

SUPERIOR COURT OF CALIFORNIA
County of Marin

In re PETITIONER:	and	CASE NO. _____
RESPONDENT:		STIPULATION AND ORDER RE APPOINTMENT OF PARENTING COORDINATOR

PRINCIPLES:

1. The parents acknowledge that their child(ren) will benefit from a meaningful relationship with both parents, that continued parental conflict will generally negatively impact their child(ren)'s adjustment, and that every effort should be made to keep the child(ren) out of the middle of their parents' disputes and communications.

2. The parents agree to voluntarily enter into this Agreement because of a desire to:
 - a. de-escalate parental conflict to which the child(ren) are exposed
 - b. focus on their child(ren)'s needs and best interests
 - c. promote their child(ren)'s optimum adjustment
 - d. resolve issues and disputes in a timely and cost efficient manner without litigation
 - e. benefit from the direction of a qualified professional chosen to serve as the Parenting Coordinator

3. Parenting Coordination is a child-focused dispute resolution process that combines parent education, dispute assessment, child custody recommending counseling, conflict and communication management, and, when parents are unable to resolve their parenting disputes with the Parenting Coordinator's assistance, recommendations or decision-making on issues that are specified in this Stipulation and Order. The ultimate goal is to help parents resolve disputed or difficult issues amicably and efficiently on their own, without having to involve the Parenting Coordinator or the adversarial process.

PURSUANT TO THE STIPULATION OF THE PARENTS hereinafter set forth, and good cause appearing therefor,

IT IS ORDERED, ADJUDGED AND DECREED THAT:

I. APPOINTMENT:

1. _____ is appointed Child Custody Recommending Counselor and Parenting Coordinator under Family Code Section 3160, et. seq., until resignation of _____ or written agreement of the parents, further court order, or _____ months after the date on which this stipulated Order becomes effective, whichever first occurs.

2. This appointment is based upon the expertise of the Parenting Coordinator as a licensed mental health professional or family law attorney. If the Parenting Coordinator is a licensed mental health professional, no therapist-patient relationship and/or privilege is created by this stipulation. If the Parenting Coordinator is a family law attorney, no client-attorney relationship and/or privilege is created by this stipulation.

3. The Parenting Coordinator is a Court Officer/Referee. The Parenting Coordinator has quasi-judicial immunity. The Parenting Coordinator cannot be sued based on his/her actions in this matter. If the Parenting Coordinator testifies in a court proceeding (see Section 3 paragraph 1 below) such testimony shall not constitute a waiver of the Parenting Coordinator's quasi-judicial immunity.

II. AUTHORITY OF PARENTING COORDINATOR

1. The Parenting Coordinator may make decisions or orders resolving conflicts between the parents which do not affect the court's exclusive jurisdiction to determine fundamental issues of custody and time-share. If either party requests a change to a provision set forth in an existing order re child related issues, the party requesting the change

must demonstrate to the Parenting Coordinator that a change in the family's situation has occurred which warrants changing the specific provision in an existing order.

2. The Parenting Coordinator does not have the authority to change the custodial designation of joint or, sole, legal or physical custody established in a current order of the court. Modification of the custodial designations is reserved to the Marin County Superior Court for adjudication. Further, the Parenting Coordinator shall not make any decisions or orders which substantially alter or reconfigure the parents' time sharing arrangements (defined as increasing or decreasing a parent's time more than four (4) nights per month).

3. Substantial changes to time-share arrangements are reserved to the Marin County Superior Court for adjudication and may be presented to the court by either party upon the recommendation of the Parenting Coordinator (See section IV, paragraph 2) or in the form of an order to show cause or notice of motion. In an emergency, the Parenting Coordinator may ask the court to initiate an Order to Show Cause on its own motion.

4. The Parenting Coordinator may make recommendations but not orders with respect to the matters set forth below in section IV.

III. AUTHORITY TO MAKE DECISIONS AND ORDERS

1. Each party specifically agrees that the Parenting Coordinator may make decisions or orders regarding possible conflicts they may have on the following issues, and that such decisions are effective as orders when made and will continue in effect unless modified or set aside by a court of competent jurisdiction:

- a. Dates, time, designated person, location, and method of pick up and delivery.
- b. Reorganization of school vacation and/or holiday time resulting in increases/decreases of one week or less.
- c. Modification of schedule by not more than four nights per month including, but not limited to, modifications when developmentally appropriate for child(ren) under the age of six.
- d. Care providers for child(ren).
- e. Child rearing disputes such as bedtime, diet, clothing, homework, and discipline.
- f. Scheduling disputes arising from afterschool, enrichment, athletic, and other activities.
- g. After school and enrichment activities.
- h. Health care management.
- i. Participation of others in child's time with each parent (significant others, relatives, etc.).
- j. Other: _____

(Note: the parents may modify or exclude specified items from the above list by agreement of the parents and Parenting Coordinator),

2. Decisions on the matters listed above are binding when communicated by phone, voicemail, fax, or email. If communicated by phone or voicemail, a written communication will also be sent to the parents. By the parents signing this agreement, the Parenting Coordinator's decisions on the issues listed above in paragraph 1 are final.

