

# PRIVATE TRIALS, ARBITRATIONS & OTHER SOLUTIONS TO FAMILY LAW DISPUTES

By

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By

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## I. INTRODUCTION

Public trials have become a very costly and unsatisfying means of resolving property, support and custody issues in family law cases. The mounting crescendo of displeasure with the public court system is echoed in the Elkins task force inquiries and the various family law listserves statewide. And **Family Code section 217** has only aggravated the difficulty in being able to obtain a trial or hearing date for an RFO (Request for Orders) (or to obtain prompt resolution of urgent issues). The problem can be summarized as follows:

- a. Courts are overwhelmed with self-represented litigants because the cost of retaining attorneys to litigate has become prohibitive even to the middle classes, and the increasing percentage of the poor has only aggravated this problem;
- b. Because of the large number of self-represented litigant cases and the large number of cases requiring interpreters, it takes substantially longer for an attorney-represented case to be heard, resulting in mounting attorney fees for each time a hearing is continued or trailed because of court congestion;
- c. Trials estimated at even as little as three days (and certainly if estimated longer) tend to be truncated, delayed, and often last well into several months because of lack of trial time available to the court. Even continuances for short Requests for Orders may be extended for months, leaving the requesting party in limbo. Although the newly instituted increase in the number of long-cause judges is supposed to have alleviated the backlog, in reality, that is not always the case—the assignment of the case to such long-cause judges may not be for numerous months, and may be vacated if a domestic violence or a custody matter, both having preference, supersedes your trial;
- d. Continual and rapid turnover of judges, especially with judges who have no knowledge or experience in family law cases, means increased attorney fees being expended

to educate the new judges, as well as attorney and litigant frustration with a judiciary that does not understand the legal “shorthand” so crucial to rapidly resolving family law cases;

e. Burnout rate of family law judges is extremely high. That is because of the lack of resources, the *Reiflerization* of RFO’s causing judges to expend enormous time reading reams of “fictionalized” versions of events (even with the **Family Code section 217** Oral testimony requests) and **Family Code section 217** hearings, if requested, may still need interim orders from the “homecourt” judges, while the case awaits hearing dates from long cause judge assignments for such **Family Code section 217** hearings;

f. Learning curve for family law judges not familiar with the intricacies of a complex set of laws, rules, practice and emotional issues in family law cases is very steep, and it often takes 10-18 months for a novice judicial officer to become familiarized with this area of the law. This makes it frustrating for the attorneys and extremely costly to the litigant;

g. Crucial decisions needed via ex parte applications are shunted aside because judicial officers are more focused on trying to resolve regularly calendared cases and often deny ex parte applications that may have merit and need immediate orders. This is especially true in property issues where family law courts often deny ex parte applications for lack of “urgency”; yet many such ex parte applications are needed to preserve assets for subsequent division.

h. To relieve court congestion, “long cause judges” now serve to hear RFO’s and trials estimated to last two days or more. This means that the assignment of cases to home court does not guarantee the same judge hearing all aspects of the case, and, in fact, several judges may be deciding different aspects of a case during the course of the litigation—making for uncertainty, long waiting periods, vagaries of assignment at any stage of the case, etc.

i. Just because a case has been set for a “long cause” trial months in advance, there is no guarantee that the trial date will not be “bounced” when a case with a higher priority (i.e., domestic violence trial) needs your assigned judge to hear that case.

Clearly, there are alternatives to this process, and they can be broken down into the following categories:

- Private Judging (aka Privately Compensated Judging),
- Arbitration,
- Reference (or trial of select issues by a Referee),
- Parenting Plan Coordinator (in custody cases),

- Mediation (Front End),
- Mediation (Back End, aka Evaluative Mediation or Voluntary Settlement Conference),
- Collaborative Law.

## II. PRIVATELY COMPENSATED TEMPORARY JUDGING (aka PRIVATE JUDGING)

### A. Legal Issues

This means of resolving disputes is authorized by **California Constitution, article VI, section 21**, and governed by **California Rules of Court (“CRC”), rules 2.830-2.834**. *Legal technicalities must be followed*. Otherwise the decision may be overturned if the preliminary requirements of the code are not met.

The following legal technicalities *must be met before* a single hearing can validly occur:

1. The designated private temporary judge *must* be a current *member of the California Bar*. (Contrary to common misconception, a private judge does not need to have been a public judge. Any licensed attorney qualifies, and in fact, retired judicial officers must re-activate their Bar license to qualify as private judges.);
2. *Stipulation* to appointment must be *signed* by parties, counsel, and submitted for approval to the presiding judge;
3. *Order* designating temporary judge must be *signed* by the presiding judge, and it must reference the stipulation (beginning some time this year, the *Order* will be signed by the Supervising Judge of the Family Law Department, instead of the presiding judge of the superior court—check out the procedure at the time you need to submit the request for the *Order*);
4. *Stipulation & Order* must be *filed* with the court;
5. *Oath & Certification of compliance* with applicable provisions of **canon 6** of the **California Code of Judicial Ethics** and **California Rules of Court** must be taken and subscribed by the temporary judge, and must be *filed* with the court.

(Note: Normally, the Stipulation & Order, and sometimes the Oath & Certification of Compliance, are all contained in one document, unless the designated privately compensated temporary judge already has an Oath & Certification already on file.)

**NOTE:** *All* family law issues, including property, support and custody may be tried before a privately compensated temporary judge, until “final determination of the cause.” (Cal. Const., art. VI, §21, and *Sarracino v. Superior Court* (1974) 13 Cal.3d 1.) That means the private judge is empowered to issue tentative rulings, judgments, and rule on motions to reconsider, motions for new trial, motions to vacate judgment and other post-trial motions. (*In re Steven A.* (1993) 15 Cal.App.4th 754.)

Private judges are authorized to issue all discovery sanctions, such as monetary and evidence sanctions. **However**, nonparty deponents are not subject to sanctions by a private judge to whose appointment they have not stipulated. Additionally, while private judges are empowered to cite parties, witnesses and attorneys for contempt for acts “committed in the immediate view and presence of the court” (CCP §1211), a private judge has no power to hear contempt proceedings for violations that occur outside the judge’s presence, unless a separate stipulation is signed by the parties authorizing such private judge to adjudicate the contempt.

## **B. When to Use Privately Compensated Temporary Judges**

Private temporary judges may be retained at any stage in the proceedings and for any or all portions of a case. In a case that is likely to be complex, litigants and their attorneys often retain a private judge at the outset of the case. Others may seek to retain a private judge simply for trial purposes or to rule upon discreet issues. Any time a trial of a cause is likely to last several days and the regularly assigned public court does not have the time to hear the case in a timely fashion, a private trial is the most expeditious, and often least expensive way to resolve the case. The cost of the private judging system is often outweighed by the savings in attorney fees (for waiting time and continual re-preparation time in the public courts) and it eliminates client frustration with the snail-pace of public courts because:

1. Private trials can be scheduled at the convenience of the attorneys and the privately compensated temporary judge, whereas public trials are scheduled to accommodate the severely overcrowded courtrooms.
2. Private trials can be set on consecutive days, thereby eliminating the truncated hearing days to which trials are often relegated in public courts. Public court trials can often stretch even a four-day trial into many weeks or months. Thus, the need and cost for re-preparing for trial in the public court system are eliminated in a private trial.
3. Private trials can be scheduled to allow for longer days, i.e., for seven-eight hours of trial time, in contrast to public trials that rarely afford more than four to five hours of actual trial time. (Nothing frustrates clients and attorneys more than being interrupted

at 4:15 p.m. in the midst of key cross-examination because the clerks, court reporters and the judge must close the public courtroom. Private trials can be conducted to serve the needs of the attorneys and the clients, and if a hearing must run an additional 30-45 minutes beyond the scheduled time period, most private judges are able to accommodate such request.)

4. Private trials are normally conducted before a highly seasoned family law attorney or retired family law judicial officer, while public trials may often be conducted before a recently-appointed judge who may be unfamiliar with many family law issues and procedures. Thus, substantial fees are saved in use of private trials by not having to “educate” the trier of fact. An experienced family law litigator, or a recently retired family law judge, acting as a private judge need not be provided with mundane points and authorities on standard family law issues with which they are intimately familiar.

5. Private trials are conducted in the exact same manner as public trials, including a right to have a court reporter (paid for by the parties), right to motions for new trial, right to statements of decision, and right to appeal. Thus, litigators can be assured that if the law or procedure is not properly followed, their appellate rights are preserved. Additionally, the “fast-track” private trial also allows the appellate process, and thus finality, to be achieved at a much faster rate.

6. Private trials can be limited to trying only one or a limited number of key issues, while other matters can be left to the public courts to try, as long as the stipulation and order so provides. This option is not available if the case remains entirely in the public court system.

### **C. Issues of Concern When Choosing a Private Trial**

Private trials are *not really private*.

1. All original pleadings and court-related documents must be filed with the public courts at the same time and in the same manner as if the case were proceeding in public court; only the file-stamped *copies* are provided to the private judge. (**CRC, rule 2.400(b)(1)** and **Super. Ct. L.A. County, Local Rules, rule 2.24(l).**)

2. The dates, times, and place of the private trial must be provided to the public court, and they are posted in public court by the clerk of the court. If the public (usually the media) wishes to attend the hearing, the private trial must be held in a place that can reasonably accommodate the public’s presence. (**Super. Ct. L.A. County, Local Rules, rule 2.24(b).**)

3. Judgments, rulings, and orders must be filed with the public courts, and thus are open to viewing by the public.



(If privacy is a major concern in a case, arbitration may be a much better alternative to private trials—see below.)

#### **D. Whom to Use**

1. The privately compensated judge *must* be a member of the State Bar. (**Cal. Const., art. VI, §21.**) For the process to be beneficial to the parties and attorneys, it is advisable that the choice of a “private judge” be someone with vast experience in litigating similar types of family law cases. The “private judge” you choose may be a retired judicial officer or an attorney, but they each must be current members of the California State Bar, and they each need to have vast experience in family law cases.

2. If time is of the essence, make sure that the attorney or retired bench officer to be chosen as the “private judge” can accommodate your need for a speedy trial.

3. Find out how many hours a day will be allowed for trial, and determine whether the California Bar member you choose as the “private judge” is one who is adept at moving the trial along, and is speedy in his/her decision-making ability.

4. The “private judge,” whether a retired judicial officer or a family law attorney, should be one who is decisive and is able to actually make decisions. Many who bill themselves out as “private judges” may be excellent in conciliating and settling a case, but may have difficulty making decisions. The talents required for the task of rendering judgment in a case are vastly different from those required to get parties to settle.

5. The “private judge” should have time to deal rapidly with ancillary issues, preferably by phone or by email. One of the key reasons for choosing a private versus a public trial is rapid resolution. Thus, a “private judge” who is unable to accommodate the time needs of the parties is not the one to be chosen.

#### **E. Forms**

- **Retainer Agreement for Privately Compensated Temporary Judge**
- **Oath & Certification of Compliance**
- **Stipulation and Order for Appointment of Privately Compensated Temporary Judge (Judge Pro Tem)**

See sample forms in **Appendix A – Private Judging Forms.**

### III. ARBITRATION

#### A. Legal Issues

Arbitration rules regarding stipulated arbitrations are governed by **Code of Civil Procedure sections 1281-1288.8** and **California Rules of Court, Ethics Standards for Neutral Arbitrators in Contractual Arbitration**.

The arbitrator *does not* have to be a member of the California Bar. Even a lay person or a religious court can be chosen by the parties to arbitrate their dispute. (See **CCP §1141.18**—although this section applies to judicial arbitration, it appears that qualifications of agreed-upon arbitrators are identical.)

The arbitrator renders an “award,” not a judgment. As such, it is not enforceable, unless the “award” is “confirmed” and “judgment” is rendered by the court. (**CCP §§1285-1288.8**.)

All issues regarding property division and spousal support may be the subject of “binding” arbitration. However, arbitration awards regarding child custody/visitation, and child support may not be subject to *binding* arbitration (*In re Marriage of Goodarzirad* (1986) 185 Cal.App.3d 1020; *Armstrong v. Armstrong* (1976) 15 Cal.3d 942; *In re Marriage of Bereznak & Heminger* (2003) 110 Cal.App.4th 1062). Issues of custody and child support can be tried de novo in the family law courts, or at the very least, appellate proceedings rights are preserved (in other words, unlike arbitration proceedings involving issues of property division and spousal support, arbitrations involving child custody and child support cannot be made final by arbitration). If parties want to submit their custody and child support issues to binding arbitration, they must convert that part of their case to a “private trial,” and must meet the stringent requirement of “private judging” for the decision to be valid, binding and enforceable.

Arbitrators need not adhere to the Evidence Code or other procedural codes during hearing unless the parties so stipulate (see below).

Arbitration awards are generally not appealable unless the parties so stipulate (see below); however, arbitration awards on child custody/visitation and child support issues are never binding arbitration awards. The only role a judiciary has in arbitrations (except in child

custody or child support arbitrations) is to confirm the award,<sup>1</sup> even if the award is erroneous or unjust.<sup>2</sup>

**Note** the very important California Supreme Court case of *Cable Connection, Inc. v. DIRECTV, Inc.* (2008) 44 Cal.4th 1334, wherein the court held that parties agreeing to arbitrate under the **California Arbitration Act** may stipulate in the arbitration agreement that an award that is based upon legal error may be judicially reviewed. However, it is insufficient to provide in the agreement merely that the arbitrators shall follow California law, the agreement must also provide that the award is subject to judicial review if the arbitrator(s) fail to follow California law. *Christensen v. Smith* (2009) 171 Cal.App.4th 931.

Unlike private trials before a stipulated private judge, arbitrations are *strictly private*. Pleadings to be considered by the arbitrator are not filed with the public court, and no notice of hearings is to be posted. The public and media have no right to appear at the hearings. Thus, arbitration is the ideal forum to try family law cases where parties want to keep their disputes private—i.e., high asset/high income, questionable financial practices, or cases of celebrities.

Arbitration awards are not self-executing, and no execution of the award itself can be made. To be enforceable, the arbitration award must be confirmed and judgment issued thereon by the superior court. Only a judgment may be enforced, not the arbitration award itself. (CCP §1287.6; *Jones v. Kvistad* (1971) 19 Cal.App.3d 836.)

## **B. Considerations in Choosing the Arbitrator**

1. Even though permitted by law, avoid choosing a religious court as the arbitrator because:

- a. Most religious family laws favor men in property division and support.
- b. Even if the religious court is requested to rule in accordance with civil family laws, most religious law courts have no understanding of California family laws, such as those relating to property division, fiduciary duties, *Moore/Marsden* issues, **Family Code section 2640** reimbursement cases, *Van Camp/Pereira* concerns, etc. Religious courts also have certain biases regarding spousal support and custody rights of father and mother. Even

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<sup>1</sup>*Moncharsh v. Heily & Blase* (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183].

