

By: Heather Coleman  
Deputy Agency Clerk

**STATE OF FLORIDA  
BOARD OF PSYCHOLOGY**

**IN RE: THE PETITION FOR DECLARATORY STATEMENT OF  
ROBERT S. KLEIN, Ph.D.**

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**FINAL ORDER**

THIS MATTER came before the Board of Psychology ("Board") pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting held on August 22, 2003, in Tampa, Florida, for the purpose of considering the Petition for Declaratory Statement filed July 28, 2003, by Robert S. Klein, Ph.D. ("Petitioner"). Having considered the petition, the Board makes the following findings and conclusions:

**FINDINGS OF FACT**

1. Petitioner is in the private practice of psychology and was initially appointed by the court during a dependency proceeding to provide counseling to a minor child and the child's divorced parents and did provide said counseling. Petitioner was informed in a subsequent court order that he might make recommendations to the court regarding the mother's visitation and the best interests of the child.
2. Petitioner seeks a declaratory statement regarding Rule 64B19-18.006, Florida Administrative Code, and the performance of a forensic evaluation for visitation of a minor.
3. Petitioner asks: If this psychologist were to make recommendations as invited by the court order in regard to the mother's visitation with the minor child, would this psychologist be in violation of Rule 64B19-18.006, Florida Administrative Code?

## CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes.

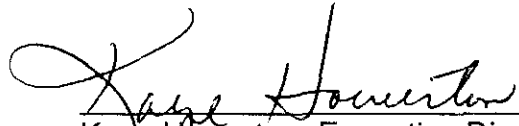
2. Rule 64B19-18.006, Florida Administrative Code, provides that it is a conflict of interest for a psychologist who has treated a minor or any of the adults involved in a custody or visitation action to perform a forensic evaluation for the purpose of recommending with which adult the minor should reside, which adult should have custody, or what visitation should be allowed. Consequently, a psychologist who treats a minor or any of the adults involved in a custody or visitation action may not also perform a forensic evaluation for custody, residence, or visitation of the minor.

3. The Board states that it would be a violation of Rule 64B19-18.006, Florida Administrative Code, for a psychologist who has treated a minor or any of the adults involved in a custody or visitation action to perform forensic evaluation for the purpose of recommending with which adult the minor should reside, which adult should have custody, or what visitation should be allowed.

4. This Order constitutes final agency action and may be appealed by any party pursuant to Section 120.68, Florida Statutes, and Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, by filing a notice of appeal conforming to the requirements of Rule 9.110(d), Florida Rules of Appellate Procedure, both with the appropriate District Court of Appeal, accompanied by the appropriate filing fee, and with the department's clerk of agency proceedings, within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 15 day of September, 2003.

**BOARD OF PSYCHOLOGY**

  
Kaye Howerton, Executive Director  
for Katurah Jenkins-Hall, Ph.D., Chair

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Robert S. Klein, Ph.D., 901 North Hercules Ave., Ste. G, Clearwater, Florida 33765; and by interoffice mail to Mary Ellen Clark, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this 16 day of September, 2003.



CENTER  
FOR  
PSYCHOLOGY & EDUCATIONAL SERVICES

FAXED

901 N. Hercules Avenue

Suite G

Clearwater, Florida 33765

727/441-4579

**Robert S. Klein, Ph.D., P.A.**  
Child, Adolescent and Adult Psychology

July 24, 2003

Petition Declaratory Statement before the Board of Psychology

Petitioner:

Robert S. Klein, Ph.D.  
901 North Hercules Avenue  
Suite G  
Clearwater, Florida 33765  
Phone: (727) 441-4579  
Fax: (727) 447-5061

RE: Statute 64B19-18.006

Description:

This psychologist was appointed to provide counseling to a minor child and the child's divorced parents. The father had primary residency, the mother had standard visitation. Following the divorce as a result of the Department of Children and Families (in Pinellas County known as Family Continuity) becoming involved the minor child, 9 years of age, was adjudicated dependent and the child continued under the primary residential care of the father. The mother was placed under restricted limited supervised visitation, one hour every two weeks. Please find the initial court order appointing this psychologist as the family counselor. See attached exhibit A.

