recognizes special expertise in the
5 forensic application of psychological skills and methods. I specialize in my private
6 practice in several forensic activities, including conducting child custody evaluations and
7 reviews of the work of my colleagues in the field. I also have been qualified as an expert
8 witness in several civil and criminal matters, testifying as an expert with regard to
9 criminal competency, mitigation, addictions, child abuse, family issues, child sexual
10 abuse, parental alienation, and neuropsychology, among other topics. I have served as an
11 expert witness in Washington, Illinois, Indiana, Idaho, Oregon, and several California
12 jurisdictions.

13
14 8. I have conducted child custody evaluations for approximately 27 years with expert
15 services rendered in Washington, Illinois and California in this regard. I have prepared
16 over 400 full child custody evaluation reports, and I have reviewed over 175+ evaluations
17 by other professionals, in addition to providing psychological assessments for other
18 evaluators (GALs, social workers, other custody evaluators). In the past three years, I
19 have completed nearly 40 such reviews and critiques of other evaluators reports,
20 including some in family law and dependency court cases in Washington, Oregon, and
21 California. Some of those reviews have not required my appearance in court. In other
22 instances I have been called as a rebuttal witness and have assisted the Court in
23 evaluating the quality of the parenting evaluations submitted to the Court, in many cases
24 prompting more complete and more thorough re-evaluations. When there are faulty or
25 inadequate procedures or methods used in such evaluations, a properly structured review
26 and critique can assist the Court in determining the value of such professional opinions.
27 The review can offer input regarding the weight and validity of such parenting evaluation
28 findings. When recommendations are made to the Court and based on faulty methods or

1 erroneous assumptions, there is a significant risk that potentially harmful interventions
2 will be set into place which can have long-lasting deleterious effects on the minor
3 children in the matter. Serious damage to parent-child relationships can result and there
4 can be irretrievable harm done to those family ties. I have at times advised the Court to
5 set aside such poorly developed conclusions and parenting plan recommendations.

6
7 9. I am very familiar with the variety of professional standards that govern the forensic
8 mental health practice associated with parenting evaluations and child custody
9 evaluations. In the State of Washington there are certain code sections (e.g., WAC 246-
10 924-445) which delineate elements to include in conducting a psychological parenting
11 evaluation. Additional focused attention on criteria for permanent parenting plans (RCW
12 26.09.187) and related limitations (RCW 26.09.191) are part of any properly developed
13 parenting assessment. The American Psychological Association (e.g., APA Guidelines for
14 Conducting Child Custody Evaluations, 2008), and the Association of Family and
15 Conciliation Courts (e.g., AFCC Model Guidelines for Child Custody Evaluations, 2006)
16 have published guidelines for conducting child custody and parenting evaluations.
17 Additional ethical guidelines (APA Ethical Standards for Psychologists, APA Specialty
18 Guidelines for Forensic Psychology) and professional practice standards (The Principles
19 of Medical Ethics with Annotations Especially Applicable to Psychiatry; Code of Ethics
20 of American Mental Health Counselors Association; National Association of Social
21 Workers Code of Ethics) set forth some of the parameters of proper practice in this field.
22 Additional guidance regarding proper professional boundaries and roles may be found in
23 publications by groups such as the American Academy of Psychiatry and the Law (2005)
24 and American Association of Marriage and Family Therapists (2001), to name only a few.

25
26 10. I have special expertise in the areas of child custody evaluation, design and
27 implementation of parenting plans, evaluation of child sexual abuse issues, domestic
28 violence and substance abuse assessment, individual and family therapy, forensic

1 practice, professional ethics, and developmental psychology, among other related matters
2 which may be relevant to the current case. I am frequently called to serve as an expert on
3 such issues with declarations and testimony provided pertaining to specific case issues
4 and related hypothetical considerations.

5
6 11. I have provided more than thirty professional continuing education workshops on
7 child custody and forensic matters. I have continued to work on a manuscript for a book
8 on forensic psychology which will be published in the near future, most likely as a bench
9 book for judicial officers. A portion of this book pertaining to Parental Alienation and
10 Enmeshment Issues in Child Custody Evaluations is available on-line on the seminars
11 page at my website (www.danielrybicki.com). I have published book chapters on topics
12 such as sexual abuse allegations in divorce, parental alienation, and Munchusen's by
13 Proxy.

