

STATE OF MINNESOTA

DISTRICT COURT

_____ JUDICIAL DISTRICT

COUNTY OF _____

FAMILY COURT DIVISION

In Re the Marriage of:

Court File No. _____

_____,

Petitioner,

STIPULATION AND ORDER

TO APPOINT

and

PARENTING CONSULTANT

_____,

Respondent.

The above-entitled matter came duly before the undersigned, the Honorable _____, Judge of _____ County District Court, on the ___ day of _____, 20___, at the _____, _____, Minnesota. Based on the stipulation of the parents as contained in this Order and based upon the file and prior proceedings in this matter, the Court issues the following

FINDINGS AND ORDER:

I. FINDING

- A. The parents have agreed to use a Parenting Consultant (“PC”) to assist them in resolving disputes regarding their minor child(ren).
- B. The parents have agreed that the PC will be _____.
- C. The PC’s address is _____.
- D. The PC’s phone number is _____.

II. PC DEFINITION AND ROLE

- A. Pursuant to Rule 114.02(a)(10) of the Minnesota Rules of Practice for the District Courts, which allows the parents to create an Alternative Dispute Resolution (“ADR”) process, _____ is appointed the PC for the parents under the following terms and conditions, and shall be considered a person presiding at an alternative dispute resolution proceeding pursuant to Minnesota Statute § 604A.32.
- B. The PC is a person or persons appointed by the Court after the agreement of the parents to assist them in the resolution of conflicts regarding their child(ren).
- C. The confidentiality provisions under Rule 114 of the Minnesota General Rules of Practice do not apply to the PC.
- D. The PC does not provide therapy or legal advice.

III. TERM

- A. The parents agree to have the PC for a term of two (2) years from the date the PC signs the Fee Agreement, unless otherwise specified (*insert alternate term here*). This term may be extended by the execution of a new fee agreement at the end of a term.
- B. The PC may terminate service at any time for any reason.
- C. If a different PC is needed because the selected one is unavailable, does not agree to serve, is removed by written agreement of the parents or by court order, then a new PC shall be appointed. The PC shall be selected by agreement of the parents or by obtaining a list of three (3) qualified persons from the present PC and alternately striking names. Petitioner shall strike the first name. The parents may jointly agree on another selection method.

IV. DUTIES AND RESPONSIBILITIES

A. The PC shall have the duty and responsibility to assist the parents in resolving child-related issues submitted for resolution, except for those issues specifically excluded by paragraph B, below.

B. The PC is prohibited from addressing spousal support, child support (including medical support and child care expenses), and permanently modifying custody labels unless the parents agree, in writing, that the PC may address such issues and the PC agrees to address such issues.

C. Because parenting consulting is a non-adversarial process, designed to reduce acrimony and settle disputes efficiently, a PC may engage in ex parte (individual) communications with each of the parents and/or their attorneys. The PC may initiate or receive ex parte oral or written communications with the parents and their attorneys, legal representatives of the children, and other persons relevant to understanding the issues, without requiring a Release of Information (“ROI”).

V. SCOPE OF AUTHORITY

The PC shall have authority to perform the following, which are meant to be inclusive, but not limiting to:

A. Authorize “trading” of time with the child(ren) where the parents do not agree;

B. Award compensatory time to one parent because the other parent did not permit the child(ren) to be with the parent who had parenting time under the existing court order, or prior decision of a PC or Parenting Time Expeditor (“PTE”);

C. Interpret unclear provisions in the parents’ stipulations and/or court orders;

- D. Decide parenting issues that were not included in a prior court order, or are not addressed by an existing court order, or a prior decision of a PC;
- E. Decide alterations in the parenting time schedule, including transportation;
- F. Decide revisions to previously decided parenting issues as needed to meet changing circumstances;
- G. Decide the holiday and vacation parenting time schedule;
- H. Decide school and day care absences, activities, vacation, holiday and summer camp issues, including dates and times, if the issues have not been determined or are no longer workable due to a change in circumstances;
- I. Decide the appropriate school and child care placement for the child(ren);
- J. Consult with outside sources, such as teachers, therapists, physicians, attorney for either party, family members, etc., and review relevant records;
- K. Require independent evaluations and psychological testing of the parents or the child(ren);
- L. Require substance use assessment, testing, monitoring, and treatment;
- M. Require that a parent or child participate in therapy, anger management services, parenting classes etc., and select the provider;
- N. Communicate with, obtain information from, or provide information to any person without securing a ROI authorization from the parents;
- O. Decide issues with input from only one parent, where the other parent has failed to participate in the decision-making process; and
- P. Make recommendations and decisions, and document parents' agreements.
- Q. The PC may require that a parent sign a Safe Harbor agreement with a child's

mental health provider(s).

VI. PROCESS FOR REQUESTING ASSISTANCE FROM PC

A. The parents shall first attempt to resolve the issues themselves before requesting assistance from the PC.

B. Upon notification by a party that there is an issue in dispute, the PC will meet with both parents by telephone, in person, or by other means as determined by the PC, to discuss the issue. The PC will review all appropriate information relating to the issue, including, any court orders, prior PC or PTE decisions and any agreements of the parents.

C. The PC may meet and communicate with the child(ren) as the PC deems appropriate.

D. Both parents shall participate in the dispute resolution process as defined by the PC and governed by Rule 114 of the Minnesota General Rules of Practice. The PC process shall include, at a minimum, the opportunity for each parent to express his or her perspective on the issue in controversy. If a parent fails to participate within the time limits established by the PC, the PC may resolve issues in controversy without input from that parent. The PC shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the dispute. If a dispute requires immediate resolution, the PC may confer with the parties through a telephone conference or similar means.