<sup>2</sup>**Code of Civil Procedure sections 1286.2 and 1286.6** permit set-aside/correction of an award if underlying problems exist with the award or the arbitration process.

though child support awards and child custody arbitration awards are non-binding on the courts, it is best to avoid any religious court arbitrating any family law issues (*except* the strictly religious issue of becoming free from the religious marriage, i.e., a “Get” in Jewish law, a “Khul” or “Talaq” in Islamic law).<sup>3</sup> (Beware that many religious courts use subtle, and not so-subtle, methods to try to coerce an agreement to have parties stipulate to binding arbitration decisions by the religious courts on property and support issues. For example, many religious courts and religious leaders inform their adherents that it is either forbidden, or frowned upon, by the religion to have civil courts adjudicate disputes, and that disputes between adherents to the same religion are mandated by that religion to have a religious court arbitrate their disputes. The results may often be bizarre, but nevertheless enforceable. Thus, beware!) **Beware:** the dissolution of the religious marriage bonds by religious courts does not dissolve the marriage civilly—the civil divorce must always be done by the civil courts.

2. The ideal arbitrator is a member of the California Bar or a retired bench officer with substantial trial experience in all aspects of family law matters. Because the arbitration award is binding, and non-appealable (unless a *Cable Connection, Inc. v. DIRECTV, Inc.*, *supra*, 44 Cal.4th 1334, stipulation is signed), the choice of the right arbitrator is crucial.

3. The arbitrator should have the ability to make quick and well-reasoned decisions.

4. Ideally, the arbitrator should have arbitration experience, as arbitrations differ substantially in format and procedure from public or private court trials.

5. The arbitrator should have extensive trial experience in family law cases and a thorough working knowledge of family law.

### C. Forms

- **Retainer Agreement for Arbitration**
- **Stipulation to Submit Matter for Binding Arbitration**

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<sup>3</sup>Even though custody/visitation arbitration awards are not binding on the courts, there have been cases where courts have adopted the custody/visitation awards of a religious court for numerous reasons, i.e., “deference” to a religious court award that the court deems superior in its knowledge of the religious nature of the custody dispute.

See sample form in **Appendix B – Arbitration Forms**.

#### **IV. REFERENCE AND TRIALS BY REFEREES**

##### **A. Legal Issues**

There are two different types of references: **Code of Civil Procedure section 638** and **Code of Civil Procedure section 639**.

1. **Code of Civil Procedure section 638** reference (see also **CRC, rules 3.900-3.907**) where the referee may be chosen by agreement of the parties *or* by the judge *if there already is a reference agreement by the parties*. The reason for such a reference may be:

- a. To determine issues in an action, whether of fact or of law, and to report a statement of decision to the court;
- b. To ascertain a fact necessary to enable the court to determine an action or proceeding.

The decision of the referee pursuant to a consensual general reference per **Code of Civil Procedure section 638**, *is the decision* of the court, and judgment may be entered thereon in the same manner as if the action had been tried by the court. (**CCP §644(a)**.) **Code of Civil Procedure section 638** referees may be used to decide **all** issues in a case, including custody/visitation, but their powers and their length of service must be specified. Unlike a temporary judge, whose powers to determine post-judgment issues are inherent in an assignment “until final determination of the cause,” a referee is **only** empowered to determine post-judgment motions if the stipulation so provides.

2. **Code of Civil Procedure section 639** reference (see also **CRC, rules 3.920-3.926**), where a referee may be appointed by the judge if there is *no agreement by the parties*. The role of the referee pursuant to **Code of Civil Procedure section 639** is limited to the following:

- a. If examination of a long account is required to decide an issue of fact, the referee may be directed to hear and decide the whole issue, or report to the court upon any specific question of fact involved therein;
- b. When taking of an account is necessary for the information of the court before judgment;
- c. When a question of fact arises;

d. When it is necessary for the information of the court in a special proceeding;

e. To hear and determine any discovery motions and disputes and to report findings and make a recommendation thereon.

The key differences between **Code of Civil Procedure section 638** and **Code of Civil Procedure section 639** reference:

a. **Code of Civil Procedure section 638** reference is by Agreement of the parties, whereas **Code of Civil Procedure section 639** reference is by court order (although the parties can agree to the referee, and may suggest to the court the issues that the referee is to decide);

b. **Code of Civil Procedure section 638** referee can decide all issues the parties want the referee to decide, whereas **Code of Civil Procedure section 639** reference is limited to fact-finding of issues specifically set out in that code section;

c. **Code of Civil Procedure section 638** referees' decisions becomes the decision of the court (see **CCP section 644(a)**), whereas **Code of Civil Procedure section 639** referees' findings are merely advisory, and the court makes its own decisions (see **CCP section 644(b)**).

#### **B. Some Key Differences Between Arbitrations and CCP Section 638 References Are:**

a. An arbitrator's award on custody/child support issues is non-binding, while a **Code of Civil Procedure section 638** referee's decision, if so empowered, is binding.

b. Rules of evidence are the same as in court trial in a reference, whereas arbitrations do not have the same rules of evidence, unless specifically so stipulated.

c. Referees must report their statement of decision to the court and in the case of a **Code of Civil Procedure section 638** reference, the court enters judgment as if it were the court's own decision. An arbitrator's award does not become a judgment unless and until either party applies to the court to "confirm" the award.

d. A referee's decision after entry of judgment can be challenged by motion for new trial, motion to vacate, or appeal. Arbitration awards, after reduced to judgment, generally, cannot be appealed without a *Cable Connection, Inc. v. DIRECTV, Inc.*, *supra*, 44 Cal.4th 1334, stipulation.

### C. Considerations in Choosing Referee

The identical considerations should be made in choosing a referee as one would in choosing a private judge or an arbitrator.

If the court wants to appoint a referee, consider recommending one with whom everyone is familiar, one who has experience in judging cases and one who has great familiarity with the subject matter which is at issue in the reference.

Referees may be challenged for cause (CCP §§170.1, 170.3, 170.5) or can be challenged peremptorily, the same as any judge, pursuant to **Code of Civil Procedure section 170**, and all hearings, filings of documents, and notices of hearings are done in the same manner as in Private Trials; therefore, References do not have the benefits of privacy that Arbitrations do.

### D. Forms

- **Stipulation or Motion for Order Appointing Referee (ADR-109)**
- **Order Appointing Referee (ADR-110)**
- **REPORT OF REFEREE (ADR-111)**

See sample forms in **Appendix C – Reference Forms**.

See also **Knight and Chernick**, *California Practice Guide: Alternative Dispute Resolution* (Rutter Group) forms relative to use of Referees.

## V. PARENTING PLAN COORDINATOR (SPECIAL MASTER)—“PPC”

### A. Legal Basis

Appointment of a PPC can only be done through stipulation of the parties—the court cannot order the appointment of a PPC (*Ruisi v. Thieriot* (1997) 53 Cal.App.4th 1197).

### B. When to Use

Parenting Plan Coordinator “PPC” (Special Master in child custody matters) is usually used in extremely high conflict custody/visitation cases where the parties cannot seem to stop fighting over the most minute or every single major issue. For example, some parents cannot agree upon: who should, and when to, take the child for a haircut, what kind of haircut

is appropriate for the child; what kind of outfit may a child wear—is it too short, too long, too baggy, etc.; should the child undergo bar mitzvah, confirmation, christening, baptism, or other religious life-cycle events or preparations; does the child need a therapist, and if so, who should be the therapist; should the child attend a new school. The list of conflicts between parents in high-conflict custody cases is limitless. Most family law courts despair of having to attend to these limitless custody decisions, and would prefer that the parties stipulate to a PPC to help them resolve the issues, and to help them develop a plan to deal with future issues. It is evident that some battling parents simply refuse to make conjoint parenting issues during the entirety of the children's minority. In such cases, the PPC, if the parties stipulate to one, may be invaluable in:

1. Teaching the parents how decisions for the children should be made;
2. Informing parents how their inability to make decisions for their own children is affecting the children's growth, development, stability;
3. Making actual decisions on behalf of the parents where the PPC agreement specifically indicates they may do so;
4. Making recommendations to the court for making decisions where the PPC agreement provides for such recommendation to be made.

### **C. Whom to Use**

Most Parenting Plan Coordinators in the past were psychotherapists. More recently, however, the trend has been to retain attorneys or retired judicial officers to serve as Parenting Plan Coordinators. The problem with psychotherapists serving as PPC's is that the training received by psychotherapists is generally more oriented to therapy and to problem solving with the parents' cooperation. However, most often what is needed in these severely conflicted custody cases is someone who can make instant decisions for the parties because they are simply unable to do so for themselves and their children. Additionally, these parenting decisions must be made by the PPC in writing so that the parties can submit it to the court, if necessary, or the appropriate enforcement procedures can take place. Many therapists are not equipped, nor trained, to make decisions for the parents to resolve the conflicts in the manner anticipated by the PPC agreement. In contrast, attorneys are trained to be decision makers and are trained to draft binding agreements, however, they are not trained in the psychological aspects of child custody decision-making roles. When choosing a therapist or an attorney as the PPC, the choice should depend on the skill-set needed to resolve the issues quickly and efficiently. Cost is also a big issue in most of these cases. Therapists serving as PPC's are usually substantially less expensive than attorneys or retired judicial officers serving in that capacity.



## D. Forms

- **Stipulation and Order Appointing Parenting Plan Coordinator**

See sample form in **Appendix D – Parenting Plan Coordinator Forms**.

(One of the more complex and lengthy decisions between litigants will be the choice of issues they agree to submit to PPC's for decision-making, and what will constitute a Level 1, a Level 2 or a Level 3 decision. It is imperative that attorneys carefully review and make recommendations to their clients on the issues and wording of the PPC agreement—do not automatically sign off on all of the language set forth in the PPC agreement, as those are merely suggestions, and are not “set-in-stone” for the clients to merely accept without due consideration and legal advice regarding the consequences. For example, beware the possible trap in paragraph 47 under Level 3 Issues—counsel may want to eliminate the language that provides for the automatic admission into evidence the written findings and recommendations of the PPC, for the same reason as attorneys should not stipulate to admit into evidence a psychological evaluator's report before it has even been drafted.)

## E. Alternative to Parenting Plan Coordinator

Consider using a **Code of Civil Procedure section 638** referee to make parenting decisions in high-conflict cases, to avoid arguing over the powers of the PPC, and to avoid the two-tier process of the PCC making “recommendations,” which either party would then have to submit to the court on an RFO for a binding resolution. An appointment of a **Code of Civil Procedure section 638** referee can include provisions for access to the therapist by the referee and mechanical solutions to the referee's decision-making powers. (See section above on “References.”)

## VI. MEDIATION (“FRONT END” OR “CLASSIC”)

### A. Legal Issue

“Front end” or “classic” mediation in family law cases usually occurs from the outset of a family law case, although nothing bars the parties from engaging in such a process anytime during the litigation (or even post-litigation) process.

A mediator in a “front end” mediation process generally attempts to “facilitate” a settlement between the parties. The presence of an attorney for each party is not necessary, but can be used. This type of mediation can be either “facilitative” where the mediator does not provide an opinion on whether the settlement proposed by the parties is “fair” or appropriate under the law; or it can be partially “evaluative,” where the mediator provides a legal

framework within which the parties are advised to resolve their differences, and the mediator then helps the parties settle their case.

Mediators can propose that the parties retain joint forensic accountants, evaluators, appraisers, psychologists, etc. And mediators often prepare the settlement agreement and all the requisite filing documents to complete the dissolution process. The beauty of mediation lies in the settlement of the case with a minimum of financial and emotional trauma, coupled with the parties' ability to retain control over the outcome.

**Evidence Code sections 703.5, 1119 & 1121** “unqualifiedly bar[] disclosure of specified communications and writings associated with a mediation absent an express statutory exception.” *Rojas v. Superior Court (Coffin)* (2004) 33 Cal.4th 407, 469. Additionally, the mediator **cannot** testify as to any “statement, conduct, decision or ruling” occurring at or in connection with the mediation, except as to statements or conduct that constitute a crime or contempt of court, that are the subject of a State Bar investigation or the Commission on Judicial Performance, that are grounds for disqualifications under **Code of Civil Procedure section 170.1(a)(1)** or **section 170.1(a)(6)**, or child custody/visitation mediation as specifically delineated in **Family Code section 3160 et seq.** However, the recent case of *Cassel v. Superior Court (Wasserman, Casselman & Pearson)* (2011) 51 Cal.4th 113 is a California Supreme Court interpretation of the mediation privilege, and extends the reach of the mediation confidentiality statutes to protecting attorneys from communication disclosure between the client and attorney in connection with mediation, and even the preparation for same. While this case may protect the attorney from being sued by the client for malpractice in connection with advice rendered during the mediation process, it may also serve to protect the client from disclosure by the attorney of what may have occurred during that same mediation process, and thus insulating the client from various defenses to malpractice actions claimed by the client against the attorney.

## **B. When to Use**

“Front end” mediation is most successful and advisable when the parties are in general parity both financially and emotionally. It is not an advisable procedure where one of the parties is a “bully” while the other is “subservient” by nature.

Sometimes, but not necessarily, the parties may also be individually represented by attorney “coaches” or “consultants” to help navigate the process. There is a great variety of mediation models. Some mediators are actively involved in urging a particular settlement, while others allow clients to reach their own settlement, even if it differs from what they would receive in court. Some mediators encourage the parties to retain attorneys to draft the settlement agreement, or, at the very least, to have each party retain an attorney to review the settlement agreement that has been prepared by the mediator.

The best mediation results when the model suits the parties' personalities and needs. Keep in mind, however, that the confidentiality of the mediation process often results in duplication of work and client frustration if the mediation process fails and statements made during the mediation become inadmissible when subsequent litigation ensues. (However, stay tuned for possible changes in this "mediation non-disclosure" law that are vending their way through legislative processes.)

### **C. Whom to Use**

The mediator should, ideally, be an experienced family law practitioner with mediation training, and experience in family law litigation. Mediators who lack litigation experience often lack the knowledge to draft settlement agreements that will subsequently "hold up." They may fail to take into consideration complex tax consequences and will fail to insert other safeguards that are necessary to prevent future disagreement or litigation.

### **D. Forms**

- **Mediation Agreement**

See sample form in **Appendix E – Mediation Forms**.

## **VII. MEDIATION: "BACK END," aka "EVALUATIVE MEDIATION" or "VOLUNTARY SETTLEMENT CONFERENCE"**

### **A. Legal Issues**

This type of mediation normally occurs when the parties have substantially completed all discovery through their attorneys and are ready to either settle the case or take it to trial.

Voluntary Settlement Conferences ("VSC") are usually more "evaluative" than "facilitative," in other words, the mediator is far more likely to opine on how the case should be resolved, and urges settlement based upon an evaluation of the likelihood of success of each party's position. If the VSC is successful, the attorneys representing the parties, or sometimes even the mediator, generally prepare a "deal memo," or a full settlement agreement, that should also provide in the agreement for enforceability under **Code of Civil Procedure section 664.6**.

But, see also "legal issues" regarding confidentiality statutes discussed under Paragraph VI, *supra*.

## **B. When to Use**

Ideally, this type of mediation should be used when the parties have concluded discovery and have exchanged final disclosure declarations. Otherwise, the settlement is likely to be overturned for failure to provide the Final Disclosure Declarations that may alter the expectations of the parties.

## **C. Whom to Use**

The best VSC mediators are attorneys or retired judicial officers who have extensive experience litigating or trying complex family law cases. While mediation experience is most helpful in “front end” mediation, complex litigation experience is most important in “back end” (VSC) mediation.