14
15 12. For the past six years I have presented the Investigation section of training for the
16 Title 26 GAL training sponsored by the King County Bar Association. More generally, I
17 have conducted professional continuing education workshops on related child custody
18 assessment topics for over 17 years. Some of those have been sponsored by groups such
19 as Pepperdine University, the Washington State Bar Association, the Oregon State Bar
20 Association, CA-AFCC, Washington AFCC and other groups on topics including
21 Attachment Issues in Child Custody, Abusive Use of Conflict, Review and Critique of
22 Custody Evaluations, Confirmatory Bias in Parenting Evaluations, Credibility Issues in
23 Family Law, and Art and Science of Parenting Plans. I have presented other professional
24 education workshops for attorneys, psychologists and child custody evaluators on topics
25 such as professional ethics, forensic practice standards, substance abuse, domestic
26 violence and high conflict custody cases. Related publications on these topics may be
27 found on my website (danielrybicki.com) or on the WA-AFCC website newsletter section
28 (www.wa-afcc.net). My full curriculum vitae is available on-line at my website and a

1 copy of the most current vita is attached. It is herein incorporated by reference.

2
3 13. This Declaration outlines material that I would be prepared to testify to if called
4 upon to do so. I would hope that the comments which follow help to highlight some of
5 my concerns in the above captioned matter based on the materials that I have reviewed,
6 and I would offer this Declaration to the Court in lieu of my testimony. Given that I could
7 and would testify competently and fully to the opinions and analysis set forth herein, and
8 operating within the limits of these professional caveats, I request that the Court receive
9 this Declaration into evidence as my direct testimony, and that the Court permit further
10 offers of proof, other testimony and/or documentary evidence at the time of hearing
11 and/or otherwise as appropriate.

12
13 METHODOLOGY AND CONCLUSIONS

14
15 14. My role in the current case involves that of serving as a consultant to Margaret
16 Bender who is representing 4 - Name - Whistleblower Regarding ... in this matter. In this capacity I have
17 read and reviewed the parenting evaluation report submitted by Jennifer Keilin, MSW,
18 LICSW, on August 1, 2014. I have requested the psychological test reports and testing
19 data (MMPI-2 and PAI) for both David and 4 - Name - ... although I have not yet received
20 those from Dr. Milner. At this point, I have reviewed a limited initial set of other
21 documents which include the Responsive Declaration of 4 - Name - Whistleblower Re... re: Motion to
22 adopt Parenting Plan. It is possible that I will eventually be reviewing other items
23 including the entire file from Ms. Keilin.

24
25 15. I was contacted initially by Ms. Bender on August 5, 2014, to inquire as to my
26 availability. I was subsequently retained and conducted my review of the Keilin parenting
27 evaluation report. I am submitting this initial declaration in light of efforts being made by
28 opposing counsel to adopt the parenting plan recommendations in the absence of a full

1 evidentiary hearing. Since there may be a more complete judicial review in about seven
2 weeks, it would seem premature to adopt any recommendations which might be subject to
3 change after a full judicial hearing is conducted. I have additional points of concern based
4 on my review of the Keilin report which would call into question the wisdom of adopting
5 her recommendations and findings. This declaration will outline those additional
6 concerns.

7
8 16. In completing the current critique and review, I have relied upon my usual and
9 customary procedures. These methods are in keeping with critique and review practices
10 described in the AFCC and APA guidelines and in related professional articles in the field
11 (e.g. Martindale and Gould, 2004). I compared the reported procedures from Ms. Keilin's
12 report with the professional guidelines and with the current research findings that
13 summarize common professional practices. Ms. Charney and her counsel were aware that
14 my review would be done according to both local and national standards of practice and
15 that my findings might include a mixture of favorable and/or unfavorable opinions
16 regarding the quality of work that was done by Ms. Keilin in this evaluation process.

17
18 17. I am prepared to delineate a number of concerns about the nature of the investigation
19 done by Ms. Keilin, although I may discover other features to address later once the full
20 file is obtained and once testing materials are gathered from Dr. Milner. In the meantime,
21 my focus in this current Declaration is to summarize the key concerns and to draw
22 attention of the Court to a cautionary note about using the Keilin evaluation absent
23 information from other sources and absent a full evidentiary hearing. There would
24 appear to be indications that Ms. Keilin has failed to adequately validate and establish
25 much of the collateral source information. There are also indications that Ms. Keilin has
26 failed to adequately investigate key issues and that she has offered a set of
27 recommendations which does not have sufficient basis to be considered compelling or
28 valid.

1
2 18. I would acknowledge from the start that I have not met directly with any of the
3 parties in this matter. At this point, I have not met with Jaime or Rebecca (two grown
4 children in the family system) or with the minor child, Megan (age 15). I have not met
5 with either parent – Mr. David Charney or 4 - Name - Whistleblower Regarding ... – nor have I conducted
6 the necessary steps for completing my own parenting evaluation in this matter (e.g.,
7 psychological testing, home visits, observations, collateral contacts). As a result of
8 having a limited data base, I cannot make a best interest custody or visitation
9 recommendation regarding the minor child. However, I do have sufficient professional
10 knowledge, training, and expertise to raise some critical elements that should be
11 considered by the Court before implementing any recommendations offered by Ms.
12 Keilin.