E. The PC shall make a decision resolving the dispute as soon as possible after receiving all information necessary to make such decision. As necessary, decisions of the PC may, initially, be made orally and must be communicated to both parents and subsequently documented in writing. All PC decisions, whether oral or written, are binding

when made.

VII. DUTIES OF PARENTS

A. Both parents shall cooperate in good faith to resolve the matter(s) in dispute with the assistance of the PC.

B. To the extent a third party requires releases to disclose information requested by a PC, both parents shall sign all necessary releases. To the extent information requested is HIPAA protected information, both parents shall sign all necessary ROIs. The parents understand that this information may be disclosed within the PC process.

C. The parents agree to follow all decisions that are made by the PC, unless modified by subsequent court order, including during periods in which a motion is pending before the Court.

D. It is the responsibility of the parents to provide the PC with all necessary information to stay in communication with them, including all phone numbers in order of priority for communication; mailing addresses; residence; and priority e-mail address.

E. Upon request of the PC, the parents shall provide all previous court orders, decisions of prior PCs, or other documents the PC finds necessary to fully understand the history of the matter.

F. If one or both of the parents disagree with the decision of the PC, that party must follow the procedure for appeal in Paragraph XII.

VIII. PAYMENT OF FEES

A. The parents agree to pay the fees and fee deposit as follows:
_____;

OR

As stated in the most recent signed PC fee agreement.

- B. The PC may allocate the fees, costs and fee deposit in a different manner than described above when the PC deems appropriate.
- C. The PC reserves the right to suspend all services, including provision of any written documentation, until payment of any unpaid balance and required fee deposit is made.
- D. In the event one parent does not pay his or her share of the fees, costs and fee deposit, the other parent may pay the full amount requested and bring a motion seeking reimbursement for the non-complying parent's share. In this situation, the PC will continue to work with both parents.
- E. It is understood that despite the fact that the PC may make decisions in favor of one party, both parents will continue to be responsible for the payment of fees associated with such services.

IX. APPLICATION OF CONFIDENTIALITY AND PRIVILEGE

- A. This alternative dispute resolution process is not confidential and the confidentiality provisions of Rule 114 do not apply.
- B. Any information provided to the PC that is not covered by a Safe Harbor agreement or a protective order, is not protected by privilege or confidentiality.
- C. An attorney PC is not a mandated reporter of child maltreatment but has the discretion to make such a report.

OR

X. SAFE HARBOR

A. If a child receives or has received mental health services, the PC may seek information from the mental health provider(s).

B. In order to preserve the safety and confidentiality of a child's therapeutic environment, it is essential that the child feel free to speak openly with the therapist(s) without fear of sensitive statements being disclosed. The therapist's office may serve as a "Safe Harbor" for the child.

C. All information from a child's therapist is protected by this Safe Harbor, unless the PC and the therapist agree otherwise.

D. Any documents containing information provided by a mental health professional treating a child shall be kept by the PC in a separate confidential file.

E. Neither parent shall, nor will either parent permit his or her attorney to, subpoena the information contained in this separate file.

F. Any parent (or the parent's attorney) who seeks to interrogate the PC about or to subpoena the information in this separate file, shall be liable for all attorney fees and costs incurred to respond to such requests or to quash a subpoena.

G. If the PC makes a decision based on input from a therapist, the PC reserves the right to document this decision stating only, "I have considered input from a child's therapist," without further explanation.

H. Only upon order of the Court will the PC provide the information in the separate file to the Court for an *in camera* review with an explanation of the risk of harm.

XI. LEGAL PROCEEDINGS

A. A parent may, upon making payment as provided by the law and rules of Court

pertaining to experts, use the PC as a collateral resource, depose and/or call the PC as a witness to testify in any proceeding involving a child or the subject matter of the PC's work with the parents.

B. The PC is not a party to the proceedings.

C. The PC does not communicate with the Court except by subpoena or court order.

XII. REVIEW BY THE COURT AND/OR APPEALS

A.

1. The parent in disagreement with a decision of the PC shall bring a motion to contest the PC's decision.

2. The motion must be scheduled and the other parent notified of the hearing date within fourteen (14) days of receiving the PC's written decision.

3. The PC shall receive all pleadings at the time of filing.

4. The parent shall file and serve pleadings on the motion within the time frame of the law and procedural rules governing Family Court.

5. Failure to seek a hearing date is a waiver of objection to the PC decision.

B. Any claims filed in court arising from the parents' work with the PC, including, but not limited to, fee disputes, shall be brought in this Family Court proceeding.

C. Parents agree that the Court shall review the decisions of the PC using the abuse of discretion standard, unless otherwise specified.

XIII. REMOVAL OF PC

Either parent may file a motion in District Court for the removal of the PC. The Court shall only grant such a motion, however, if a parent shows good cause for the removal of the PC. Decisions made by the PC in good faith pursuant to the terms of this agreement shall not be good cause for the PC's removal.

XIV. NOTICE TO PC

The attorneys, or parents if there are no attorneys, shall provide the PC with a fully executed copy of this Stipulation and Order.

XV. APPOINTMENT CONTINGENCY

The appointment of the PC is contingent upon both parents' execution of the PC's fee agreement and meeting the requirements of the fee agreement.

STIPULATION

The parents and their counsel stipulate their intent that the Court sign and enter the above Stipulation as its Order.

Petitioner

Respondent

APPROVED AS TO FORM:

ATTORNEY FOR PETITIONER

ATTORNEY FOR RESPONDENT

ORDER

The Court, having reviewed the Stipulation of the parents and finding the same to be fair and equitable and in the best interests of the minor child(ren) of the parents, enters the Stipulation of the parents as its Order.

Dated: _____

Judge of District Court