## **D. Forms**

- **Retainer Agreement – Mediation (VSC)**

See sample form in **Appendix F – Mediation Forms**.

# **VIII. COLLABORATIVE LAW**

## **A. Legal Issues**

Collaborative law is similar to mediation in that the parties and their counsel attempt to resolve issues out of the courtroom. However, it differs from mediation in that:

1. Normally, there is no third party mediator present—although that is not precluded in the process;
2. Parties and counsel sign an agreement that in the event the collaborative process fails and one or both of the parties resorts to court action, neither attorney may represent his/her client in the subsequent court action;
3. Team approach is used to resolve the case: joint forensic accountants and other joint experts are retained to try to resolve the case between the parties and their counsel.

**Family Code section 2013** provides the legal basis for the use of this process. Additionally, **Los Angeles County Superior Court Local Rules, rule 5.26** provides specific rules on taking Collaborative Law Cases out of the system. The rule provides as follows:

## 5.26 COLLABORATIVE LAW CASES

1. (a) **Designation.** A case may be designated a “Collaborative Law Case” if the parties have signed a written Collaborative Law Agreement that provides for 1) a full exchange of information, 2) the withdrawal of the party’s attorney (whether or not said attorney is of record) upon the termination of the collaborative law process, and 3) the joint retention of any consultants needed to assist the parties in the collaborative law process, unless otherwise authorized by the written agreement of the parties. The words “Collaborative Law Case” shall be placed below the case number in the case caption on all documents filed with the court. Attorneys representing parties to a Collaborative Law Case may be, but are not required to be, of record.

(b) **Contested Matters.** As long as a case is designated a Collaborative Law Case, no contested matters shall be filed with the court. Collaborative Law Cases shall not be subject to **Local Rule 5.12**. A Collaborative Law Case filed in the Central District shall be assigned to Department 2 for as long as the case remains a Collaborative Law Case.

(c) **Initial Assignment.** For purposes of **CCP §170.6**, a petition filed in the Central District with the words “Collaborative Law Case” in the box “Petition for” is assigned to Department 2 as a Master Calendar Assignment.

(d) **Termination.** A party may terminate the designation of a case as a Collaborative Law Case without cause by serving written notice of termination on the opposing party and filing the notice with a proof of service. Any filing of a contested matter by either party will also terminate the designation of Collaborative Law Case, effective on the date of filing. Upon termination of the Collaborative Law Case designation, the status of any party’s attorney as attorney of record shall terminate without further notice. An attorney of record’s motion to withdraw from a Collaborative Law Case does not terminate the designation of Collaborative Law Case.

## **B. When to Use**

Collaborative law systems may be used in any family law case, provided the parties tend to trust each other, and tend to be forthcoming with their assets and disclosure requirements. The operative word in the process is “cooperation” and “trust.” Lack of same makes the process unworkable. The ***danger*** in a collaborative law process is that the more emotionally and financially weak party will lose access to her/his trusted attorney if the process becomes adversarial and will have to seek new counsel, and must then establish a new relationship and trust in the subsequent attorney.

## **C. Whom to Use**

Attorneys who have experience in mediating family law cases, and who have the ability to settle cases, are the best attorneys to represent the client in Collaborative Law Cases.

## **D. Forms**

- **Stipulation and Order Regarding Collaborative Matter; and Order Thereon**

See sample in **Appendix G – Collaborative Law Forms**.

## ENDNOTE

- 1 Alexandra Leichter is a California State Bar Certified Family Law Specialist; she is a Certified Family Law Arbitrator, certified by the American Academy of Matrimonial Lawyers; she is also a fellow of the American Academy of Matrimonial Lawyers and a fellow of the International Academy of Family Lawyers. She has been a practicing family law attorney for over 46 years, representing clients in complex marital dissolutions and high conflict custody matters. She also acts as an Expert Witness, an Arbitrator, and as a Mediator in Voluntary Settlement conferences as well as a consultant in difficult custody and high conflict family law actions. She lectures extensively on various family law issues and has written numerous articles on custody, private trials and arbitrations, and Islamic and Jewish Family Law issues affecting civil divorce actions. She is a partner in the firm of Leichter Leichter-Maroko LLP, located in Beverly Hills, California.

## Appendix A – Private Judging Forms

### RETAINER AGREEMENT FOR PRIVATELY COMPENSATED TEMPORARY JUDGE

DATE: \_\_\_\_\_

RE: \_\_\_\_\_

Dear Counsel:

Thank you for selecting me to serve as the privately compensated temporary judge (hereafter “private judge”) in the above entitled matter.

Concurrently with this retainer agreement, parties and counsel are to execute the attached Stipulation and Order for Appointment of Privately Compensated Temporary Judge, and obtain the written consent of the Supervising Judge, or the Judge assigned to this case in the Superior Court. Trial in this matter will be held on a mutually agreeable date(s) between \_\_\_\_\_ and \_\_\_\_\_, at the offices of \_\_\_\_\_.

The following are terms and conditions for my engagement herein:

Time for Trial: If counsel or the parties have any concern that the time estimated will not be sufficient, they should book additional time now. I will set aside seven and one-half (7.5) hours consisting of 8:30 a.m. to 12:00 noon, and 1:30 p.m. to 5:30 p.m. on the date(s) to be chosen. (Additional hours on specific dates may be booked in advance).

Conduct of Trial: Trial shall be conducted in accordance with all applicable provisions of the law, unless the parties and counsel stipulate in writing or on the record otherwise. No court reporter will be provided unless paid for and retained by one or more parties. If there are any issues concerning the conduct of the trial, including agreements concerning trial procedures, discovery, evidence or anything else of which I should be advised, please send me a copy of the agreement, or a letter informing me of the specific issue to be addressed, at least five (5) business days before the hearing. Hearings on preliminary matters may be made, by agreement, telephonically. The party requesting such telephonic conference or hearing shall assure that a conference call operator (such as “court call” or other method by which all parties and counsel can hear the telephonic conference equally well) is arranged and all counsel and the private judge are notified in advance. Telephonic conferences will not be recorded unless one, or all of the parties, pay for a court stenographer to record such conference call. The parties and counsel are to schedule at least one pre-trial conference to determine pre-trial procedures and trial procedures.



Trial Exhibits: If Exhibits are voluminous, parties and counsel are advised to retain a retired court clerk to record documents that are identified and those that are admitted in evidence. All Exhibits are to be marked in the same manner as they would be marked for a public trial. A bench copy of all Exhibits is appreciated. Unless counsel request otherwise, all Exhibits will be returned to the respective party proffering same at the conclusion of the trial.

Public Nature of Trial: Counsel are advised that private trials must be held in such a manner as to provide the public with notice of date and place of trial. Therefore, all trial date notices, including the place of hearing, must be filed with the Superior Court in which the dissolution action is filed. Similarly, only copies of pleadings are to be provided to the private judge. The originals of all pleadings provided to the private judge must be filed in Superior Court.

Additional Provisions: No hearing on any Motion or Order to Show Cause is to be scheduled without first obtaining the time availability of private judge.

Disclosure Statement: I have conducted a review of my past contacts with parties and counsel herein to the extent I have any records providing same. Since I have not been provided information as to the identity of potential witnesses in the matter, any disclosures will not reflect past relationships with them.

The attached Disclosure Statement contains a listing of all matters of which I am aware wherein I have had a past contact, and any other information that I believe is appropriate for disclosure in this case.

Based upon the information provided to me, I know of no relationships with the attorneys, parties or subject matter, nor any other matter which would require disclosure or my disqualification in this matter or which would impair my ability to serve fairly and impartially.

Counsel are responsible for providing the information concerning disclosure to their clients.

Disclosure of contacts concerning the new cases while this matter is pending: While the instant matter is pending, it is not unusual for one of the attorneys in the instant matter to request my services in an unrelated case. In the event you wish to be advised of such contacts before I make a decision whether or not to accept another case involving one of the attorneys in this case, please do not hesitate to let me know, so that I may make arrangements to do so.

Fees and Initial Payment: My rate is \$\_\_\_\_\_ per day for hearing time and \$\_\_\_\_\_ per hour for review of pleadings and correspondence, deliberation, research, preparation of review, and all other time spent on this case. An initial retainer of the entire estimated fee is due in advance at the time this agreement is signed.

Based on the information I have received, the following is the time estimate in this matter: \_\_\_\_\_ hours to review briefs, prepare rulings and estimated time for conferences, and \_\_\_\_\_ days for trial. Accordingly, the initial payment toward the fees in this matter will be \$\_\_\_\_\_. This payment is due by \_\_\_\_\_. My taxpayer identification number is \_\_\_\_\_. Should the matter exceed the time estimated, including time necessary to prepare a Tentative Ruling, Statement of Decision and Judgment, or other Order After Hearing, you will be billed for the additional time incurred, or additional estimated time, and such fee is due within five days of billing.

If the parties do not advance the fees by the due date, as above requested, or do not pay the additional billed fee when due, I will cancel the hearing date(s) which have been reserved, and will not proceed to render any further services. In such event, I may either withdraw as the private judge or reset the trial or hearing dates when the parties are all able to advance fees as requested.

Cancellation Policy: In the event the matter is cancelled or continued for any reason within twenty (20) days of a hearing, I will refund that portion of the initial payment, to the extent that I am able to replace the cancelled time with other matters. A minimum of \$250 will be retained as a fee to prepare the file. If there is a cancellation or continuance more than twenty (20) days before a hearing date, the initial payment will be refunded, less a \$250 fee to prepare the file.

Agreement to Terms and Conditions: If the above terms and conditions of my engagement in this matter are agreeable, please sign the enclosed copy of this letter and return same to me within the next five (5) days.

Very truly yours,

\_\_\_\_\_

AGREED AND CONFIRMED:

\_\_\_\_\_  
Petitioner

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

\_\_\_\_\_  
Attorney for Petitioner

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

\_\_\_\_\_  
Respondent

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

\_\_\_\_\_  
Attorney for Respondent

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

**Appendix A – Private Judging Forms**

**OATH & CERTIFICATION OF COMPLIANCE**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

OATH OF OFFICE OF TEMPORARY JUDGE | OATH OF \_\_\_\_\_  
(JUDGE PRO TEM) OF THE SUPERIOR |  
COURT OF THE STATE OF CALIFORNIA:

**OATH OF OFFICE**

For the Office of Temporary Judge (Judge Pro Tem) of the Superior Court of the State of California for the County of Los Angeles, I, the undersigned, do solemnly swear that I will support and defend the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. I certify that I am aware of and will comply with applicable provisions of Canon 6 of the Code of Judicial Ethics and the California Court Rules.

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

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
PRESIDING JUDGE

**Appendix A – Private Judging Forms**

**STIPULATION AND ORDER FOR APPOINTMENT OF PRIVATELY  
COMPENSATED TEMPORARY JUDGE (JUDGE PRO TEM)**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

Petitioner: ) CASE No.  
and )  
Respondent: ) STIPULATION AND ORDER  
FOR APPOINTMENT OF  
TEMPORARY JUDGE  
(JUDGE PRO TEM)

**STIPULATION FOR APPOINTMENT**

1. IT IS HEREBY STIPULATED by the parties to the  
above entitled matter, by and through their respective  
counsel, that \_\_\_\_\_, a member of the State Bar  
of California, office address \_\_\_\_\_,  
\_\_\_\_\_; telephone \_\_\_\_\_, shall be appointed  
as Temporary Judge (Judge Pro Tem), and shall hear and  
determine all pre-trial issues and motions relating to the  
actual trial of the case, and preside over the trial of the  
within matter until rendition of judgment herein and shall  
continue to act in said capacity until the conclusion of  
all matters which may be determined within the trial  
jurisdiction of the Superior Court, including, but not

1 limited to, all post-trial motions relating to the judgment  
2 filed or to be filed herein, or within (one) year from the  
3 date of the last hearing scheduled in the matter, whichever  
4 is later, or within (one) year from the appointment,  
5 whichever last occurs, unless appointing court or counsel  
6 for any party in the matter has informed the Temporary  
7 Judge that the appointment remains in effect.

8 IT IS HEREBY FURTHER STIPULATED by and between counsel  
9 for the respective parties in the above entitled action:

10 a) ACCEPTABLE TRIAL DATES:

11 FIRST PRIORITY: \_\_\_\_\_

12 SECOND PRIORITY: \_\_\_\_\_

13 TIME ESTIMATE: \_\_\_\_\_

14 b) PLACE OF TRIAL:

15 ADDRESS: \_\_\_\_\_

16 CITY/STATE: \_\_\_\_\_

17 c) COMPLETION DATE (REQUIRED): \_\_\_\_\_

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20 \_\_\_\_\_  
COUNSEL FOR PETITIONER

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COUNSEL FOR RESPONDENT

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JOINDER BY THE PARTIES  
(REQUIRED)

The parties hereby authorize their attorneys of record to enter into the foregoing stipulation, and hereby approve said stipulation and agree to be bound by all of the terms thereof.

_____	_____
PETITIONER	RESPONDENT
_____	_____
PLAINTIFF	DEFENDANT

CONSENT OF TEMPORARY JUDGE

I consent to act as Temporary Judge (Judge Pro Tem) in the above entitled matter as set forth in the above Stipulation. My oath, dated \_\_\_\_\_ is on file in Department One of the Los Angeles Superior Court.

\_\_\_\_\_  
Temporary Judge

O R D E R

Good cause appearing thereof, it is ordered:

A. The Stipulation of the parties that \_\_\_\_\_ act as Temporary Judge in this cause be, and it is hereby approved.

B. \_\_\_\_\_, having consented to so act, is hereby appointed and designated as Temporary Judge

1 to hear the issues in this matter, as stipulated by the  
2 parties, her oath of office having been filed on  
3 \_\_\_\_\_.

4 C. Said appointment shall remain in full force  
5 and effect until the conclusion of all matters herein which  
6 may be determined within the trial jurisdiction of the  
7 Superior Court, or within (one) year from the date of the  
8 last hearing scheduled in the matter, whichever is later,  
9 or within (one) year from the appointment, whichever last  
10 occurs, unless appointing court or counsel for any party in  
11 the matter has informed the Temporary Judge that the  
12 appointment remains in effect.

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14 DATED:

15 \_\_\_\_\_  
16 JUDGE OF THE LOS ANGELES  
17 SUPERIOR COURT  
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## Appendix B – Arbitration Forms

### RETAINER AGREEMENT FOR ARBITRATION

DATE: \_\_\_\_\_

RE:

Dear Counsel:

Thank you for selecting me to serve as the neutral arbitrator in the above entitled matter.

The arbitration will be heard on a mutually agreeable date, between \_\_\_\_\_ and \_\_\_\_\_, at the offices of \_\_\_\_\_.

The following are terms and conditions for my engagement herein:

Time for Arbitration: If counsel or the parties have any concern that the time estimated will not be sufficient, they should book additional time now. I will set aside seven (7) hours consisting of 9:30 a.m. to 12:00 noon, and 1:00 p.m. to 5:30 p.m. on the date to be chosen.