13
14 19. I am reasonably acquainted with the work of Ms. Keilin who has been providing
15 parenting evaluations in the local community for several years. I have reviewed at least
16 one other of her parenting evaluations, so I am reasonably familiar with her customary
17 procedures, methods of analysis, and style of writing. I am in a somewhat unique position
18 to compare her current report and methods with those from earlier assessments she has
19 conducted. While Ms. Keilin may be held in high professional regard, there are some
20 weaknesses which I have detected in my review of her report that would limit the utility
21 of her findings and cast doubt on the wisdom of her recommendations. It is also of some
22 keen interest that I have detected precisely the same points of weakness, errors and
23 omissions that I have seen in earlier work by Ms. Keilin.

24
25 20. My past reviews of other parenting evaluations from Ms. Keilin have produced
26 mixed results (listing of both favorable and unfavorable elements). My goal in each of my
27 reviews has been to provide a review of strengths and weaknesses that considers
28 scientific, empirical and clinical elements which would be important to the Court. I would

1 note that I continue to hold Ms. Keilin in high professional regard and I routinely see her
2 at local conferences and training events. Thus, it should be understood that the
3 professional criticism offered here is done without personal malice or intent and is offered
4 solely on the basis of professional and research standards in the hopes that the Court will
5 have the most useful information available when deciding the issues that impact the best
6 interests of the minor child in this case. My overriding concern is for the best interests of
7 the child and for the future stability and adjustment of all of the members of this divorced
8 family system. To that end, I seek to direct the Court's attention to the established
9 professional standards and scientific research which have bearing on the procedures and
10 methods for conducting a defensible and useful parenting investigation, including the
11 application of psychological testing to such a family study.

12
13 21. This Declaration lends strong support for the call for a new and more comprehensive
14 custody evaluation and offers a set of criticisms that hopefully will be considered by the new
15 evaluator in forming a more suitable methodology for conducting that evaluation. Several
16 serious hazards continue to present additional risk to the minor children if the new
17 evaluation makes similar mistakes and fails to collect adequate data and fails to utilize
18 sound logic and scientific analysis of that data.

19
20 22. These observations, hypotheses, and criticisms will be offered based on the
21 information provided to me and based on the other data I have reviewed so far. In some
22 instances, I will also reference some of the appropriate professional literature in relevant
23 areas of study. Thus, I wish to make it perfectly clear that **none of the comments which**
24 **follow are intended to offer any specific custody or visitation recommendations in**
25 **this case. None of the comments or hypotheses noted herein are reflective of any**
26 **final diagnostic opinion regarding any of the parties not seen. With this limitation in**
27 **mind, I would merely highlight observations and findings that I have made and direct the**
28 **Court and the new evaluator to examine the additional hypotheses and issues that**

1 arrive from the available data. Only by having a more complete and comprehensive full
2 custody evaluation can these issues be studied adequately. By providing that evaluator
3 with my comments and hypotheses as stated here, it may be possible to assist the
4 evaluator in directing their attention to include the necessary elements critical to the
5 success of their investigation. When that parenting investigation or child custody
6 evaluation is properly crafted and conducted, the evaluator may be in the best position to
7 offer more defensible and valid findings and recommendations for the Court.

8
9 23. In seeking a new and more comprehensive custody evaluation, it may be most
10 useful to have a doctoral level custody evaluator identify areas of concern and make
11 an assessment that is consistent with current professional standards and procedures
12 (e.g., APA Guidelines for Conducting Child Custody Evaluations, AFCC Model
13 Guidelines for Child Custody Evaluations). This becomes even more crucial in light of the
14 unique set of special needs that are present in the minor child and the importance of
15 maintaining maximum stability and availability of parenting supports for the educational
16 and medical needs of this child.

17
18 24. Utilization of various testing and observational procedures that most evaluators
19 rely upon will enhance the likelihood that the assessment is sufficiently thorough (e.g.,
20 Ackerman & Ackerman, 1996; Bow and Quinnell, 2001; Keilin & Bloom, 1986;
21 LaFortune & Carpenter, 1998) Applying an investigative model for this evaluation
22 (Austin and Kirkpatrick, 2004) will also ensure that the necessary integration and analysis
23 of the data is conducted. In the absence of such an approach, there is a significant risk
24 that improper or incomplete conclusions may be reached, and there is a risk that
25 inadequate interventions will simply further entrench any divorced family system
26 problems and lead to ongoing upheaval in a conflicted custody case. Important
27 developmental milestones may be impaired for children in such a situation, and it is my
28 hope that the Court will see that ordering a new child custody evaluation with proper

1 investigation may be the best way to safeguard against such risks, and to try to overcome
2 the harmful effects that appear to have been associated with the implementation of the
3 Keilin recommendations.