IV. AUTHORITY TO MAKE RECOMMENDATIONS TO THE COURT:

1. The Parenting Coordinator will have authority to make recommendations on the following issues:

- a. Increases/decreases in vacation and holiday time of more than one week.
- b. Time share changes, including summer vacations, which increase/decrease the child's time with either parent in excess of four (4) overnights per month.
- c. Supervision of child's contacts with a parent.
- d. Appointment of counsel for child(ren).
- e. Obtaining child custody evaluation or reevaluation.
- f. Private or public school education.
- g. Participation by parents and/or children in physical examinations.
- h. Participation by parents and/or children in psychological assessments, evaluations, and psychotherapy including selection of a therapist for the children when the parents cannot agree. The cost of such costs for the children shall automatically be shared by the parents equally in the absence of any provision to the contrary in a current court order or further order of the court.

- i. Participation by parents and/or children in alcohol and drug evaluation/monitoring/testing. The cost of drug or alcohol evaluation/monitoring/testing for the children shall automatically be shared by the parents equally in the absence of any provision to the contrary in a current court order or further order of the court.
- j. Any other issues the parents request be submitted to the Parenting Coordinator for recommendation.

(Note: the parents may exclude specified items from the above list by agreement of the parents and Parenting Coordinator.)

2. Recommendations made by the Parent Coordinator shall be communicated to the parents in writing by mail, fax, or email as agreed to by the parents and the Parenting Coordinator. If no written objection to the recommendations is received by the Parenting Coordinator within 10 (ten) court days of notice to the parents of the recommendations, the recommendations shall be submitted to the court for approval to be entered as court orders. Such orders will be effective when signed by the court, and can be reviewed only upon a hearing de novo at which hearing the moving party has the burden of proof.

3. If an objection to the recommendation of the Parenting Coordinator is timely received, the Parenting Coordinator will notify the parents that the recommendations are not being submitted to the court. Either party may then submit the matter to the court by filing a motion requesting a judicial review of the recommendations. In that event, the party challenging the Parenting Coordinator's recommendation has the burden of proof according to law.

V. PROCEDURE:

1. Both parents shall participate in the dispute resolution process as defined by the Parenting Coordinator and shall be present when so requested by the Parenting Coordinator. The Parenting Coordinator may conduct sessions which are informal in nature, by telephone or in person, and need not comply with the rules of evidence. No formal record need be made, except the Parenting Coordinator's written recommendations and the parents' mutual agreements. The Parenting Coordinator shall have the authority to determine the protocol of all interviews and sessions including, in the case of meetings with the parents, the power to determine who attends such meetings, including individual and joint sessions with the parents and/or the child(ren) and other relevant third parties.

2. The parents shall provide all reasonable records, documentation, and information requested by the Parenting Coordinator.

3. The Parenting Coordinator may utilize consultants as necessary to assist the Parenting Coordinator in the performance of the duties contained herein.

VI. COMMUNICATION WITH PARENTING COORDINATOR:

1. The parents and their attorneys shall have the right to initiate or receive ex parte communication with the Parenting Coordinator. Copies of all such written communication are to be provided to the other party.

2. The Parenting Coordinator may communicate with the parties' child or children outside the presence of the parents. The Parenting Coordinator may communicate with the therapists who are treating the parties' child or children, as well. If the Parenting Coordinator is of the opinion that the information or notes generated by the Parenting Coordinator's communications with the children and/or with the children's therapists contain information which may be harmful to the child or which may be damaging to the child's relationship with his or her therapist or with either parent, the Parenting Coordinator may withhold such information. If either parent wishes to review such information, such review can only be allowed upon noticed motion, after in camera review of the information by the Court, in consultation with the Parenting Coordinator. If, after such review, the Commissioner or Judge agrees with the Parenting Coordinator that the divulging of such information could be harmful to the child or damaging to the child's relationship with his/her therapist or either parent, the Court may order that such information need not be divulged.

3. In the event of exigent or emergency circumstances that threaten the welfare of a child, the Parenting Coordinator may file an ex parte motion consistent with the provisions of Marin County Superior Court Family Law Rule 7.6 Ex Parte Matters and Orders.

VII. CHILD ABUSE REPORTING

1. The Duty to Report: The penal code mandates that all child care custodians and health care practitioners (Doctors, Marriage, Family and Child Counselors, Psychologists, Social Workers and others) report to child protective services any information regarding possible child abuse that comes to the attention of the health care practitioner. The reporting requirement is an exception to the confidentiality privilege. This means that any child abuse allegation that is brought to the attention of a Parenting Coordinator who is a health care practitioner must be reported.

2. Immunity For Child Abuse Reporting: Health care practitioners who are required to report allegations of child abuse are immune from civil suits or liability for making their required reports. They cannot be sued either for the report or for the violation of the confidentiality privilege. Specific statutes provide for the immunity from civil suits and also provide an exception to the confidentiality privilege. As set forth above, communications to the Parenting Coordinator are not privileged communications.