Arbitration Agreement: If there are any provisions in the arbitration agreement between the parties concerning the conduct of the arbitration, including agreements concerning arbitration procedures, discovery, evidence or anything else of which I should be advised, please send me a copy of the agreement at least five (5) business days before the hearing. Unless the parties have stipulated otherwise, the provisions of CCP §§1282.6, 1282.8, 1283, 1283.05 shall be applicable to this arbitration, however, the provisions of CCP §1283.05(e) shall not apply. Pre-hearing procedures, including all manner of discovery shall be conducted by the parties in the same manner as such would be conducted if the matter were tried in Superior Court. The parties have agreed that the instant arbitration shall be binding, although the parties are aware that any award of child support and child custody cannot be made binding, and if such issues arise, the portion of the award relating to those issues shall be non-binding. Signature of each party and attorney will constitute agreement as to the binding nature of this arbitration.

The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing, but rules of evidence and rules of judicial procedure need not be observed by the arbitrator. On request of any party to the arbitration, the testimony of witnesses shall be given under oath. Testimony and the proceedings shall not be stenographically recorded unless the requesting party arranges for and pays for same.



**OPTIONAL:** Pursuant to *Cable Connection, Inc. v. DirectTV, Inc.* (2008) 44 Cal.4th 1334, the arbitrator's award shall be based upon California law with respect to each and every issue presented. An arbitration award in this case that is based upon legal error may be judicially reviewed by the Superior Court where the case is pending, or by a Court of Appeal. This optional provision shall be operative only if all parties and attorneys have initialed this provision:

\_\_\_\_\_(Petitioner);  
\_\_\_\_\_(Respondent);  
\_\_\_\_\_(Petitioner's Counsel);  
\_\_\_\_\_(Respondent's Counsel)

Service of the Arbitration Award: Code of Civil Procedure section 1283.6 requires that, unless otherwise provided by agreement, the neutral arbitrator must serve the award of the arbitrator by registered or certified mail. By signing this letter, the parties agree that the award of the arbitrator or arbitrators may be served by regular first-class mail.

Arbitration Briefs, etc.: Witness lists, Exhibit lists, Current Income & Expense Declarations, and Final Disclosure Declarations shall be exchanged and should be delivered to me at least (5) court days prior to the arbitration hearing. Failure to list a witness or document shall not bar the testimony of an unlisted witness or the introduction of an undesignated document at the hearing, provided that good cause for omission from the requirement is shown, as determined by the arbitrator.

Arbitration Exhibit Book: All Exhibits set forth in the Exhibit list shall be pre-marked and exchanged at least five (5) court days prior to the initial date set for hearing. No exhibits, except impeachment exhibits, shall be allowed into evidence that have not been pre-marked and exchanged, without first having obtained the approval of the arbitrator and having shown good cause. Counsel shall submit to the arbitrator, prior to the start of the arbitration, all pre-marked exhibits together with a second "working" copy for the arbitrator. It is preferable that all exhibits be placed in a binder, with appropriate tabs. Please do not include original documents in the exhibit book. Unless counsel request otherwise, I will dispose of the exhibit book at the conclusion of the case. Counsel are advised to meet and confer prior to hearing to stipulate to the admission of as many exhibits as possible, to reduce the cost of hearing. The exhibit book should include an index to the exhibits indicating the exhibit number, a brief description, and whether the parties have agreed that the exhibit may come into evidence.

Disclosure Statement: I have conducted a review of my past contacts with parties and counsel herein to the extent I have any records providing same. Since I have not been provided information as to the identity of potential witnesses in the matter, any disclosures will not reflect past relationships with them.

The attached Disclosure Statement contains a listing of all matters of which I am aware wherein I have had a past contact, and any other information that I believe is appropriate for disclosure in this case.

Based upon the information provided to me, I know of no relationships with the attorneys, parties or subject matter, nor any other matter which would require disclosure or my disqualification in this matter or which would impair my ability to serve fairly and impartially.

Counsel are responsible for providing the information concerning disclosure to their clients.

Disclosure of contacts concerning the new cases while this matter is pending: While the instant matter is pending, it is not unusual for one of the attorneys in the instant matter to request my services in an unrelated case. In the event you wish to be advised of such contacts before I make a decision whether or not to accept another case involving one of the attorneys in this case, please do not hesitate to let me know, so that I may make arrangements to do so.

Fees and Initial Payment: My rate is \$\_\_\_\_\_per day for hearing time and \$\_\_\_\_\_per hour for review of pleadings and correspondence, deliberation, research, preparation of review, and all other time spent on this case. An initial retainer of the entire estimated fee is due in advance at the time this agreement is signed, as set forth in the attached billing statement.

Based on the information I have received, the following is the time estimate in this matter: \_\_\_\_\_ hours to review briefs and telephonic pre-trial conference, \_\_\_\_\_ hours for scheduled hearing time, \_\_\_\_\_ hours estimated for preparation of award and other time to be spent on this case.

Accordingly, the initial payment toward the fees in this matter will be \$\_\_\_\_\_. This payment is due by \_\_\_\_\_. My taxpayer identification number is \_\_\_\_\_. Should the matter exceed the time estimated, including time necessary to prepare an award, you will be billed for the additional time, and such fee is due within five days of billing. No award will be submitted until such fee is paid.

If the parties do not advance the fees by the due date, as above requested, I will cancel the hearing date which has been reserved. In such event, I may either withdraw as the arbitrator or reset an arbitration date when the parties are all able to advance fees as requested.

Cancellation Policy: In the event the matter is cancelled or continued for any reason within thirty (30) days of the date set for hearing, I will refund that portion of the initial payment, to the extent that I am able to replace the cancelled time with other matters. A minimum of \$\_\_\_\_\_ will be retained as a fee to prepare the file. If there is a cancellation or continuance more than thirty (30) days before a hearing date, the initial payment will be refunded, less a \$\_\_\_\_\_ fee to prepare the file.

Agreement to Terms and Conditions: If the above terms and conditions of my engagement in this matter are agreeable, please sign the enclosed copy of this letter and return same to me within the next five (5) days.

**DISCLOSURE STATEMENT BY \_\_\_\_\_**  
**IN RE MARRIAGE OF \_\_\_\_\_**

Based upon a review of past contacts with parties and counsel, I have been able to locate the following information concerning such contacts, as set forth below.

In each instance in the matters noted below, the indicated counsel, or the client whom counsel represented, probably paid all or a portion of my fees, or has agreed to do so, in the matter. In the event further information regarding these matters is required, counsel may contact me directly or contact counsel for the party:

In addition to the above, I have the following relationships of which the parties should be aware:

If there are any questions, please let me know. I look forward to the opportunity to assist the parties in the resolution of this matter.

Very truly yours,

\_\_\_\_\_

**AGREED AND CONFIRMED:**

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

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Petitioner

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

\_\_\_\_\_  
Attorney for Respondent

\_\_\_\_\_  
Respondent

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OPTIONAL: Pursuant to *Cable Connection, Inc. v. DirectTV, Inc.* (2008) 44 Cal.4th 1334, the arbitrator's award shall be based upon California law with respect to each and every issue presented. An arbitration award that is based upon legal error may be judicially reviewed by the Superior Court in this case, or by a Court of Appeal. (Initialed: \_\_\_\_\_)

Furthermore, the parties hereby agree to submit the issues of child custody/visitation and child support to non-binding neutral arbitration before \_\_\_\_\_.

The binding portion of the award made in this case may be entered and confirmed pursuant to Code of Civil Procedure section 1285 et seq. The parties shall have the right to have a trial de novo with respect to all issues that have been submitted to non-binding arbitration.

IT IS SO STIPULATED:

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_ Attorney for Petitioner

DATED: \_\_\_\_\_ Respondent \_\_\_\_\_

DATED: \_\_\_\_\_ Attorney for Respondent

IT IS SO ORDERED:

DATED: \_\_\_\_\_ Judge of the Superior Court

## Appendix C – Reference Forms

### STIPULATION OR MOTION FOR ORDER APPOINTING REFEREE (ADR-109)

**ADR-109**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <div style="display: flex; justify-content: space-between;"> <div>           TELEPHONE NO.:            E-MAIL ADDRESS (Optional):            ATTORNEY FOR (Name):         </div> <div>           FAX NO. (Optional):         </div> </div>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<input type="checkbox"/> <b>STIPULATION</b> <input type="checkbox"/> <b>MOTION</b> <b>FOR ORDER APPOINTING REFEREE</b>	CASE NUMBER:

1. **Applicant.** The following parties apply for appointment of a referee (*name each applicant*):

2. **Statutory ground for appointment.**

a. ☐ **Section 638.** Appointment of the referee is requested under Code of Civil Procedure section 638 because (*check one*):

- (1) ☐ all parties to the action have agreed to the appointment of a referee under section 638.
- (2) ☐ the parties entered into a written contract or lease that provides that any controversy arising from it shall be heard by a referee, as follows (*identify agreement and state provision for appointment of referee below or in Attachment 2a*):

b. ☐ **Section 639.** Appointment of the referee is requested under Code of Civil Procedure section 639 because (*check and complete (1) or (2)*):

- (1) ☐ **Discovery reference.** It is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon. (*Code Civ. Proc., § 639(a)(5). State the exceptional circumstances specific to the particular case that require the discovery reference, below or in Attachment 2b(1).*)
- (2) ☐ **Other reference.** (*Check one or more of the following statutory grounds and state the reason the appointment is requested, below or in Attachment 2b(2).*)
  - (a) ☐ The trial of an issue of fact requires the examination of a long account. (*Code Civ. Proc., § 639(a)(1).*)
  - (b) ☐ The taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect. (*Code Civ. Proc., § 639(a)(2).*)
  - (c) ☐ A question of fact, other than upon the pleadings, has arisen by motion or otherwise. (*Code Civ. Proc., § 639(a)(3).*)
  - (d) ☐ It is necessary for the information of the court in a special proceeding. (*Code Civ. Proc., § 639(a)(4).*)

3. **Referee.** Applicant requests appointment of the following person as referee:

- a. Name:
- b. Business address:
- c. Telephone number:
- d. ☐ The proposed referee is an active or inactive member of the State Bar. (*A proposed referee who is a former California judicial officer must also be an active or inactive member of the State Bar.*) The proposed referee's State Bar number is:

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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**4. Subject matter of reference.**

- a. ☐ **Section 638.** Applicant requests that the reference include *(check and complete one)*:
- (1) ☐ all issues in dispute.
- (2) ☐ the following issues *(describe issues to be covered by reference below or in Attachment 4a)*:

- b. ☐ **Section 639.** Applicant requests that the reference include the following issues *(describe issues below or in Attachment 4b)*:

**5. Referee's compensation.** *(Check and complete one.)*

- a. ☐ The referee will not be privately compensated by the parties.
- b. ☐ The referee will be privately compensated by the parties as follows:
- (1) ☐ The parties have agreed that the referee's fees shall be paid as follows *(state agreement below or in Attachment 5b)*:
- (2) ☐ The parties have not agreed on payment of the referee's fees and request the matter to be resolved by the court under Code of Civil Procedure section 645.1.

**6. Use of court facilities and personnel.** *(Check and complete one.)*

- a. ☐ Applicant does not request the use of court facilities or court personnel.
- b. ☐ Applicant requests the use of court facilities or court personnel. *(Describe the requested use below or in attachment 6b. If the reference is to be conducted by a privately compensated referee appointed under Code Civ. Proc., § 638, also state why the use of court facilities or court personnel will further the interest of justice. Court facilities and personnel may be used in proceedings before a privately compensated section 638 referee only upon a finding of the presiding judge that the use would further the interest of justice.)*

**7. Hearing location information.** The following person may be contacted to arrange attendance at any proceeding that is open to the public and that is conducted in a private facility *(complete all of the following)*:

- a. Name:
- b. Address:
- c. Telephone:

Date:

_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)

## Appendix C – Reference Forms

### ORDER APPOINTING REFEREE (ADR-110)

**ADR-110**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (Optional):</div> </div> <div style="display: flex; justify-content: space-between;"> <div>E-MAIL ADDRESS (Optional):</div> <div></div> </div> <div style="display: flex; justify-content: space-between;"> <div>ATTORNEY FOR (Name):</div> <div></div> </div>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:	
<b>ORDER APPOINTING REFEREE</b>	
CASE NUMBER:	

**THE COURT FINDS:**

1. ☐ **Section 638 appointment.** A referee is properly appointed under Code of Civil Procedure section 638 because (check one):
  - a. ☐ all parties to the action have agreed to the appointment of a referee under section 638.
  - b. ☐ the parties entered into a written contract or lease that provides that any controversy arising therefrom shall be heard by a referee.
2. ☐ **Section 639 appointment.** A referee is properly appointed under Code of Civil Procedure section 639 because (check and complete a or b):
  - a. ☐ **Discovery reference.** It is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation. (Code Civ. Proc., § 639(a)(5). State the exceptional circumstances specific to the particular case that require the discovery reference, below or in Attachment 2a.)
  - b. ☐ **Other reference.** (Check one or more of the following statutory grounds and state the reason for the appointment below or in Attachment 2b.)
    - (1) ☐ The trial of an issue of fact requires the examination of a long account. (Code Civ. Proc., § 639(a)(1).)
    - (2) ☐ The taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect. (Code Civ. Proc., § 639(a)(2).)
    - (3) ☐ A question of fact, other than on the pleadings, has arisen by motion or otherwise. (Code Civ. Proc., § 639(a)(3).)
    - (4) ☐ It is necessary for the information of the court in a special proceeding. (Code Civ. Proc., § 639(a)(4).)
  - c. **Economic inability to pay.** (Check one.)
    - (1) ☐ No party has established an economic inability to pay a pro rata share of the referee's fees.
    - (2) ☐ One or more parties has established an economic inability to pay a pro rata share of the referee's fees and another party has agreed voluntarily to pay that additional share of the referee's fees. (Complete item 5c(3)(b).)
      - (a) The following party has established an economic inability to pay a pro rata share of the referee's fee (name each):
      - (b) The following party has agreed voluntarily to pay an additional share of the referee's fee (name each):
    - (3) ☐ The referee is being appointed at no cost to the parties.



PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

**THE COURT ORDERS:**

3. **Referee.** The following person is appointed as referee. *(The referee's signature indicating consent to serve and certification that he or she is aware of and will comply with the applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court must be included in the proposed order appointing a referee under Code of Civil Procedure section 638 or attached to the order appointing a referee under section 639. See item 9.)*
- Name:
  - Business address:
  - Telephone number:
  - ☐ The referee is a member of the State Bar of California. *(Rules 3.903 and 3.923 of the California Rules of Court provide that a referee who is a former judicial officer must be an active or inactive member of the State Bar.)*
    - ☐ The referee's State Bar number is:
    - ☐ The referee's State Bar membership status is *(check one)*:
      - ☐ Active
      - ☐ Inactive
      - ☐ Other *(specify)*:
4. **Scope and subject matter of reference.** The referee is appointed as follows *(check and complete a or b)*:
- ☐ **Section 638 appointment.** The referee is appointed under Code of Civil Procedure section 638 *(check and complete one)*:
    - ☐ to hear and determine any or all of the issues in the action or proceeding, whether of fact or of law, and to report a statement of decision.
    - ☐ to ascertain the following facts necessary to enable the court to determine the action or proceeding *(state facts to be ascertained by referee below or in Attachment 4a)*:
  - ☐ **Section 639 appointment.**
    - ☐ The following subject matter or matters are included in the reference *(describe the matter or matters the referee is ordered to consider below or in Attachment 4b)*:
    - ☐ **Section 639 discovery reference.**
      - ☐ The discovery referee is appointed for *(check one)*:
        - ☐ The discovery matters identified in (1) above.
        - ☐ All discovery purposes in the action.
      - The referee is authorized to set the date, time, and place for all hearings determined by the referee to be necessary; direct the issuance of subpoenas; preside over hearings; take evidence; and rule on objections, motions, and other requests made during the course of the hearing.
5. **Referee's compensation.** *(Check and complete one of the following.)*
- ☐ **Uncompensated referee.** The referee will not be privately compensated by the parties.
  - ☐ **Compensation of section 638 referee.**
    - ☐ The referee's fees will be paid as agreed by the parties.
    - ☐ The parties have not agreed on the payment of the referee's fees and have requested that the matter be resolved by the court. The court orders that the referee's fees be paid as follows *(state the manner of payment determined by the court to be fair and reasonable below or in Attachment 5b)*:

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

5. c. ☐ **Compensation of section 639 referee.**
- (1) ☐ The maximum hourly rate that the referee may charge is *(specify)*:
- (2) ☐ The maximum number of hours for which the referee may charge is *(at the request of any party, state the maximum number of hours for which referee may charge)*:
- (3) ☐ The court orders that the referee's fees be paid or apportioned as follows and reserves jurisdiction to modify this order *(state fair and reasonable apportionment of reference costs below or in Attachment 5c)*:
- (a) ☐ All parties shall pay equal shares of the referee's fees.
- (b) ☐ The parties shall pay equal shares of the referee's fees except that, based on the finding of economic inability set forth in item 2c(2):
- (i) ☐ The following party is not required to pay any portion of the referee's fees *(name of each party excused from paying referee's fees)*:
- (ii) ☐ The following party shall pay the pro rata share of the referee's of the party identified in (i), in addition to his or her own share of the referee's fees *(name of each party who has agreed to pay an additional share of the referee's fees)*:
- (c) ☐ The referee's fees shall be paid as set forth in Attachment 5c.
- (4) ☐ The court will subsequently determine how the referee's fees will be paid, under Code of Civil Procedure section 645.1(b). *(If the issue of economic hardship is raised before the services of a referee appointed under section 639 begin, the court must make a fair and reasonable apportionment of reference costs.)*
6. **Use of court facilities and court personnel.** Court facilities and court personnel *(check and complete one)*:
- a. ☐ may not be used without an order of the presiding judge. *(Court facilities and personnel may be used in proceedings before a privately compensated section 638 referee only upon a finding of the presiding judge that the use would further the interest of justice.)*
- b. ☐ may be used as follows *(describe any authorized use of court facilities or court personnel if referee will not be privately compensated or is appointed under section 639)*:
7. ☐ **The reference will be conducted in a private facility.** The clerk must post notice that the following person may be contacted to arrange attendance at any proceeding that is open to the public *(complete all of the following)*:
- a. Name:
- b. Address:
- c. Telephone:
8. **Referee's report.**
- a. **Time of report.** The referee must report *(check and complete one)*:
- (1) ☐ in writing to the court within 20 days after the hearing, if any, has been concluded and the matter submitted.
- (2) ☐ as follows *(specify other time and manner of reporting directed by the court)*:
- b. **Manner and contents of report.**
- (1) ☐ **Section 638 referees.** The referee must report in the following manner agreed to by the parties and approved by the court *(describe)*:
- (2) ☐ **Section 639 referees.** The referee must file with the court a report that includes a recommendation on the merits of any disputed issue, a statement of the hours spent and the total fees charged by the referee, and the referee's recommended allocation of payment. The referee must serve the report on all parties.
9. **Certification of referee.** The undersigned consents to serve as referee as provided above and certifies that he or she is aware of and will comply with the applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

(TYPE OR PRINT NAME OF PROPOSED REFEREE)

(SIGNATURE OF PROPOSED REFEREE)

Date:

JUDICIAL OFFICER

## Appendix C – Reference Forms

### REPORT OF REFEREE (ADR-111)

**ADR-111**

<small>REFEREE (Name, State Bar number, if applicable, and address):</small>  <div style="display: flex; justify-content: space-between;"> <small>TELEPHONE NO.:</small> <small>FAX NO. (Optional):</small> </div> <small>E-MAIL ADDRESS (Optional):</small> <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  <small>STREET ADDRESS:</small> <small>MAILING ADDRESS:</small> <small>CITY AND ZIP CODE:</small> <small>BRANCH NAME:</small>	<small>FOR COURT USE ONLY</small>
<small>PETITIONER/PLAINTIFF:</small>  <small>RESPONDENT/DEFENDANT:</small>	
<b>REPORT OF REFEREE</b>	<small>CASE NUMBER:</small>

1. **Appointment.** The undersigned referee was appointed as follows:
  - a. **Date.** By order dated:
  - b. **Statutory authority.** Referee was appointed under *(check one)*:
    - (1) ☐ Code of Civil Procedure section 638.
    - (2) ☐ Code of Civil Procedure section 639.
2. **Submission.** The hearing, if any, was concluded and the matter was submitted on *(date)*:
3. **Referee's time and fees.** *(All items must be completed if referee was appointed under section 639.)*
  - a. Total hours spent by referee:
  - b. Total fees charged by referee:
  - c. Referee recommends the following allocation of payment of referee's fees *(state the recommended allocation below or in Attachment 3c)*:
4. **Recommendation on the merits.** *(State the recommendation on the merits of any disputed issues below or in Attachment 4.)*

5. **Pages and attachments.** Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

(NAME OF REFEREE)

(SIGNATURE OF REFEREE)

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

### DECLARATION OF SERVICE OF REPORT OF REFEREE

1. I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
3. I served a copy of the *Report of Referee (Alternative Dispute Resolution)* (form ADR-111) by enclosing it in a sealed envelope with postage fully prepaid, as follows:
  - a. ☐ I deposited the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - b. ☐ I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
  - c. Date of deposit:
  - d. Place of deposit (*city and state*):
  - e. Addressed as follows (*name and address of each party*):

4. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

	
(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)

## Appendix D – Parenting Plan Coordinator Forms

### STIPULATION AND ORDER APPOINTING PARENTING PLAN COORDINATOR

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, address & phone);          ATTORNEY FOR (name):	FORM PPC-1  FOR COURT USE ONLY:
ATTORNEY OR PARTY WITHOUT ATTORNEY (name, address & phone);          ATTORNEY FOR (name):	CASE NAME:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES  BRANCH:  DEPARTMENT:  STREET ADDRESS:  CITY & ZIPCODE:	CASE NUMBER:

### STIPULATION & ORDER APPOINTING PARENTING PLAN COORDINATOR

#### A. Stipulation by Parents

1. We (agree) to the appointment of \_\_\_\_\_ as a Parenting Plan Coordinator (PPC, also called a Parent Coordinator or a Child Custody Special Master) under the terms of this stipulation and order.
2. A Parenting Plan Coordinator is a quasi-judicial officer of the court appointed by the Court by stipulation of the parents to:
  - a. Coach the parents on effective co-parenting,
  - b. Help the parents make joint parenting decisions, and
  - c. Resolve disputes between the parents concerning the clarification, implementation and adaptation of a court-ordered parenting plan through the informal process described in this order.
3. We agree to submit disputes about clarification, implementation and adaptation of the court-ordered parenting plan to the PPC to make decisions under the terms and procedures set forth in this stipulation and order. We agree that the Court may adopt those decisions of the PPC as court orders that have the same force and effect as orders made by the Court in a contested court proceeding.

---

*\* This stipulation has been developed by the Family Law Section of the Los Angeles County Bar Association and is designed to provide a standard template for general use when there is a detailed parenting (custody-visitation) plan. Please clearly indicate any changes from this standard template by hand or in an appendix.*

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**Stipulation and Order Appointing Parenting Plan Coordinator (Form PPC-1) p. 2**

PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

**B. Findings of the Court**

Based upon the stipulation of the parents (who have signed this stipulation, and initialed this stipulation where indicated to document their agreement), the Court finds that the parents have knowingly, intelligently, and voluntarily agreed to the terms of the stipulation, after having had the opportunity to consult with independent counsel.

4. I have had an opportunity to independently consult with a lawyer of my choice before entering into this stipulation. I have read this stipulation, and understand it. I freely and voluntarily enter into this stipulation.

Initials: \_\_\_\_\_

5. I choose to use the PPC process as an alternate method of dispute resolution to reduce future custody and visitation litigation. I waive the right to formal court litigation over the issues assigned to the PPC by this stipulation and order, subject to the Court's power to review the PPC's decision.

Initials: \_\_\_\_\_

6. I understand that no California court can appoint a PPC without the consent of the parents, and that no California statute or court rule authorizes the appointment of a PPC.

Initials: \_\_\_\_\_

7. I understand that the PPC will resolve certain disputes between the parents without a court hearing, and will issue some decisions that will become court orders automatically, and others that are recommendations for court orders.

Initials: \_\_\_\_\_

8. I understand that we cannot sue the PPC; that the PPC process is a quasi-judicial process; that the participants, including third persons, are protected from civil liability by the Civil Code Section §47 litigation privilege, as well as common law civil immunity from lawsuits to the broadest extent permissible under the law. The procedures set forth in this stipulation and order for addressing grievances about the PPC decision-making process and decisions are the sole remedy for complaints about the PPC available to us.

Initials: \_\_\_\_\_

9. I understand that the PPC is an officer of the Court, not a professional engaged by the parents by private contract to provide services at our expense. Any legal duty owed by the PPC is only to the Court, not to the parents, child or to third parties, except as expressly ordered by the Court.

Initials: \_\_\_\_\_

10. I understand that the fees of the PPC are considered an additional child support obligation and that a parent who has advanced the other parent's share of the PPC's fees and costs may offset such payment against any sums owed to him or her by the other parent.

Initials: \_\_\_\_\_

**Stipulation and Order Appointing Parenting Plan Coordinator (Form PPC-1) p. 3**

PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

**C. Order Appointing Parenting Plan Coordinator**

Based on the stipulation of the parents and the court findings, the Court makes the following orders, effective upon acceptance by the PPC, and continuing in full force and effect for the term set forth in this stipulation and order.

11. The Court appoints \_\_\_\_\_ to serve as a Parenting Plan Coordinator (PPC).
12. By entering into this stipulation, the parents give the PPC some of the authority ordinarily reserved to the Court to make decisions clarifying, implementing and adapting the court-ordered parenting plan when the parents disagree.
13. This order defines the decisions that the PPC may make, and reserves major decisions modifying the parenting plan to the Court. The PPC may make recommendations to the parents and the Court about those major decisions to the extent authorized by this order. The PPC has no powers other than those granted by this stipulation.
14. The PPC shall:
  - a. Provide co-parenting coaching to the parents,
  - b. Help the parents make joint parenting decisions,
  - c. At the request of either parent, make decisions that the Court will adopt as court orders clarifying, implementing and adapting the court-ordered parenting plan;
  - d. At the request of either parent, make recommendations to the parents and the court for modification of the parenting plan to the extent this order authorizes such recommendations.
15. The PPC must disclose any conflicts of interest to the parents, counsel and court before accepting this appointment.
16. The PPC may designate a temporary substitute PPC for periods (not to exceed 60 days) in which the PPC is unavailable. The Court has no jurisdiction to select a replacement PPC without the written stipulation of the parents.
17. The PPC's term begins when this order is entered. The PPC's term ends on \_\_\_\_\_ [date] (usually no more than three years) unless and until any of the following events happens first:
  - a) The PPC resigns with ten days' written notice;
  - b) The parents both sign a written stipulation terminating the appointment;
  - c) The parents extend the appointment to a specific date with a written stipulation and court order; or
  - d) The Court orders the termination of the appointment.
18. The PPC shall submit his or her decisions made under the terms of this order to the Court in writing (with copies to parents and counsel) for entry by the Court as a court order. The PPC shall submit his or her recommendations made under the terms of this order to the Court in writing (with copies to parents and counsel). A decision may take the form of a denial of the result or change requested. The PPC may also submit written findings, opinions and reports to the Court (with copies to parents and counsel) addressing matters that arise in the course of the PPC process.
19. The PPC shall give each parent a reasonable opportunity to be heard before making any

**Stipulation and Order Appointing Parenting Plan Coordinator (Form PPC-1) p. 4**

PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

decision.

20. The PPC shall base all decisions upon the best interests of the child.
21. If the child has a court-appointed minors' counsel, the PPC must consult with minors' counsel, and give notice to minors' counsel in the same manner and under the same circumstances that the PPC consults with and gives notice to the parents.
22. The PPC shall not act as a psychotherapist, child custody evaluator, counselor, attorney, or advocate for the parents, child or family. No psychotherapist-patient or attorney-client relationship arises from this appointment or otherwise exists between the PPC and any of the parents or the child. The PPC must not provide any services or assume any professional relationship to the parents and the child other than the role of PPC as defined by this order during or after the term of the appointment.
23. Each parent must give the PPC his or her contact information (mailing address, email address and/or fax number, and telephone numbers), and the child's addresses and telephone numbers, and to provide advance notice of all changes of contact information. Each parent must give the PPC a method for rapid oral and written communication and notification (such as voicemail, text message, e-mail or fax) that allows prompt transmission of information.
24. The PPC may structure the decision-making process, including directing how the parents are to communicate with each other and with the PPC concerning issues presented to the PPC for decision or recommendation.
25. Each parent must give the PPC copies of all pleadings and documents relating to custody and visitation previously filed with the Court by that parent, and all orders of the Court relating to custody and visitation within five (5) calendar days after the entry of this order, and copies of the reports of any child custody evaluator. Each parent must give the PPC copies of any subsequent pleadings, custody evaluations and any other information requested by the PPC.

**D. Limits of PPC's Authority**

26. The PPC shall only make decisions or recommendations to the Court upon the request of a parent.
27. The PPC may make informal recommendations to the parents on any topic related to the child's well-being without a parental request, but may not devote more than a brief period of time to investigation or analysis of any issue not presented to the PPC by one of the parents.
28. The Court retains jurisdiction to review decisions of the PPC and over all other issues related to the parenting plan.
29. The Court retains jurisdiction to make specific orders regarding the amount of services to be provided, including the use of consultants and their fees, based upon economic or other factors (including use of the process to unreasonably increase economic costs or require the other parent to devote excessive time and attention to the process).



PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

### E. The Three Levels of Decision-Making

30. This order classifies issues related to the parenting plan into three categories (Levels 1, 2 and 3) set forth in the chart below, and establishes the scope of the PPC's authority and procedures with respect to the issues in each category.