4
5 **25. Careful review of the report generated by Ms. Keilin suggests that several**
6 **important issues were given only the most cursory study. Many features were not**
7 **thoroughly examined or investigated, contrary to recommendations in the professional**
8 **literature for in-depth and thorough study (e.g., Austin & Kirkpatrick, 2004; Greenberg et**
9 **al., 2004; Kirkpatrick, 2004; Martindale & Gould, 2004). While several components of**
10 **the data collection were in keeping with those commonly used by other parenting and**
11 **custody evaluators (e.g., Keilin & Bloom, 1986; Ackerman & Ackerman, 1996;**
12 **LaFortune & Carpenter, 1998; Bow and Quinnell, 2001), there were several critical**
13 **components left out.**

14
15 **26. Ms. Keilin was appointed on or about April 3, 2014, to conduct her parenting**
16 **investigation. Her methods included interviews with the parents (5.5 hours with mother,**
17 **6. 2 hours with father), interviews with the children (Rebecca "Bekka" and Megan), home**
18 **visits, and contacts with collateral sources. She also obtained psychological testing reports**
19 **for both parents as provided by Dr. Marnee Milner. She also listed several items as part of**
20 **a record review (pages 2-4). On the surface, this set of methods would give the**
21 **impression that Ms. Keilin included many of the customary component parts of a child**
22 **custody evaluation. However, closer scrutiny reveals that there were several serious**
23 **problems that include: failure to cross-check information; failure to maintain**
24 **professional objectivity and guard against confirmatory bias; failure to maintain**
25 **neutrality by utilizing equivalent methods for both parents; failure to report positive**
26 **and contradictory data obtained from her sources; and failure to systematically**
27 **investigate a number of key concerns. Inadequate data collection methods and lack of**
28 **adherence to methods which reduce bias were combined with faulty logic to yield**

1 recommendations which were not based in valid science. There was, at best, limited
2 consideration of child development issues (particularly special needs issues that
3 demand consistency and stability), and failure to discuss alternative parenting plans or
4 issues for which data was missing. These multiple errors and omissions yield a parenting
5 investigation that is sufficiently flawed as to create elevated risk for misguided actions
6 by the Court when the recommendations are accepted and applied to the family
7 (Kirkpatrick, 2004).

8
9 27. Ms. Keilin generated an exceptionally short report after completing her parenting
10 evaluation process. The brevity of the report may be appreciated by the Court, but it
11 essentially ensures that major components demanded in the prevailing professional
12 guidelines are omitted. It leaves out the kind of thoughtful discussion and analysis that
13 reviewers would need in order to confirm that proper investigation and analysis has been
14 done. While it is understood that evaluators may not include every detail in their reports,
15 there must still be sufficient detail provided to demonstrate that adequate consideration
16 has been given to various hypotheses and concerns. The family needs to know that a valid
17 assessment has been conducted in order to have any faith in the value of the
18 recommendations. Indeed, one advantage of a more detailed and complete report is that
19 parties may have to face important conclusions that are well-developed and buttressed by
20 data that converges across multiple sources and uses multiple methods. Such a report can
21 do much to facilitate settlement and provide a suitable roadmap for the remaining
22 coparenting path that lies ahead. Sadly, Ms. Keilin fails to deliver that kind of report to
23 these parties.

24
25 28. To her credit is the fact that Ms. Keilin conducted multiple interviews with each
26 parent. She also made home visits to each residence and she included time for interviews
27 with the minor child, [4 - Name - ...], and her older sister, Bekka, during those visits. There is the
28 advantage that interviewing the children in such a manner can afford greater comfort and

1 increase the likelihood of establishing useful rapport. It also allows for consideration of
2 differential responses and patterns of behavior observed in each setting. While these are
3 positive features, there is the concern that these equivalent meetings did not yield
4 equivalent amount of time spent with the parties. Mother's interview time (5.5 hours)
5 combined with her home visit time (1.3 hours) yields about 13% less contact time than
6 was given to father (interview 6.2 hours, home visit 1.7 hours; totals Mother 6.8, father
7 7.9). This disparity may not have been intentional. It is possible that it did not
8 significantly increase the risk for confirmatory bias or alignment concerns. Nevertheless,
9 when such deviations from equivalent contact occur it is incumbent upon the evaluator to
10 explain how and why this took place (See AFCC Guideline 5.5b).¹ Ms. Keilin failed to
11 do this.