3. Attorney Parenting Coordinator: The child abuse reporting statute does not apply to attorneys because attorneys are not named in the statute as a class of persons who mandatorily must report a child abuse allegation. However, an attorney Parenting Coordinator has the discretion to report any such allegation and may (and probably will) make such a report. As set forth above, communications to the Parenting Coordinator are not privileged communications.

4. False Allegations of Child Abuse: The Family Code Section 3027.1 (a) provides for a monetary sanction and attorney fees for any knowingly false allegation of child abuse made during a child custody proceeding. This section does not apply to a Parenting Coordinator who reports an allegation made to the Parenting Coordinator, by a parent, child, or other third party, but does apply to the person making the allegation to the Parenting Coordinator if the court finds that the initial allegation was made knowing that it was untrue.

VIII. FEES AND ALLOCATION OF FEES:

1. The Parenting Coordinator's fees shall be shared according to the following allocation: Petitioner _____%; Respondent _____%. The Parenting Coordinator will require an advance security deposit of \$_____ from each party, to be returned to the parents at the end of the Parenting Coordinator tenure, less any balance owing by either party. The Parenting Coordinator may also require a retainer against which ongoing work is charged.

2. The Parenting Coordinator fees are \$_____ per hour. Time spent in interviewing, report preparation, review of records and correspondence, telephone conversations with the parents or others relevant to the parental disputes, travel, court preparation and any other time invested in connection with serving as Parenting Coordinator will also be billed at the \$_____ hourly rate. The Parenting Coordinator fee for Court appearances and settlement conference is \$_____ per hour while in Court and at the settlement conference and \$_____ per hour travel time to and from her office. The Parenting Coordinator shall have the right to allocate payment of his/her fees at a percentage different from the above if he/she believes the need for his/her services is attributable to the conduct and/or intransigence of one party.

3. The Parenting Coordinator shall be reimbursed for any expenses he/she incurs in association with his/her role as Parenting Coordinator. These costs may include, but are not limited to, the following: photocopies, messenger service, long distance telephone charges, express and/or certified mail costs, parking, tolls, mileage, and other travel expenses.

4. The Parenting Coordinator may require payment at the end of each in-person session, and require payment within ten days of receipt of billing sent for all other services, as above. Any objection to the Parenting Coordinator bills must be brought to his/her attention in written form within ten business days of the billing date; otherwise the billing shall be deemed agreed to.

5. In the event that either party fails to provide twenty-four (24) hours telephone notice of cancellation of any appointment with the Parenting Coordinator, such party shall pay all of the Parenting Coordinator charges of such missed appointment at the full hourly rate, at the discretion of the Parenting Coordinator.

IX. GRIEVANCES:

1. The Parenting Coordinator may be disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator.

2. Neither party may initiate court proceedings for the removal of the Parenting Coordinator or to bring to the court's attention any grievances regarding the performance or actions of the Parenting Coordinator without meeting and conferring with the Parenting Coordinator in an effort to resolve the grievance.

3. Neither parent shall complain to the Coordinator's professional licensing board without first meeting and conferring with the Parenting Coordinator in an effort to resolve the grievance. In the event no resolution is reached, the parents and Parenting Coordinator shall attend a judicially supervised settlement conference on the Court's regularly scheduled settlement conference calendar prior to any action being undertaken.

4. The Court shall reserve jurisdiction to determine if either or both parents and/or the Parenting Coordinator shall ultimately be responsible for any portion of all of said Parenting Coordinator time and costs spent in responding to any grievance and the Parenting Coordinator's attorney's fees, if any.

5. If either party or the Parenting Coordinator believes that there exists a grievance between them with respect to this stipulation that cannot be resolved, either party or the Parenting Coordinator can move the Court for relief from this stipulation, after complying with paragraph 2 above.

X. ENFORCEMENT:

1. The court reserves jurisdiction in the family law action to enforce the provisions of this stipulation.

2. In the event that arbitration proceedings or a legal action become necessary to enforce any provision of this order the non-prevailing party shall pay attorney's fees and costs as may be incurred.

3. The court reserves ultimate jurisdiction over any disputed issue that arises from the Parenting Coordinator's decisions.

XI. RESIGNATION OF PARENTING COORDINATOR:

The Parenting Coordinator may resign any time he/she determines the resignation to be in the best interest of the child(ren) or the Parenting Coordinator is unable to serve out his/her term, upon thirty (30) days written notice to the parents.

MOTHER

FATHER

APPROVED AS TO FORM:

ATTORNEY FOR MOTHER

ATTORNEY FOR FATHER

CERTIFICATION OF PARENTING COORDINATOR REGARDING MANDATORY TRAINING AND EDUCATION

I certify that I have read and am in compliance with all requirements of California Rules of Court, Rule 5.210(f) and (g), which describe education and training requirements for court-connected mediators and I agree to serve as Parenting Coordinator in this case.

PARENTING COORDINATOR

ORDER

Upon reading the foregoing stipulation, and good cause appearing therefor, IT IS SO ORDERED:

DATE

JUDGE OF THE MARIN SUPERIOR COURT