#### Level 1 Issues

31. Level 1 issues involve short-term practical matters and are often time-sensitive.
32. When one parent requests that the PPC make a Level 1 decision, the PPC shall use the rapid communication methods provided by each parent to give both parents a reasonable opportunity to be heard.
33. The PPC shall initially communicate Level 1 decisions directly to the parents and counsel using rapid oral or written communication. Level 1 decisions are effective when the PPC communicates them to each parent, even though the Court may not enter them until later. Evidence that the PPC communicated a decision to a parent shall suffice to establish that parent's knowledge of the order. Each parent waives notice of the Court's entry of the order.
34. The PPC shall memorialize Level 1 decisions in a written order, transmitted to the parents and counsel, and submitted to the Court for entry, using the Notice of Decision form (Form PPC-2; with stamped, addressed envelopes for delivery of a conformed copy of the entered order to counsel and the PPC). The parents agree that the Court may retroactively (to the time that the parent received rapid notice from the PPC) enforce Level 1 decisions by contempt of court or any other method authorized by law.
35. Either parent may seek review of a Level 1 decision by Order to Show Cause. The parent seeking review must file the OSC with the Court within 30 days after the Court's entry of a Level 1 written order, and serve the OSC by mail within 10 days of its filing. If a parent fails to submit the OSC or to serve the OSC on a timely basis, that parent waives the right to seek review of the decision.
36. The Court may reverse or modify a Level 1 decision where the parent seeking review
- a) Shows that the decision exceeds the authority of the PPC, exceeds the jurisdiction of the Court, or is erroneous as a matter of law, or
  - b) Proves by clear and convincing evidence that the PPC's decision is not in the best interests of the child.

#### Level 2 Issues

37. Level 2 issues typically have long-term effect, but do not make major changes to the roles of the parents as decision-makers, or significantly change the percentage of time that the child is in each parent's care.
38. When one parent requests that the PPC decide a Level 2 issue, the PPC must give the other parent a reasonable opportunity to state his or her views about the issue, and to provide information relating to the issue, before the PPC makes a decision.

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39. The PPC shall make a written decision on any Level 2 issue presented by a parent and transmit the decision to the parents. Level 2 decisions are effective when transmitted to the parents, even though the Court may not enter them until later. Evidence that the PPC communicated a decision to a parent shall suffice to establish that parent's knowledge of the order. Each parent waives notice of the Court's entry of the order.
40. The PPC shall memorialize Level 2 decisions in a written order, transmitted to the parents and counsel, and submitted to the Court for entry, using the Notice of Decision form (Form PPC-2; with stamped, addressed envelopes for delivery of a conformed copy of the entered order to counsel and the PPC).
41. The Court may enforce Level 2 decisions retroactively to the date of the PPC's decision by contempt of court or any other method authorized by law.
42. Either parent may seek review of a Level 2 decision by Order to Show Cause. The parent must file the OSC to the Court within 30 days after entry of a Level 2 order, and serve the OSC by mail within 10 days of its filing. If a parent fails to submit the OSC or to serve the OSC on a timely basis, that parent waives the right to seek review of the decision.
43. The Court may reverse or modify a Level 2 decision where the parent seeking review:
  - c) Shows that the decision exceeds the authority of the PPC, exceeds the jurisdiction of the Court, or is erroneous as a matter of law, or
  - d) Proves by a preponderance of the evidence that the PPC's decision is not in the best interests of the child.

**Level 3 Issues**

44. Level 3 issues involve major changes to the parenting plan that may only be made based upon stipulation of the parents or an order of the Court made at a trial or a hearing initiated by an OSC or motion. The PPC may make recommendations concerning Level 3 issues, but can make no orders, other than to transmit a stipulation of the parents to the Court for entry as an order.
45. When one parent requests that the PPC make a recommendation about a Level 3 issue, the PPC must give the other parent a reasonable opportunity to state his or her views, and to provide information before the PPC makes a recommendation.
46. The PPC may make written recommendations about Level 3 issues upon the request of either parent or may decline to do so. The PPC should not make recommendations if the PPC does not have sufficient information upon which to base a recommendation. If the PPC decides to make recommendations, the PPC shall prepare written recommendations (which may include findings), provide copies to the parents and counsel, and submit them to the Court, using the Notice of Decision form (Form PPC-2).
47. The Court shall admit the written findings and recommendations of the PPC into evidence as expert opinion testimony subject to the right of cross-examination. The parents waive the right to object to the PPC's report itself as being hearsay and the right to object to hearsay statements contained therein, but retain the right to attack the weight, sufficiency and reliability of such evidence. The PPC's recommendations do not carry the same weight as those of a child custody evaluator because the procedures followed by the PPC do not comply with the requirements of California Rules of Court.

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**F. Scope of Authority for Specific Issues**

48. The parents agree to categorize the types of decisions to be made by the Parenting Plan Coordinator as follows [*The pre-printed X's are suggestions only; parents should carefully consider these choices*]:

ISSUE	LEVEL 1	LEVEL 2	LEVEL 3
1. Clarification of ambiguous or uncertain provisions in the court-ordered parenting plan.	X		
2. Establish times, places and conditions for exchanges of the child under the court-ordered parenting plan.	X		
3. Changes to the schedule for child's opportunities to spend holidays, vacations, and special days in each household.	X		
4. Temporary or one-time variation from the parenting time schedule for a special event or particular circumstance.	X		
5. Child's participation in recreation, enrichment and extracurricular activities and programs, including, but not limited to, activity selection, transportation, whether parents may attend during the other parent's parenting time and coaching.	X		
6. Specific orders governing the use and movement of items between households, including but not limited to, clothing, toys, equipment, health care items, personal care items and school materials.	X		
7. Orders governing information exchange between the parents.	X		
8. Allocation of responsibility for transporting the child between homes, schools, activities, childcare, etc.	X		

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ISSUE	LEVEL 1	LEVEL 2	LEVEL 3
9. Communication with the child when the child is in the other parent's care.	X		
10. Minor changes in the base parenting time schedule that do not increase or decrease the child's time with either parent by more than two twenty-four hour periods per 28-days.		X	
11. Major changes in the base parenting time schedule that increase or decrease the child's time with either parent by more than two twenty-four hour periods per 28-days.			X
12. Orders permitting or limiting travel by the child within the United States, including orders governing travel as an unaccompanied minor.		X	
13. Temporary orders restraining either parent from relocating the child's residence until the matter can be heard by the Court.	X		
14. Geographic restrictions on location of the child's residence while in the care of either or both parents reasonably necessary to make existing parenting schedule practical.		X	
15. Child's relocation that would require modification of the parenting schedule.			X
16. Orders prohibiting removal of a child from the State of California and/or specific geographic area within California until the matter can be heard by the Court.	X		
17. Temporary travel by the child outside of the area currently restricted by court orders.		X	

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ISSUE	LEVEL 1	LEVEL 2	LEVEL 3
18. Travel by the child to nations that are signatory to the Hague Convention, conditions of such travel, including but not limited to bonds, mirror orders, and other abduction prevention orders.		X	
19. Travel by the child to nations that are not signatory to The Hague Abduction Convention, including conditions of such travel.			X
20. Orders governing use of corporal punishment or other forms of discipline.	X		
21. Childcare decisions, including but not limited to selection of child care providers, and hours of attendance.		X	
22. Resolution of conflicts between parents concerning the child's day-to-day health care management, including medical, dental, orthodontic, mental health and vision care.		X	
23. Resolution of conflicts about major medical decisions for the child such as non-emergency surgery/major medical procedures (or emergency surgery/procedures once both parents have been contacted and are available to participate in decision-making); child's admission to an in-patient psychiatric program (other than in cases of acute emergency).			X
24. Resolution of conflicts between parents concerning education, including choice of public schools, tutoring, participation in gifted or special education programs, skipping or repeating a grade, and other major educational decisions.		X	
25. Resolution of conflicts between parents concerning moving from public school to private school, from private school to public school, selection of private schools, or use of home schooling.			X

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ISSUE	LEVEL 1	LEVEL 2	LEVEL 3
26. Resolution of conflicts for decisions relating to temporary changes in child's appearance such as haircuts, hair-coloring, etc.	X		
27. Resolution of conflicts between joint legal custodians concerning other issues, including but not limited to consent for issuance or possession of a driver's license, passport, work permit or marriage license; service as a child's guardian ad litem; management and control of child's assets; consent to child's employment; consent for child to participate in risky activities; consent for tattoos, body piercing or other permanent alterations to appearance.		X	
28. Limiting the right of the parents to obtain unilateral evaluations of the child (mental, psychiatric, psychological, social, educational, physical) other than by mutual agreement or order of the court.		X	
29. Orders for parents to participate in parent-education or other parenting skills or co-parenting skills programs.		X	
30. Orders for counseling pursuant to Family Code §3190 <i>et seq.</i>			X
31. Requiring the parents and child to participate in psychological evaluation and testing for purposes of generating recommendations for the Parenting Plan Coordinator regarding modification or implementation of the parenting plan.			X
32. Requiring the parents and child to participate in a full or focused child custody evaluation for purposes of generating recommendations for the Court regarding modification or implementation of the parenting plan.			X
33. Appointment of minor's counsel.			X

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ISSUE	LEVEL 1	LEVEL 2	LEVEL 3
34. Adjustment of parenting time and schedule based upon changes in child's age, stage of development, and parent's ability to meet child's needs (subject to limitations on changing the basic time allocation set forth above).		X	
35. Temporary allocation of legal custody decision-making authority for a particular decision or set of decisions for a limited period of time.		X	
36. Permanent modification of legal custody decision-making authority allocation.			X
37. Imposing or lifting temporary supervised visitation or other major restrictions on a parent's opportunity for contact with a child.		X	
38. Imposing or lifting supervised visitation or other major restriction on a parent's opportunity for contact with a child.			X
39. Participation by parents in alcohol and/or drug monitoring/testing.			X
40. Procedures for alcohol and/or drug testing, including time and place, pursuant to existing court order.	X		

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## G. Decision-making Process

49. The parents must participate in the dispute resolution process as requested by the PPC. In the event of refusal or failure of one parent to participate in the process, the PPC may make decisions based upon the available information.
50. The PPC shall work informally with the parents and family, shall receive information by means of telephone, correspondence, fax, e-mail, videoconferencing and other forms of communication. The PPC may meet with family members individually or jointly, in any combination chosen by the PPC.
51. The parents shall use their best efforts to ensure that the PPC can confer with others upon request, including but not limited to counsel, stepparents, significant others, step siblings, children of significant others, extended family members, household members, school and educational personnel, care providers, health care providers for the children, and therapists for the children.
52. Counsel may be excluded from meetings with the PPC, except that a parent may invite counsel to participate in individual sessions with the PPC, and, if there is a court-appointed minors' counsel, that lawyer may participate in sessions with the PPC and his or her child client. The PPC shall permit parents (and children who have court-appointed counsel) to caucus privately with their lawyers upon request.
53. The PPC may employ consultants to assist him/her in the performance of his/her duties, at a cost not to exceed the equivalent of two hours per month at the PPC's hourly rate. The PPC shall provide the parents reasonable advance notice before incurring consultation charges for outside consultants in an amount exceeding the equivalent of two hours at the PPC's hourly rate.
54. The PPC shall maintain records, including copies of documents (hard copies or electronic files) submitted, summaries of conversations with parents and others concerning each decision or recommendation, decisions and recommendations of the PPC and the methods by which the PPC communicated decisions and recommendations to the parents and the Court. Each parent may obtain copies of the PPC's records at his or her own expense.

## H. Ex Parte Communication with the Court

55. Ex parte communication with the court or with Minor's Counsel shall be prohibited unless the PPC determines that ex parte communication is needed to inform the court of his or her belief that a restraining order is necessary to prevent an imminent risk to the physical safety of the child or the party (FC 216.c.3). (The PPC may also make temporary protective orders if so authorized in this stipulation.)

## I. Privilege, Privacy and Confidentiality

56. No information, observations of the PPC, or communications made to the PPC are protected by any legal privilege. The Court finds that such communications are not confidential within the meaning of the Evidence Code since all communications shall be made with the expectation that they may be disclosed in the decision-making process, in findings, decisions and recommendations of the PPC or testimony in this proceeding. Court orders resulting from decisions of the PPC shall be part of the public record to the same extent as any other child custody-visitation order.



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57. All participants, including the PPC, the parents, counsel and consultants are ordered to use their best efforts to preserve the privacy of the family and, most particularly, of the child and restrict dissemination of information related to the decisions to the Court, the parents, and the professionals working with the family who need to know the information to carry out the objectives of the parenting plan.
58. The PPC may condition making decisions related to issues such as health care and education upon the parents providing releases permitting access to information from schools, physicians and other relevant service providers.
59. If the PPC is a mandatory reporter of suspected child abuse or neglect, the PPC must follow the laws for reporting suspected abuse or neglect to law enforcement or child protective services. If the PPC is not a mandated reporter of suspected abuse or neglect, the PPC may report suspected child abuse or neglect to law enforcement or child protective services.
60. The PPC may disclose information to others where disclosure is necessary to prevent a criminal act that the PPC reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.

#### J. Compensation of the Parenting Plan Coordinator

61. The PPC's fee schedule is attached as Appendix A. That schedule sets forth the PPC's
  - a) Hourly rate for regular PPC services.
  - b) Rates, notice and payment requirements for appearances and testimony (court and deposition).
  - c) Administrative fees.
  - d) Amount of initial deposit, retainer, and method of billing.
62. Responsibility for payment of the PPC's fees and costs is allocated as follows between the parents:

Parent name	% of total fees and costs
Parent name	% of total fees and costs
63. Each parent must pay his or her share of the initial deposit and retainer to the PPC within 10 days after the PPC gives notice that he or she has accepted the appointment.
64. **The parents must pay all fees and costs to the PPC in advance.** The PPC shall transmit periodic statements of services and costs, any amounts applied from deposits, and any current balance owed to the parents and counsel. The PPC shall notify the parents and counsel of the amount of the additional payments that must be made to replenish the retainer. The PPC may suspend all services in the event that the parents do not have sufficient funds on deposit to cover costs and services.
65. Each parent must pay his or her share of any additional fees and costs within 10 days of receipt of billing statements from the PPC.
66. The Court retains jurisdiction to determine the reasonableness of the PPC's fees and costs, to reallocate responsibility for fees and costs between the parents, to order further payment to the PPC, or reimbursement to the parents and to make any other orders reasonably necessary for compensation of the PPC.

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67. The Court finds that appointment of the Parenting Plan Coordinator is a service for the benefit of the child. The fees of the PPC constitute an additional child support obligation of each parent, and are enforceable by wage assignment or any other means for the enforcement of child support obligations. The Court shall have jurisdiction to award reasonable attorneys' fees and costs to the PPC incurred in collection of fees and costs.
68. A parent who advances the other parent's share of the PPC's fees and costs because the other parent has not paid them is entitled to immediate reimbursement. A parent who has advanced the other parent's share of the PPC's fees and costs in this way may offset such payment against any sums owed by him or her to the other parent for support, fees or other orders in this action.
69. Fees for the PPC's services include all time necessary for the performance of the duties set forth herein including, but not limited to meetings and/or conferences (including telephone conversations) with the parents, counsel, the child, and other persons; analysis of other data, research or consultation; correspondence; document review; order preparation; travel time; preparation for PPC testimony; depositions or other discovery; court appearances (including waiting time); and "on-call" or other reserved times.
70. Costs include stenographic services, travel, materials, consultation with other professionals, and all other out of pocket expenses. Such costs will include reasonable attorneys' fees and costs incurred by the PPC in connection with or arising from the case.
71. Notwithstanding any other provision, in the event any person (including the child) fails to appear at the time of a scheduled appointment, the parent responsible for the missed appointment must pay the fee for each missed appointment. The PPC retains discretion to waive this charge for *bona fide* emergencies as determined in the PPC's sole discretion.
72. The PPC may require that the initial payment or any subsequent payment be made by cashier's check or other guaranteed funds.
73. Upon completion of all services rendered hereunder, the PPC shall refund the amount to each parent, if any, by which payments received exceed fees and costs earned.
74. The Court finds that the parents understand that the PPC has made no warranties or guarantees relating to the conclusions or findings. The PPC shall exercise independent judgment in making decisions. The fees and costs paid under this stipulation and order are not contingent on results or outcome.
75. Any objection to the Parenting Plan Coordinator's bills must be made in writing to the Parenting Plan Coordinator within 10 business days of the billing date; otherwise the billing shall not be subject to challenge.
76. The PPC need not undertake any work until the security deposit and advance fees have been paid. The PPC is not required to perform any work if there are outstanding unpaid fees. However, in order to prevent either parent from frustrating the purposes of this order by failing to pay fees, the PPC may elect to continue to provide services despite nonpayment, and shall be entitled to payment for such services under the terms of this order.