12
13 29. Ms. Keilin should be credited for including home visits for parent-child observations
14 sessions. This is a valuable opportunity for collecting useful information. The summary
15 provided by Ms. Keilin is of limited value, however, since it remains rather superficial
16 and lacking in detail or depth. There is a single paragraph (p. 9-10) with only seven
17 sentences regarding father's home visit and there is a similar single paragraph (p. 14) with
18 eight sentences regarding mother's home visit. In both instances, Ms. Keilin mentions
19 some common details (e.g., "clean and comfortably furnished") and reports minimal
20 observations about interactions ("laughed together, shared information and anecdotes").
21 Ms. Keilin offers a few comments about parenting (e.g., reporting that "Dave and Bekka
22 made sure to repeat comments that Megan missed" and "Megan exhibiting generally
23 cooperative and pleasant behavior towards Pam...with some sarcastic comments and
24 resistance to suggestions"), although other than that, the reader is really left in the dark as
25 to an evaluation of parenting skills, levels of attunement, degree of effective parenting
26

27 ¹ AFCC 5.5(b) The chosen assessment instruments shall be used with both parties and the interview time
28 with each party shall be essentially the same, except where circumstances warrant a departure from this
procedure. Where circumstances warrant a departure from the foregoing standard, the reasons shall
be articulated.

1 guidance or communication, and issues of bonding and attachment (as operationalized
2 through concepts such as Reciprocal Connectedness, Arredondo and Edwards, 2000).
3 These elements could easily have been corrected with more attention to detail and with
4 the addition of structured tasks as part of the observation session to more formally
5 provide equivalent assessment of guidance, limit-setting, reinforcement and
6 encouragement, emotional attunement and the like (e.g., suggestion for structured
7 observations, Rybicki, 1991). Instead of these more complete observational data which
8 could have been given, we are left with Ms. Keilin's rather superficial description of what
9 took place during the meetings. That level of reporting has been criticized in the
10 professional literature (Milchman, 2000) as offering very little useful material about
11 parenting capacity or bonding.

12
13 30. There is the additional concern that Ms. Keilin failed to determine or discuss the
14 degree to which her home visits were considered as representative samples of behavior.
15 There is no statement in the report that she inquired of the parents as to their perceptions
16 of the degree to which the observations were a valid or useful sample of child behavior,
17 parenting skills, and parent-child relationship issues. This omission is of some value since
18 it has been repeatedly suggested in the literature that evaluators attend to the timing and
19 sequence of events that surround home visits or observation sessions as those extraneous
20 factors can interfere with a valid or optimal sample of parent-child behavior. It is also
21 possible that the presence of the evaluator and other situational components may distort
22 the clinical impressions and yield a sample which is either atypical or confounded by
23 extraneous variables. There is no indication that Ms. Keilin considered such issues. She
24 certainly did not report or discuss those considerations and what she may have done to
25 address them.

26
27 31. One important element in most parenting evaluations is consideration of a number of
28 written records and documents. Beginning on page two and continuing to page four we

1 find that Ms. Keilin lists a number of documents. Other than listing the items she
2 reviewed we find that Ms. Keilin included some cursory notes and comments along side
3 some of the items. Unfortunately, the reader is left without a more clear and detailed
4 discussion of the value, weight, valence, and utility of the material that was reviewed.
5 Indeed, is reported elsewhere by 4 - Name - Whistleblo... that Ms. Keilin mischaracterized an email
6 exchange and put too much weight on a single clinic healthcare note in developing her
7 conclusions. It is a more useful and favorable approach to have a detailed section in the
8 report which summarizes those records deemed to be useful to the evaluator. In some
9 cases, it may be best to have the parties review that section of the report prior to
10 completing the final report to a) ensure an accurate summary and b) to allow for the
11 parties to offer additional comment, correction or response. Ms. Keilin failed to do either
12 of these suggestions.

13
14 32. One of the most important elements in a forensic mental health assessment or
15 parenting evaluation is the consideration of collateral information (Austin, 2002; Kirkland
16 et al., 2005). Suggestions have been made for including information from "third party"
17 sources such as doctors, therapists, teachers, and other professionals along with
18 information from persons familiar with the parents in their day to day lives (family,
19 friends). Varying degrees of familiarity may be present across those sources and there
20 may be differential levels of candor, credibility and alignment with the parties that color
21 the nature of the collateral information. Suggestions for how to weigh and consider such
22 information have been available in the field for many years. In the current case we find
23 that Ms. Keilin provided collateral information from three professional "third party"
24 sources (Marie McNabb, Dr. Barbara Walkover, Andrea Barrysmith), and from four
25 personal sources (Suji Lee, Barbara Placek for father; Margie Ogawa, Donna Thompson
26 for mother). On the surface, one might believe that this was fair, equitable, balanced and
27 sufficient. However, closer examination of the collateral component reveals that several
28 weaknesses are present which detract from the utility of these data and which omit other

1 sources which could provide more important and compelling details.

