



# WSBA

## MOCK LLLT PERFORMANCE TEST - ANSWERS

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### PERFORMANCE TEST FACT PATTERN

Kathy Green was married to Matt Green on March 1, 2004 in Snohomish, Washington. Matt has an MBA and works as a finance manager for an insurance company making \$100,000 per year. Kathy did not finish college and is currently a part-time bartender making about \$20,000 per year, but Matt thinks she makes at least another \$10,000 per year in tips. The couple has two children, James, age 11, and Whitney, age 9. James has severe ADHD and takes medication. He is in a special after school program for kids with ADHD, which has significantly helped him since Kathy and Matt enrolled him two years ago.

Kathy struggles with depression and a substance abuse problem. Kathy frequently goes out with her coworkers after the bar closes, and has come home drunk on numerous occasions. She spends most of her earnings on her drinking habit. Matt and Kathy have argued frequently about Kathy's drinking problem, and it deteriorated their marriage.

On October 6, 2016, Kathy moved into an apartment with a friend and filed a Petition for Dissolution (Snohomish County case number: 16-3-00104-0). The children continued living with Matt. There is no administrative child support or court order in place. Since the separation, Kathy has seen the children most weekends, but she has not been involved in the children's school conferences or individual education plan (IEP) meetings.

Last week, Kathy took the kids out to dinner and had several drinks. When she dropped the kids off with Matt, he smelled alcohol on her breath and could tell from her behavior that she was tipsy. Later that night, Kathy sent Matt a text message telling him that she ran the car off the road on her way home, but was not hurt. Matt confronted Kathy the next day. Kathy admitted she should not have been driving the kids and agreed to seek help for her drinking problem.

After the incident, Matt hired you to represent him and wants to create a temporary parenting plan. He wants to remain the primary residential parent for James and Whitney, and he wants Kathy to seek help for her drinking problem. Kathy has expressed to Matt that she wants to be the primary residential parent for their children and receive maintenance. Kathy is not represented, and to Matt's knowledge, she has not sought any legal advice.

### PERFORMANCE TEST TASKS

Given the facts of the case and the client's wishes, complete the following tasks:

- A. Provide Client Advice.** Answer the questions regarding your advice to Matt.
- B. Complete Forms Provided.** Draft a Motion for Temporary Family Law Order and a Temporary Parenting Plan, using the forms provided.

## CLIENT ADVICE (WEIGHTED 20%)

Provide short answers to the questions below, regarding your representation of Matt.

### Questions

1. What should Matt include in the parenting plan in regard to the children's safety?

**ANSWER: (5%)** Matt should consider including certain stipulations regarding the following two issues (candidate must mention an example from both issues to receive full credit):

- Transportation (i.e. a no driving provision or restrictions on driving the children)
- Kathy's chemical dependency (i.e. getting treatment or alcohol screening)

2. What should Matt do if Kathy does not follow the temporary parenting plan after it has been ordered by the Court? What should he do if Kathy drops the children off smelling of alcohol?

**ANSWER: (5%)** Matt should make a motion for a contempt ruling if Kathy does not follow the temporary parenting plan. He should also request costs and fees in the civil fine. If Kathy drops the children off smelling of alcohol, Matt should file for contempt.

3. What factors and facts will the Court consider in deciding whether to have Matt be the primary parent for both James and Whitney? What evidence might you use and what additional questions might you ask of Matt in filing for the temporary orders?

**ANSWER: (5%)** The Court will consider who has been the primary parent and whether the other parent is potentially a detriment to the children to determine who the primary residential parent should be going forward. In filing for the temporary orders, the LLLT should discuss at least one piece of tangible evidence that could be introduced to support the case, including the text message Kathy sent him, possible witnesses, and any traffic citations.

4. What would you advise Matt about providing temporary and permanent spousal maintenance for Kathy in these circumstances? What evidence might you obtain to show undocumented tip income?

**ANSWER: (5%)** Temporary maintenance is likely to be required by the Court but lifetime maintenance is not likely required. Whether maintenance is awarded is based on need and ability to pay. Maintenance needs to be rehabilitative. For the tip income, there is not a specific correct answer. Candidates need to mention at least one way of obtaining evidence, such as talking to Kathy's boss or coworkers, to receive full credit.