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## K. Depositions and Court Appearances

77. The parents expressly waive Evidence Code §703.5 and agree that the PPC may be called to testify as an expert witness, notwithstanding any other provision of the law. Such testimony shall not constitute waiver of the PPC's quasi-judicial immunity. All testimony by the PPC in connection with these proceedings, including depositions and hearings, or arising in other proceedings out of this evaluation, or involving the participants in this evaluation is expert rather than percipient testimony, and subject to compensation under the terms of this order.
78. The PPC must bring his or her entire file relating to the case to any deposition or court appearance in connection with this matter where the PPC has been asked to testify.
79. The parents waive any objections to the entry into evidence of any PPC records at a court hearing with the proviso that they are not precluded from rebutting any such evidence.
80. In the event either parent wants the PPC to appear or testify at deposition, court hearings, trial or any other proceeding, that parent must advance (in the form of a cashier's check or other certified funds) the fees and costs to the PPC for the PPC's travel, testimony preparation and appearance for a full day at least ten days in advance of the appearance. If the PPC is expected to keep multiple days open and available for appearance, then the advance must include payment for all reserved days.
81. If the PPC must appear for more than one day, the same parent must advance at the end of the preceding day, fees and costs for another full day.
82. The PPC shall provide, upon request, an estimate of the fees and costs for an appearance, including fees and costs attributable to preparation, travel and waiting time.
83. In the event that the Court requires the PPC's presence or testimony at any court hearings or trial, or that minor's counsel requires the appearance of the PPC for a deposition, the parents must each advance their share of all estimated fees and costs for the appearance using the proportions defined above.
84. If the request for the PPC's appearance at trial or deposition is cancelled 72 hours in advance (excluding Saturdays, Sundays, or holidays), the entire deposit shall be credited or refunded with no penalty.
85. If the PPC's appearance at a scheduled deposition or court hearing is cancelled upon less than 72 hours notice to the PPC, the PPC shall retain the deposit. The PPC may, in his or her sole discretion, waive a portion of the payment.

## L. Grievances, Disqualification, Termination of Appointment

86. If either parent has a concern about the PPC's behavior in terms of ethics, professionalism, fairness, cost or procedures or any other concern, that parent must make reasonable efforts to resolve the grievance with the PPC before making a motion to have the issue adjudicated or the PPC removed.
87. The Court reserves jurisdiction to make orders for payment of the PPC for time and expenses spent in responding to any grievance, removal proceeding, or other claim or challenge arising from this order, including attorneys' fees and costs incurred, if any.
88. The PPC may withdraw from service at any time, upon 10 days written notice to the parents and the Court.

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PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

**This Stipulation and Order for the Appointment of Parenting Plan Coordinator is Approved  
As To Form And Content:**

\_\_\_\_\_  
Petitioner's signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Respondent's signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Respondent

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

**Appointment accepted:**

\_\_\_\_\_  
PPC

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

**It is so ordered:**

\_\_\_\_\_  
Judge of the Superior Court

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Date

**Stipulation and Order Appointing Parenting Plan Coordinator (Form PPC-1) p. 17**

PETITIONER/PLAINTIFF:

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RESPONDENT/DEFENDANT:

**APPENDIX A: PPC FEE & COST SCHEDULE FOR \_\_\_\_\_** (Name of PPC)

*To be completed by the PPC. The PPC may substitute his or her own Appendix of fees and costs here.*

Hourly rate \$ \_\_\_\_\_

Refillable retainer \$ \_\_\_\_\_ (For fees and costs – must be refilled as expended.)

Deposit \$ \_\_\_\_\_ (To be applied to any outstanding balance at the end of the PPC's term, with the remainder refunded to the payer.)

Administrative fees \$ \_\_\_\_\_ (one-time charge for setting up file.)

Expert witness fees \$ \_\_\_\_\_ (hourly)

Testimony:

1. The parent requiring the PPC's testimony shall deliver (by fax, mail, or other delivery) a subpoena to the PPC's office during regular business hours. The PPC shall accept subpoenas delivered to the PPC's office, and waive personal service.
2. Expert testimony fees are charged for a full day of the PPC's time unless the PPC specifically agrees in writing to appear for a half day at the rate of \$ \_\_\_\_\_ for up to four (4) hours.
3. If the PPC must review, correct, and approve his or her deposition transcript in the above-captioned case, the parent making that request shall furnish the PPC a copy of the transcript to retain at no cost, in addition to providing the original for review, correction and approval. The fee for review is \$ \_\_\_\_\_ per page and must be paid in guaranteed funds (Cashier's Check or Money Orders) at the time the deposition is submitted for review.

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PETITIONER/PLAINTIFF:

CASE NUMBER:

RESPONDENT/DEFENDANT:

Dated:

Judge of the Superior Court

[SEAL]

**CLERK'S CERTIFICATE**

I certify that the foregoing Order Appointing Parenting Plan Coordinator is a true and correct copy of the original on file in the court.

Date:

Clerk, by \_\_\_\_\_, Deputy

\_\_\_\_\_

## **Appendix E – Mediation Forms**

### **MEDIATION AGREEMENT**

#### MEDIATION AGREEMENT

##### GENERAL DUTIES

Wife, \_\_\_\_\_, and Husband, \_\_\_\_\_ (the “Party” or “Parties”) agree to retain the services of \_\_\_\_\_ (the “Mediator”) to mediate certain disputed issues. Although the Mediator is an attorney licensed in California, for the purposes of this process, she is not acting as an attorney for either Party separately or for both Parties together.

The Mediator has a duty to assist the Parties in reaching an informed and consensual resolution of the issues presented. This includes proposing alternatives, making suggestions and providing legal information that will help the Parties in making their decisions. Further, the Mediator has a duty to ensure a balanced exchange. In exercising this duty, she will intervene to prevent any manipulative or intimidating techniques. Thus, at times, it may appear that the Mediator is favoring one Party over another. However, the Mediator’s actions are always intended to protect the integrity of the resolution process for both Parties.

The Mediator has a duty to explain how the law may affect the unresolved issues. After such explanation or after being advised of the law by their own attorneys, the Parties may choose to disregard the law in favor of their own equitable considerations. If the Parties decide to disregard the law, this choice shall be stated explicitly in any written agreements they reach.

The Mediator has a duty not to take sides or to become invested in any particular outcome of the mediation process. It is the duty of the Parties to reach their own conclusions, assisted by the Mediator. The Mediator has a duty to facilitate the resolution process by listening without bias and caring without becoming emotionally involved.

#### DISCLOSURE OF ASSETS AND LIABILITIES

The Parties agree to make full disclosure to each other and to the Mediator of all property and income in which they have an interest and all liabilities for which they

may have an obligation. Further, the Parties agree that there shall be full disclosure of all information essential to a successful resolution of the issues.

The Parties understand that they shall fully comply with Family Code §2100, including §2100(c) below:

A full and accurate disclosure of all assets and liabilities in which one or both parties have or may have an interest must be made in the early stages of a proceeding for dissolution of marriage or legal separation of the parties, regardless of the characterization as community or separate, together with a disclosure of all income and expenses of the parties. Moreover, each party has a continuing duty to update and augment that disclosure to the extent there have been any material changes so that at the time the parties enter into an agreement for the resolution of any of these issues, or at the time of trial on these issues, each party will have as full and complete knowledge of the relevant underlying facts as is reasonably possible under the circumstances of the case.

WAIVER OF CONFIDENTIALITY BETWEEN THE PARTICIPANTS  
IN THE MEDIATION PROCESS

The Mediator agrees to keep all communications from either of the Parties confidential with respect to any third person, unless express verbal consent to disclose the communication is given by both Parties. However, each Party waives his or her right to confidentiality with the Mediator and authorizes the Mediator to share all communications with the other Party. Further, both Parties agree that the Mediator may speak individually with one Party for the purposes of exchanging information regarding the mediation process, and they consent that she shall share all information she receives from that Party with the other Party. Phone conversations with the Mediator in between sessions will be limited to procedural matters rather than substantive issues, unless the conversations are pre-arranged conference calls with both Parties.

The Parties waive their rights to confidential communication with any consulting expert. They also authorize the consulting expert to share any communication of the Parties with the Mediator.

Occasionally, a Party may have a concern about whether a fact or communication should be shared with the Mediator. If such a concern arises, that Party must weigh



the benefit of increasing the possibility for resolution of an issue against the risk of revealing confidential information to the other Party.

COMMUNICATIONS, NEGOTIATIONS, AND SETTLEMENT DISCUSSIONS ARE  
CONFIDENTIAL OUTSIDE THE MEDIATION PROCESS

In the event that mediation ends without resolving all issues, the Parties understand that, except as agreed to otherwise, Evidence Code §§1115 - 1128 shall apply.

Communications, negotiations, and settlement discussions are confidential (Evid. Code §1119(c)).

Discussions between the Mediator and the Parties from the initial contact, during or after the mediation sessions are confidential (Evid. Code §1119(c)).

However, Evidence Code §1120 provides that evidence otherwise admissible or subject to discovery outside of a mediation shall not become protected solely by its use in mediation.

Evidence Code §1125 provides that a mediation ends when any one of the following conditions exists: (1) the Parties execute a written settlement agreement that fully resolves the dispute; (2) an oral agreement is reached that fully resolves the dispute; (3) the Mediator provides the Parties with a writing signed by the Mediator which states that the mediation is terminated or to that effect; (4) a Party provides the Mediator and the Parties with a writing stating that the mediation is terminated or words to that effect; (5) for 10 calendar days, there is no communication between the Mediator and any of the Parties to the mediation (time may be shortened or extended by agreement of the Mediator and the Parties).

The Parties and the Mediator hereby agree to extend the time within which the mediation ends until such time as one of the participants notifies the other that the mediation has ended. They further agree that, absent an agreement to terminate, the mediation will not end until judgment has been entered on the resolved issues. However, the Parties understand and acknowledge that prolonged extensions of the mediation may result in the occurrence of unanticipated or unintended consequences, such as a change in the law affecting the agreements made, a change in the value of certain assets, or a change in the circumstances of the Parties.

## VOLUNTARY PROCESS

Either Party may withdraw from the mediation proceedings at any time for any reason whatsoever. The Mediator may terminate the mediation proceedings at any time if she believes that the Parties will not be able to resolve issues in accordance with these mediation procedures. Because there may be gaps of time when the Parties and the mediator are not meeting (based on schedules or other considerations), a lack of ongoing communication or regular meetings alone shall not constitute a termination of the mediation process. Instead, the mediation shall terminate upon notice by either of the Parties, or the Mediator, or upon resolution of the issues which the Parties have brought into mediation. After the mediation is terminated or concluded, the Mediator will not represent either Party in the future in any adversary proceedings against the other.

## CONSEQUENCES OF REQUESTING THE MEDIATOR TO TESTIFY

The Parties agree not to call or subpoena the Mediator to testify at any court proceeding or to produce any document obtained or prepared from a mediation session without the prior written authorization of both Parties. Further, the Parties understand that Evidence Code §1127 shall apply, as follows:

If a person subpoenas or otherwise seeks to compel a mediator to testify or produce a writing, as defined in §250, and the court or other adjudicative body determines that the testimony or writing is inadmissible under this chapter, or protected from disclosure under this chapter, the court or adjudicative body making the determination shall award reasonable attorney's fees and costs to the mediator against the person seeking the testimony or writing.

## CONSULTING ATTORNEYS

Although she may provide information, the Mediator will not provide legal advice or legal representation to either of the Parties at any time during or after the mediation process. Mediator recommends that the Parties seek independent legal advice from a consulting attorney at any time during the mediation process and especially before signing any final written agreement. The communications between the Parties and their consulting attorneys outside the mediation sessions are confidential in that they are protected by the attorney/client privilege.

### INDEPENDENT EXPERTS

Obtaining the opinion of independent experts may be necessary to resolve particular issues, for example, to determine the value of a business, real property, or a pension plan.

The objective is to have the Parties deal directly with the providers of independent analysis and to have direct access to the information obtained. To ensure that the range of available options can be fully explored, either Party who individually obtains a second expert opinion agrees to share that opinion during the mediation process.

The Parties understand that complex legal questions may arise, including issues of the valuation of assets and liabilities and of tax consequences relating to the division of assets and liabilities. Besides the use of independent expert opinion as described above, the Parties are encouraged to obtain independent tax, accounting and financial advice regarding the issues they will be negotiating.

### COMMUNICATION BETWEEN THE MEDIATOR AND CONSULTANTS

Communication between the mediator and your consulting attorneys, accountants, and advisers regarding the mediation proceedings frequently facilitates the mediation process. Therefore, from time to time, the Mediator will advise you when she believes such communication is appropriate. Unless you request her not to do so, she will communicate with such experts as she deems advisable.

### SUBSEQUENT ENFORCEMENT OF AGREEMENT OR JUDGMENT

The Parties understand that it is their mutual responsibility, not the Mediator's, to carry out the terms and conditions of the agreement or judgment. If it later becomes necessary for either Party to enforce the agreement or judgment, the Parties agree to seek independent legal advice.

### FEES AND COSTS OF MEDIATION

The Parties understand that they are not required to pay the Mediator a retainer as advance payment for her services. However, the Parties understand that, in view of this financial arrangement, the Mediator does not maintain account receivable, and payments must be made on a "pay as you go" basis. The Parties, as a couple and individually, agree to pay the Mediator at her hourly rate of \$\_\_\_\_.00. The Parties further agree that at the end of each session, the Mediator's fee shall be paid in full for

the time actually spent at that session and for any other services performed since the last session. Such services may include extended telephone calls, letters, support or property schedules, or legal research. Occasionally, the Mediator may request fees in advance for preparation of a marital settlement agreement, judgment or other necessary pleadings. In such a case, payment of the Mediator's fees will be due upon request. The Parties also understand that they are responsible for the reimbursement of costs advanced, if any, such as long distance phone calls, court filing fees, copying, faxes, etc. Each month, the Parties may receive a monthly statement of services rendered, time expended and costs incurred. In the absence of any written objections by a Party, the statement will be deemed acceptable as and when billed. Said statements are due and payable within 10 days of receipt.