2
3 33. There are no indications in Ms. Keilin's report as to how the various collaterals were
4 obtained. Did she have the parties submit a list of persons? Was there a form that she used
5 to gather the names, addresses, and other details? What is known is that 4 - Name - Whistleblo...
6 listed some 27 collateral sources for Ms. Keilin and that only two of those sources were
7 contacted. There is no explanation of the rationale for choosing amongst the various
8 collaterals nor any explanation of why several sources were not contacted. Adding to the
9 problem is that fact that Ms. Keilin was only too willing to rely on selected records and
10 failed to directly contact or speak to important collateral sources such as found amongst
11 the treatment providers for Megan. It would appear that Ms. Keilin chose to call the seven
12 collaterals rather than rely on a written questionnaire or structured format for data
13 collection. While the interview option is certainly a good one, and while Ms. Keilin was
14 operating within professional parameters to rely on such data, there is no indication of the
15 specific questions and specific responses that were given. This becomes important,
16 particularly in the absence of written collateral response forms, because it opens the door
17 for confirmatory bias and distortion (Martindale, 2005) to enter into the data collection
18 process. Subtle features of the interviewer style and questioning can introduce error into
19 the reports of the collaterals. There is also the risk for selective reporting and editing of
20 the responses. And, without any detailed discussion of what specific steps have been
21 taken by the evaluator to reduce confirmatory bias, the reader is left with collateral data
22 which may be faulty and misleading. Such problems can easily go undetected, particularly
23 when the evaluator fails to double check with the collateral sources as to the accuracy of
24 their respective sections in the report. This alternative approach has been suggested by
25 local noted authorities (Benjamin and Gollan, 2003), and yet, Ms. Keilin fails to take
26 these additional steps to ensure the accuracy and completeness of her collateral data. To
27 the extent that she has omitted important collateral sources who could more fully
28 articulate the special needs and special medical concerns of this minor child, the omission

1 of such collaterals can be seen as a fatal flaw of this cursory investigation.

2
3 34. One larger conceptual and stylistic issue pertains to how Ms. Keilin approached the
4 evaluation process as a whole. She obtained an extensive list from the parties of their
5 various concerns (see pages 4 through 7). There are some twelve items listed by 4 - Name - W...
6 (typo list of 13, but only 12 items listed) and some eleven items listed by David. Many of
7 the items overlap in each of those lists, and there are several that appear to represent
8 complaints that each parent have of the other. A more useful and appropriate approach to
9 this listing of concerns is to consolidate them for each parent, confirm with the parent that
10 the list is correct, and then return to the summary list at a later portion of the report to
11 incorporate and consider data obtained throughout the investigation regarding those
12 concerns. In some instances, converging evidence can lead to a conclusion within
13 reasonable professional certainty. In some instances, the mental health evaluator must,
14 with all humility, admit that the tools don't resolve the issue. Unfortunately, Ms. Keilin
15 fails to consolidate the stated concerns and fails to return to them to organize her
16 investigative materials. She never completes the process of typing up those issues with
17 data and then documenting the process and data with sufficient clarity to help the Court
18 and parties see the logical nexus from the data to the conclusions. When this gaping
19 omission is present, the evaluator has failed in their most fundamental task of investigation.

20
21 35. The second level of concern here involves having an approach to the parenting
22 evaluation that is "allegation driven" and that contributes to a "horse race" mentality in
23 seeking to determine the "better parent" or the more "credible parent." This allegation
24 driven approach is, unfortunately, built into the orders of appointment that we use
25 throughout Washington. While the evaluator is ordered to "investigate all issues related to
26 the development of a parenting plan and report on any other issues discovered that could
27 affect the safety of the child," there is a more important task implied than just looking at
28 allegations. In fact, the process of working toward a parenting plan that will meet the

1 unique needs of the divorced family system depends on gathering sufficient information
2 about each parenting figure and about the children in the home to develop a useful
3 parenting plan that "charts a course for the future of the divorced family system." Thus, it
4 looks at strengths and weaknesses of each parent, considers situational and setting
5 variables, examines developmental concerns and special needs, and builds in guidance
6 mechanisms for enhanced cooperative communication and coparenting, and/or for setting
7 parameters for reduced conflict and for useful parallel parenting interactions.