Although the Court had not in its initial order, ordered for this psychologist to make recommendations regarding the mother's visitation, the mother's counsel, as well as the Department of Children and Families requested that this psychologist make recommendations to be presented at mediation and/or to the Court as it was their belief that was the Court's intent. Again, as this was not in the initial court order this psychologist requested an additional order from the court or clarification. This was accomplished on May 27, 2003, in which the Court ordered "Dr. Klein may submit recommendations to the Court regarding the best interests of the

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child arising from his counseling of the family.” See attached exhibit B. Please be advised that to date this psychologist has made no recommendations regarding the minor child’s visitation with the mother.

The purpose of my seeking a declaratory statement from the Board is the following:

1. As this psychologist has not been appointed to conduct a custody/visitation evaluation;
2. As this psychologist has been appointed by the Court to provide family counseling;
3. As this psychologist has been appointed by the court in an order “Dr. Klein may submit recommendations to the Court regarding the best interests of the child arising from his counseling of the family”;

Question:

If this psychologist were to make recommendations as so ordered by the Court in regard to the mother’s visitation with the minor child is this psychologist potentially in violation of 64B19-18.006?

Thank you very much for your kind and prompt attention to this request for declaratory statement. Please know that the parties, counsel, and Department of Children and Families have requested that this psychologist present recommendations regarding the mother’s visitation. Should there be need for additional information or clarification of that which has been presented please do not hesitate to contact me directly.

Sincerely,

*Robert S. Klein, Ph.D.*

Robert S. Klein, Ph.D.

RSK/lss

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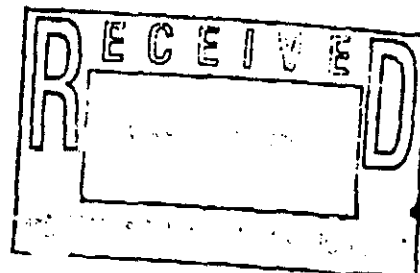
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Exhibit A

received  
via fax

Copy to Client  
Date: 04/10/03

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY  
JUVENILE DIVISION



In the Interest of:

DOB: 04/10/03

A Child.

ORDER ON CONTINUED ARRAIGNMENT

THIS CAUSE coming on to be heard on 04/10/03, 2003, for an arraignment upon a Petition for Adjudication of Dependency filed by the State of Florida, and all parties having been properly noticed, and the Court having before it [redacted], Assistant State Attorney; Family Continuity Program; [redacted] CPI; [redacted] mother; [redacted] Esquire, counsel representing the mother; [redacted], the father; [redacted] Esquire, counsel representing the father, and the Court having considered the Petition for Adjudication of Dependency and having heard testimony and argument being fully advised in the premises finds the following:

1. The Court has jurisdiction over the child and the subject matter involved in this proceeding in that the child is domiciled, living or found in [redacted] County, Florida, and that the child is under eighteen (18) years of age.

2. The mother, [redacted] was previously duly served by summons and noticed of this hearing and has appeared before the Court.

Exhibit A

3. The father, \_\_\_\_\_ was previously duly served by summons and noticed of this hearing and has appeared before the Court.

4. The parents have indicated that they have received, have read, and understand the allegations made by the State in the Petition for Dependency.

5. The parents have been advised of their right to have an attorney represent them at each stage of the dependency proceedings. \_\_\_\_\_ Esquire, represents the mother. \_\_\_\_\_ Esquire, represents the father.

6. The parents have been advised that they have the right to admit, deny or consent to the allegations contained in the Petition for Dependency and have been advised of the consequences of so admitting, denying or consenting. The parents have been further advised of their right to a trial in this cause, which would require the State to put on testimony to prove by a preponderance of the evidence that the child is dependent.

7. The mother, \_\_\_\_\_ having indicated an understanding of the rights listed above, has entered a denial plea to the adjudication of the child as dependent.

8. The father, \_\_\_\_\_, having indicated an understanding of the rights listed above, has entered a denial plea to the adjudication of the child as dependent.