At the Parties' request, the Mediator will prepare a written summary letter of each session. The Parties are encouraged to consider this option, as the summary letters often provide a very useful tool in facilitating the success and resolution of the mediation process.

To cover lengthy telephone calls or unanticipated costs between session, the Mediator may ask for a fee advance of one hour (i.e., \$350.00) once or to be replenished if the fee is exhausted. If these funds are not depleted, any remaining monies will be returned at the termination of the mediation.

The mediator may from time to time, but no more than once per year, raise her hourly rate. In the event she contemplates doing so, she will advise the Parties in writing of any increase prior to charging an increased rate.

#### MAINTENANCE OF RECORDS AND/OR FILE

In the course of our relationship, you may provide the Mediator with original documents. All such documents, together with your file, will be maintained by the Mediator for not less than six months after the conclusion of your matter. In the event you do not request that the Mediator return those documents to you prior to the expiration of six months, the Mediator may discard those documents and/or your file without further notice to you.

## EXECUTION OF MEDIATION AGREEMENT

By their signatures below, the Parties acknowledge that they have read this Agreement, have had the opportunity to ask questions about it, and, after having considered every provision, agree to each condition without reservation.

\_\_\_\_\_  
\_\_\_\_\_, Wife

\_\_\_\_\_  
\_\_\_\_\_, Husband

\_\_\_\_\_  
\_\_\_\_\_, Mediator

## Appendix F – Voluntary Settlement Conference Forms

### RETAINER AGREEMENT – MEDIATION (VSC)

Re: Marriage of \_\_\_\_\_  
(Voluntary Settlement Conference \_\_\_\_\_)

Dear Counsel:

Thank you for selecting me as the settlement officer in the above matter.

The date and time of the Voluntary Settlement Conference ("VSC") is scheduled for \_\_\_\_\_ beginning at 9 a.m. for a full day conference. Please do not schedule anything for the evening, so that I have an opportunity to work on the settlement beyond 5 p.m., if necessary.

**Mediation briefs and other matters:** Mediation briefs should be delivered to my office **two court days** before the mediation date. If financial schedules have been prepared by forensic experts, I would like to receive those as well. At the conclusion of the VSC, all papers lodged with me will be discarded. If counsel should desire the return of same, please let me know at the conclusion of the conference. I would appreciate counsel appearing with laptop computers ready to prepare a final settlement agreement. Should a settlement be accomplished, I will provide the parties and counsel with a printed copy of the settlement that is prepared by both counsel. It is also helpful to me if counsel for each party is prepared with a proposal for settlement that can be used as the basis for discussion of the issues.

**Preliminary and Final Disclosure Statements:** To facilitate final settlement, all Preliminary and Final Disclosure statements should be exchanged **prior** to the VSC date.

**Disclosure Statement:** I have conducted a review of my past dispute resolution contacts with parties and counsel in which I have been previously compensated within the last **24 months**. Within the last 24 months I have been compensated by or participated in the following matters with either the parties or counsel:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, there is no relationship between me and any of the parties, lawyers or law firms that would impair my ability to act in this matter. Please note that I do not consider having an attorney or law firm as opposing counsel to be events required to be disclosed. I do, of course, make disclosures of investments in which I, or a member of my immediate family, have a beneficial interest.

You are advised that if one of the parties or counsel in the instant case requests dispute resolution services from me in another matter, I will provide all necessary disclosures concerning this matter. Please notify me immediately if you have any concern about these future disclosures.

**Counsel are responsible for providing the information concerning disclosures to their clients. If any party has any objection to my serving in this matter for any reason, I should be notified immediately, and notice should be given to the other party and counsel.**

**Disclosure of contacts concerning new cases while this matter is pending:** While the instant matter is pending, it is not unusual for one of the attorneys in the instant matter to request my services in an unrelated case. In the event you wish to be advised of such contacts before I make a decision whether or not to accept another case involving one of the attorneys to this case, please let me know so that I can do so.

**Fees and initial payment:** My fees are as follows:

\$\_\_\_\_\_ for one full day conference  
\$ \_\_\_\_\_ per hour for review of Settlement Conference Brief,  
and analysis of financial and other issues.

It is estimated that the matter will take the following time:  
Scheduled \_\_\_\_\_ day conference, and \_\_\_\_\_ hour of review of  
Settlement Conference Brief.

Initial payment in the sum of \$\_\_\_\_\_ toward the estimated fees  
in this matter is due by \_\_\_\_\_. My taxpayer ID number is  
\_\_\_\_\_.

Should the matter exceed the time estimated, you will be billed following the hearing for the additional time, however, no additional charge will be billed in the event the settlement conference exceeds 8 hours on the same day as the scheduled conference. Both counsel and the parties are jointly and severally liable for the additional amount billed. Payment of such additional billing is due within 10 days from the date of billing.

In the event the matter is canceled or continued for any reason less than one week prior to the settlement conference date, I will refund that portion of the initial payment to the extent that I am able to replace the canceled time with other matters. If there is a cancellation or continuance more than one week prior to the settlement conference date, the initial payment will be refunded, less the administration fee of \$\_\_\_\_.

**Agreement to terms and conditions:** If the above terms and conditions of my engagement in this matter are agreeable, please sign a copy of this letter and return the same to me on or before \_\_\_\_\_.

If there are any questions or concerns, please let me know. I look forward to the opportunity to assist the parties in the resolution of this matter. Please advise your clients that this is a mediation procedure and is thus subject to all privileges and protections afforded by law.

Very truly yours,

\_\_\_\_\_

**AGREED AND CONFIRMED:**

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Attorney for Respondent



Appendix G – Collaborative Law Forms

**STIPULATION AND ORDER REGARDING COLLABORATIVE MATTER;  
AND ORDER THEREON**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

In re the Marriage of	)	CASE NO.
Petitioner: _____	)	<b>(COLLABORATIVE CASE)</b>
and	)	STIPULATION AND ORDER
Respondent: _____	)	REGARDING COLLABORATIVE
_____	)	MATTER; AND ORDER THEREON

Petitioner, \_\_\_\_\_, and Respondent, \_\_\_\_\_  
stipulate to the Orders set forth below. Said Orders shall  
remain in effect until and unless modified by a written  
agreement signed by both parties or further Order of Court,  
whichever first occurs. The parties further stipulate that  
a Commissioner sitting as a Judge Pro Tempore may enter  
said Orders.

**ORDERS**

**Attorney Representation:**

1. \_\_\_\_\_ has been retained by Petitioner to  
advise Petitioner during the course of this proceeding and  
\_\_\_\_\_ has been retained by Respondent to advise

1 Respondent during the course of this proceeding. Each  
2 attorney named above, and any attorney in association with  
3 such attorney, is forever disqualified from appearing as an  
4 attorney of record in contested matters for either party  
5 named above in this proceeding or in any other family law  
6 matter involving both parties, including, but not limited  
7 to, proceedings or actions for dissolution, parentage,  
8 nullity, legal separation, modification, enforcement, writs  
9 and/or appeals. An attorney shall be deemed "in  
10 association" if, at any time during the pendency of these  
11 proceedings or future family law proceedings between these  
12 parties, such attorney is the employer or employee of, or  
13 co-employee with, or shares a relationship of independent  
14 contractor status with any attorney named above.

15 Notwithstanding the above, each attorney named above  
16 shall appear as attorney of record for the purpose of  
17 filing Stipulated Orders, Judgments and/or other documents  
18 reflecting agreements of the parties. Upon entry of  
19 Judgment, each attorney named above, or successor attorney,  
20 is authorized to withdraw as attorney of record pursuant to  
21 Code of Civil Procedure §285.1.

22  
23 **Collaborative Law Matter:**

24 2. Both parties and their attorneys agree to treat  
25 this matter as a collaborative law case. Each party  
26 acknowledges that he or she has read and understands the  
27 document entitled "Principles and Guidelines for the  
28 Practice of Collaborative Law," attached hereto as

1 Exhibit "A," and agrees to act in good faith to comply with  
2 the recommendations set forth in that document.

3 3. For so long as this matter remains a  
4 collaborative law case, the parties and their attorneys  
5 agree to devote their efforts to attempt to reach a  
6 negotiated settlement in an efficient, cooperative manner  
7 pursuant to the terms of these Orders, and agree that  
8 neither party nor his/her attorney will file any document  
9 requesting intervention by the court including, but not  
10 limited to, the following: Request to Enter Default, Notice  
11 of Motion, Order to Show Cause or Request for Trial  
12 Setting, except as otherwise specifically permitted below.

13 4. Commencing immediately:

14 a. Each party is restrained from removing the  
15 minor child or children of the parties, if any, from the  
16 state of California without the prior written consent of  
17 the other party or an order of the court;

18 b. Each party is restrained from cashing,  
19 borrowing against, cancelling, transferring, disposing of,  
20 or changing the beneficiaries of any insurance or other  
21 coverage including life, health, automobile, and disability  
22 held for the benefit of the parties and their minor child  
23 or children;

24 c. Each party is restrained from transferring,  
25 encumbering, hypothecating, concealing, or in any way  
26 disposing of any property, real or personal, whether  
27 community, quasi-community, or separate, without the  
28 written consent of the other party, or an order of the

1 court, except in the usual course of business or for the  
2 necessities of life;

3 d. Each party is refrained from creating a  
4 nonprobate transfer or modifying a nonprobate transfer in a  
5 manner that affects the disposition of property subject to  
6 the transfer, without the written consent of the other  
7 party or order of the court. Before revocation of a  
8 nonprobate transfer can take effect, or a right of  
9 survivorship to property can be eliminated, notice of the  
10 change must be filed and served on the other party; and

11 e. Each party shall notify the other of any  
12 proposed extraordinary expenditures at least five business  
13 days prior to incurring these extraordinary expenditures  
14 and account to the court for all extraordinary  
15 expenditures. However, each party may use community  
16 property, quasi-community property, or the party's own  
17 separate property to pay for an attorney or to pay for  
18 court costs.

19  
20 **All Purpose Assignment**

21 5. This matter is assigned to Department 2 of the  
22 Central District for all purposes so long as this matter  
23 remains a collaborative law case.

24 6. In the event of the termination of the  
25 collaborative law process, as described more fully below,  
26 this matter may be assigned to another department as a non-  
27 collaborative law case.

1     **Consultants**

2           7.     Except upon the written agreement of the parties  
3     to the contrary, any person or firm retained by either  
4     party or his/her attorney, or whose work product is used by  
5     either party or his/her attorney, during the collaborative  
6     law process, is forever disqualified from appearing as a  
7     witness for either party, a child(ren) of the parties, or  
8     the court to testify as to any matter related to such  
9     person's or firm's work product. All notes, work papers,  
10    summaries and reports shall be inadmissible as evidence in  
11    any proceeding involving these parties unless the parties  
12    agree otherwise in writing, but shall be furnished to  
13    successor attorneys. Such persons or firms referred to  
14    above include, but are not limited to, accountants,  
15    attorneys, therapists, mediators, personal or real property  
16    valuation experts, vocational consultants, private  
17    investigators, doctors or any other persons retained or  
18    employed by the parties or their attorneys in the  
19    collaborative law process

20  
21    **Disclosure and Discovery**

22           8.     Each party shall timely serve his/her respective  
23    Preliminary and Final Disclosure Declarations as provided  
24    under the California Family Code and shall provide each  
25    other with any written authorization which may be required  
26    in order to obtain information or documentation, or to  
27    prepare Qualified Domestic Relations Orders or other orders  
28    facilitating agreements reached.

1           9. All discovery requests shall be made informally.  
2 No motion to compel or motion for sanctions shall be  
3 available for any discovery requests made so long as this  
4 matter is a collaborative law case. If requested, responses  
5 to any discovery requests should be made in the manner  
6 prescribed, and within the time limits prescribed, by  
7 applicable statute. If requested, responses to discovery  
8 requests shall be under penalty of perjury or verified by  
9 the party responding.

10  
11 **Custody Mediation**

12           10. If the parties and their attorneys attend  
13 conciliation court proceedings for the purpose of mediating  
14 custody and/or visitation, such proceedings shall not  
15 constitute a contested matter in violation of these Orders.

16  
17 **Settlement Documents**

18           11. All documents expressly identified and entitled  
19 "For Settlement Purposes Only in the Collaborative Law  
20 Process" shall be inadmissible for any purpose in any  
21 subsequent proceeding except as otherwise agreed in writing  
22 between the parties.

23  
24 **Termination of Collaborative Status,**

25           12. Either party may unilaterally and without cause  
26 terminate the collaborative law process by giving written  
27 notice of such election to the other party, and by filing a  
28 copy of said Notice of Termination with the court with a

1 proof of service of a copy of such Notice of Termination to  
2 the other party in this matter.

3 13. Either attorney may withdraw from this matter as  
4 a party's attorney and as attorney of record for such party  
5 unilaterally and without cause by giving fifteen (15) days'  
6 written notice of such election to all parties, and by  
7 filing a copy of said Notice of Withdrawal with the court  
8 with a proof of service of a copy of such Notice of  
9 Withdrawal to all parties in the proceeding. An attorney  
10 withdrawing from this matter as attorney of record for a  
11 party does not terminate the collaborative law process; a  
12 party losing his or her attorney shall retain a new  
13 attorney who shall agree in writing to be bound by these  
14 Orders. If a new attorney is not retained, the other party  
15 may elect to terminate the collaborative law process.

16 14. Upon a party's filing of said copy of the Notice  
17 of Termination, or upon an attorney's filing the Notice of  
18 Withdrawal, with the court, the attorney's status as  
19 attorney for the party and as attorney of record shall  
20 terminate without further notice.

21 15. Upon termination of the collaborative law  
22 process by a party, or upon the withdrawal of any attorney,  
23 all affected attorneys will promptly cooperate to  
24 facilitate the transfer of the party's file to the party or  
25 his/her successor attorney, if any, including, without  
26 limitation, the delivery of correspondence, pleadings,  
27 documents, reports, and the like.

1           16. Nothing in the Order shall limit the right of  
2 either party to seek the assistance of the court for  
3 appropriate orders. However, any unilateral initiation of  
4 such litigation by either party, including any appeal of  
5 any Stipulated Order, shall result in the automatic  
6 termination of the collaborative law process, on the date  
7 any application to the court or Notice of Intent to Appeal  
8 is filed.

9

10 **Notice**

11           17. Notice or documents required to be served  
12 hereunder shall be served as follows:

13                   a. By personal delivery;

14                   b. By facsimile pursuant to Code of Civil  
15 Procedure § 2008(b); or

16                   c. By mail pursuant to Code of Civil  
17 Procedures § 1013.

18

19

20 **SO STIPULATED.**

21

22 Date: \_\_\_\_\_ Date: \_\_\_\_\_

23 \_\_\_\_\_, Petitioner      \_\_\_\_\_, Respondent

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**APPROVED AS CONFORMING TO THE PARTIES' AGREEMENT ONLY:**

Date: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Attorney for Petitioner Attorney for Respondent

**ORDER**

Based on the foregoing stipulation of the parties,  
approved by their respective attorneys of record, and good  
cause appearing therefor,

**IT IS SO ORDERED.**

Date: \_\_\_\_\_  
\_\_\_\_\_  
Judge of the Superior Court