8
9 36. It would appear that Ms. Keilin fails to grasp this latter task as the one that must be
10 embraced if the evaluator is to help solve some of the systems level problems that create
11 conflict, interfere with coparenting, and present risks to the child. She remains more
12 "allegation" driven in her conceptual model and yet fails in the task of adequately
13 investigating those allegations and concerns. She winds up with a set of recommendations
14 which fails to consider important contextual features, and which appears overly optimistic
15 in anticipating more effective coparenting in light of the demonstrated history of conflict
16 and impaired parenting communication. Issues such as father's reported history of
17 suicidal threats, failure to care for his dental health, repeated history of aggressive and
18 demanding behavior in a number of settings are given short study by Ms. Keilin. In fact,
19 she even goes so far as to suggest that there may be some utility in "Dave's bulldog
20 approach to healthcare providers and educators (p.10, ^{4 - Name - Whistleblower Reg.} declaration).

21
22 37. Other developmental and situational factors seem to get little attention as well. It is
23 noted that Megan describes her mother as having more rules and "being less attentive to
24 her (...normal for parent-teen, not symptomatic of impaired relationship) (p.20)." She has
25 been living within mother's primary care for the majority of her lifetime and she has been
26 given extensive ongoing guidance and assistance with medical and educational needs
27 during that time. In recent months under the temporary parenting plan, she has been
28 having parenting time with her father in a manner that has the artifact of focused attention

1 during his custodial periods. This could account for an increased sense of his availability
2 during those times. Likewise, when Ms. Keilin interviewed Megan and when the child
3 verbalized a wish for spending "somewhat more time with Dave going forward (p.21),"
4 there is the artifact that the statement was gathered during the summer schedule. These
5 can represent statements that need to be taken in context. An adolescent (albeit, special
6 needs teen) might prefer having fewer rules, more freedoms with respect to the computer
7 and phone, and more playful times with her father and express a wish for slightly more of
8 that arrangement, even though it may not be in their overall best interest. This discussion
9 is omitted in the body of Ms. Keilin's report, although some clues are scattered in various
10 sections of the report.

11
12 38. There was the additional investigation component of psychological testing which was
13 done by Dr. Marnie Milner. It is not clear if Dr. Milner generated written reports on the
14 parties. At this juncture a request has been made for Dr. Milner to provide me with any
15 such reports and with the testing data on which she relied. The body of the Keilin report
16 makes reference to the psychological testing (David, page 10, one paragraph; 4 - Name - ...
17 page 14, one paragraph), although it fails to list the specific tests which were given. In
18 light of my familiarity with the parenting evaluation work of Dr. Milner and in light of the
19 language used in the respective paragraphs in the Keilin report, it would appear that Dr.
20 Milner relied on her customary selection of tests: the MMPI-2 and the Personality
21 Assessment Inventory (PAI). If this reasoned conclusion is correct, then there are
22 procedural problems with at least one of the tests and there are significant omissions in
23 terms of other psychological measures which would have utility. There would also be a
24 significant omission in terms of parenting measures.

25
26 39. Dr. Milner is certainly within basic professional standards when she elects to only
27 use two psychological tests in her assessment process (MMPI-2 and the PAI). There is no
28 official requirement that she go further. However, the manner in which she utilizes these

1 measures and some of the inherent weaknesses of at least one of the measures tends to
2 restrict the utility of her psychological assessment. We find that Ms. Keilin has provided
3 only the most cursory and limited summary of those findings in the body of her report.
4 The MMPI-2 is commonly used and offers some custody litigant normative data² for
5 comparison (e.g., Butcher et al., 1997; Bathurst et al, 1997), the PAI does not have any
6 published studies which offer such comparative findings. Ms. Keilin may not be sensitive
7 to this issue, but it is clear by now that Dr. Milner is well aware of this concern. She
8 continues to ignore this issue and chooses to rely in part on the PAI, a test without
9 custody litigant comparisons, which makes it more difficult to properly interpret the
10 findings. When we cannot employ population specific patterns to attenuate and interpret
11 the results, we are at risk for drawing conclusions that may over-pathologize the subject.
12 Thus, Dr. Milner continues to choose to rely on a measure that is less commonly
13 employed in the field and one which has deficits for interpretation.

14
15 40. We may know details when I have the opportunity to review Dr. Milner's testing
16 reports. However, even now it would appear that, given the manner in which the testing is
17 summarized, there is no citation of specific normative comparison findings for
18 interpreting the MMPI-2. For both the MMPI-2 and the PAI there remains a risk for over-
19 pathologizing the results unless one links the interpretative statements to specific scores
20 and cites comparative data from relevant studies of the custody litigation population. The
21 failure to report such details also leaves the reader and the reviewer without specific
22 scores for study. It is, by far, more intellectually honest and defensible to offer
23 interpretative statements in the report and to cite the specific scores from which those
24 hypotheses or conclusions derive. It is likely that Dr. Milner fails to take that step.