9. With regard to the child's placement and visitation issues, the best interests of the child has been considered.

10. The State has made reasonable efforts to prevent or eliminate the need for court intervention, but present circumstances of the family are such that the welfare of the

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child cannot be adequately safeguarded without such court intervention.

It is therefore ORDERED that as this matter is in a contested posture, this matter shall be set for mediation status check on 2003, at 9 a.m. If the parties are unable to reach an agreement as the result thereof, this matter is continued for and shall be set for trial as soon as is practicable. The parties have agreed to court ordered mediation in this matter. The parties further agree to begin counseling with Dr. Robert Kline.

It is further ORDERED that the parents shall appear for the trial in this cause, and their failure to do so will be considered a consent to the adjudication of the child by default.

It is further ORDERED that the child shall remain in the temporary care, custody and control of the father, under the supervision of the Department of Children and Families/Family Continuity Program, pending further Order of the Court.

It is further ORDERED that during all stages of the dependency proceedings if any party changes residence he or she shall notify the Clerk of Court, Juvenile Division, and the Assistant State Attorney of the address change immediately. The address currently in the Court file will be used by the Court and the State for notice purposes unless and until the party notifies the Court and the State in writing of a new mailing address.

It is further ORDERED that all prior Orders not inconsistent with the terms of this Order shall remain in full force and effect.

COMMUNICATIONS SECTION  
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Exhibit A

The parties are hereby advised of their right to appeal, which appeal shall be commenced within thirty (30) days from the date of entry of any final Order, Judgment or Decree of this Court. The parties are advised of their right to counsel for appeal purposes.

The custodians of any child subject to the jurisdiction of this Court are hereby directed to notify local law enforcement and the Department of Children and Families immediately at any time that the child is determined to be missing or that the child's whereabouts are unknown.

DONE AND ORDERED in Clearwater, Pinellas County, Florida this \_\_\_\_\_, day of \_\_\_\_\_, 2003.

CIRCUIT JUDGE

TRUE COPY  
Original Signed

cc:

Esq.

Esq.

Assistant State Attorney

Family Continuity Program

APR 29 2003

CIRCUIT JUDGE

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**received**

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY  
JUVENILE DIVISION

5/29/03  
fax from

In the Interest of:

DOB: [REDACTED]

A Child.

ORDER ON MEDIATION STATUS CHECK (Continued)

This cause came on to be heard on [REDACTED] 2003, upon a mediation status check. The following persons appeared before this Court:

[REDACTED] Assistant State Attorney; the mother, [REDACTED] Esq., representing the mother; [REDACTED] Esq., representing the father; and [REDACTED]

[REDACTED] Family Continuity Program. The Court, having heard testimony and being otherwise fully advised in the premises, finds that:

1. This Court has jurisdiction over the subject matter of this action.

2. The child, [REDACTED], is currently in the care, custody and control of the father, [REDACTED] under protective services supervision, with supervision provided by the Family Continuity Program. The mother continues to have supervised visitation with the child.

3. The parties present today agree that Dr. Klein, who is currently providing counseling for the family, may submit any recommendations to the Court regarding the best interests of the child, [REDACTED]

4. Mediation in this matter is scheduled for Monday, [REDACTED] 2003.

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THEREFORE, based upon the foregoing findings of fact, it is hereby

ORDERED AND ADJUDGED that:

1. The minor child shall remain in the care and custody of the father, , under the supervision of the Department of Children and Families/Family Continuity Program, until further Order of the Court.

2. The mother shall continue to have supervised visitation with the child.

3. Dr. Klein may submit recommendations to the Court regarding the best interests of the child, arising from his counseling of the family.

4. All prior Orders, not inconsistent with the present Order, shall remain in full force and effect.

5. A mediation status check shall be set for Thursday, at 11:00 A.M.

DONE AND ORDERED in Pinellas County, Florida, this day of May, 2003.

TRUE COPY

MAY 27 2003

COUNTY JUDGE

CIRCUIT COURT JUDGE

cc:

Esq.
, Esq.
Child Protective Investigator
Family Continuity Program
Guardian Ad Litem
Assistant State Attorney

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