25
26
27 ² For ease of communication we may refer to these data sets as norms, although
28 technically speaking, they are not "norms." They provide useful points of comparison as
large scale, population specific data sets which can facilitate more precise interpretation.

1 41. The psychological testing summary for David offers one interesting note about how
2 he is "overly sensitive to criticism..." If this is valid, then it may be a factor that
3 contributes to the reported confrontational behaviors reported elsewhere in the report
4 (e.g., David becoming confrontation with the pediatrician, reports by Dr. Walkover that
5 David is "easily triggered by something his wife says or does."). This feature may have
6 implications for parenting and for coparenting, yet it gets only the most cursory comment
7 by Ms. Keilin and fails to find its way into a discussion in the overall analysis leading to
8 the recommendations and parenting plan.

9
10 42. In examining the parenting assessment with the parents a bit further, we find that
11 Ms. Keilin omitted an array of specialty tests which could have done more to elucidate
12 parenting issues, personality dynamics, and areas of adjustment. While each case is
13 different, there is some utility in having the evaluator include measures that address anger
14 (e.g, Aggression Questionnaire; STAXI; Domestic Violence Inventory), parenting skills
15 and attitudes (Parenting Stress Inventory; Parent-Child Relationship Inventory; Adult-
16 Adolescent Parenting Inventory; Child Abuse Potential Inventory), and personality factors
17 (MCMI-III; Rorschach Inkblot Test). Ms. Keilin and Dr. Milner missed their opportunity
18 to more fully assess factors which could have bearing on consideration of issues such as
19 domestic violence, anger, risks for child abuse, and assessment of general parenting skills
20 and relationship issues.

21
22 43. We also find that Ms. Keilin omits assessments of child adjustment which would
23 have bearing on determining the impact that ^{3 - Healthcare...} special needs have on parenting,
24 general stress and adaptation, and coparenting potential. It might have been useful to
25 administer the Achenbach Child Behavior Checklist which could combine with the
26 Parenting Stress Index to consider child development and parenting "goodness of fit."
27 These measures would be particularly important given the array of special needs that are
28 evident in ^{3 - Healthc...} and the demands that this places on these parents to meet those needs

1 together and on their own.

2
3 44. Turning to the review of the discussion section and summary of the RCW 187
4 factors, we find little compelling basis for the recommended parenting plan which
5 follows. There is a summary of findings that is lacking the benefit of a complete
6 investigation and analysis, such that the discussion section continues to "gloss over" and
7 omit important details. It leads to a recommended parenting plan which could create more
8 significant disruption and lack of day-to-day stability and continuity of care, although Ms.
9 Keilin seems to neglect this important concern. It offers two shared parenting plans, yet
10 gives no rationale for one versus the other. It fails to discuss the strengths and weaknesses
11 and risks of either plan, and it leaves the family system open to increased points of
12 tension and conflict. One prime example of this is including the rather restrictive and
13 disruptive four hour trigger for first right of refusal (which is often eliminated in systems
14 oriented parenting plans or moved to a 12 hour trigger). It allows unrealistically for
15 coparenting and shared decision-making for parties which have a demonstrated track
16 record for failure to communicate and effectively parent. It omits discussion of important
17 corrective tools such as case manager or parenting coordinator services. It also offers a
18 superficial and naive "intervention" of giving the BIFF guidance in the absence of having
19 coparenting counseling, case management, or mediation assistance. Fundamentally, the
20 parenting plan lacks sufficient investigation to be valid and offers recommendations
21 which increase the risk for disruption, instability and conflict. To attempt to implement
22 this flawed set of recommendations in the absence of a fully evidentiary hearing would be
23 a serious error for this family system.

24
25 45. In concluding this critique I will acknowledge that Ms. Keilin may still have
26 gathered useful information for the Court. Either in whole or in part, she may have
27 reported features of the parties and the children which are valid conclusions. However,
28 there are sufficient stated concerns and criticisms noted here which should provide a

1 cautionary note about accepting Ms. Keilin's conclusions and recommendations at face
2 value. Other sources of information and more detailed evidentiary consideration may be
3 required for the Court to have a more accurate assessment of this divorced family system.
4

5 I declare under penalty of perjury under the laws of the State of Washington that the
6 foregoing is true and correct. Executed this 25th day of August, 2014 at Gig Harbor,
7 Washington.
8

9 (Digitally signed)
10

11 Daniel J. Rybicki, Psy.D.
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