

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 PARENTING

and

CONSULTANT/COORDINATOR

*****,

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 stipulated agreement of the parties as contained in this Order and based upon the file and prior proceedings herein, the Court issues the following **FINDINGS AND ORDER:**

I. FINDING

A. The parties have agreed that a Parenting Consultant (PC) is necessary to assist them in resolving disputes regarding their minor children.

B. The parties have agreed that the PC will be **Jordan Hart, Ph.D.**

- C. The PC's address is **5353 Wayzata Blvd, Suite 403 St. Louis Park, MN 55416.**
- D. **Dr. Hart's** phone number is **612-479-3887.**

II. DEFINITION

- A. Pursuant to Rule 114.02(a)(10) of the Minnesota Rules of Practice – District Courts, which allows the parties to create an ADR process, **Dr. Jordan Hart** is hereby appointed the PC for the parties 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 parties to assist them in the resolution of conflicts regarding their children.
- C. The confidentiality provisions under Rule 114 do not apply to the PC.
- D. The PC does not provide therapy or legal advice.
- E. 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 parties and/or their attorneys. The PC may initiate or receive ex parte oral or written communications with the parties and their attorneys, legal representatives of the children, and other parties relevant to understanding the issues.

III. TERM

- A. The parties agree to have the PC for a term of two (2) years from the date the Parenting Consultant signs the Fee Agreement, unless otherwise specified herein. This term may be extended by the execution of a new fee agreement at the conclusion of the term.
- B. The PC retains the discretion to 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, or is removed by written agreement of the parties, a new PC shall be named by mutual agreement of the parties or by obtaining a list of five (5) qualified persons from the present PC and alternately striking names until one name remains. Petitioner shall strike the first name. The parties may jointly agree on another selection method if both are in agreement.

IV. DUTIES AND RESPONSIBILITIES

A. The PC shall have the duty and responsibility to assist the parties in resolving all 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 and permanent modification of custody labels unless the parties agree, in writing, that the PC may address such issues and the PC agrees to address such issues.

V. SCOPE OF AUTHORITY

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

- A. Authorize “trading” of time with the children where one party requests and the other party declines;
- B. Award compensatory time to one party because the other party did not permit the children to be with the party who had custodial or access rights under the existing Court Order, prior decision of a PC or Parenting Time Expeditor (PTE);
- C. Interpret ambiguities or unclear provisions in the parties’ stipulations and/or Court Orders;

- D. Decide Parenting issues that were not contemplated by the parties when they addressed parenting issues in previous stipulations or are not addressed by an existing Court Order or prior decision of the PC;
- E. Decide allocation of fees and expenses related to parenting issues (such as fees for extracurricular activities, but excluding child support) that were not determined by a Court Order or prior decision of a PC;
- F. Decide alterations in the access schedule, including transportation;
- G. Decide revisions to previously decided parenting issues as needed to meet changing circumstances;
- H. Decide the holiday and vacation access schedule between the parties and the minor children to the extent the holidays and specific vacation dates have not been determined by a Court Order, prior decision of a PC or PTE, or are no longer workable due to a change in circumstances;
- I. Decide school attendance, child care, activity, vacation and summer camp issues, including dates and times for the same, to the extent the specific vacation dates have not been determined by a Court Order, prior decision of a PC or PTE, or are no longer workable due to a change in circumstances;
- J. Decide the appropriate school placement for the child(ren);
- K. Consult with outside sources, such as teachers, therapists, physicians, attorney for either party, family members, etc., and review school records and speak to, or review records of, therapists with whom the individual and/or child(ren) have met;
- L. Require independent evaluations and psychological testing of the parties and/or child(ren) if the PC determines it would be helpful to the resolution of problems;
- M. Communicate, obtain and/or provide information with any person without the necessity of securing a release from the parties;
- N. Require that a party or child(ren) participate in therapy, anger management, etc., and select the therapist, if therapy or professional assistance would be helpful to the resolution of the problems or assist the child(ren);

- O. Decide issues with input from only one party, where the other party has failed to participate in the decision making process; and,
- P. Make recommendations, memorialize agreements and make decisions, including the authority to impose consequences for non-compliance.
- Q. The PC may require that the parties enter into a safe harbor agreement with a mental health provider before beginning services, as provided in item X below (“Safe Harbor”).

VI. PROCESS FOR REQUESTING ASSISTANCE FROM PC

- A. The parties 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 controversy, the PC will meet with both parties by telephone, in person, or by other means as determined appropriate by the PC, to discuss the issue in controversy. The PC will review all appropriate information relating to the issue in controversy, including, but not limited to, any existing and prior Court Orders and any agreements of the parties.
- C. The PC may meet and communicate with the child(ren) as the PC deems appropriate.
- D. Both parties shall participate in the dispute-resolution process defined by the PC and governed by Minnesota Rules of Practice, Rule 114 in accordance with the principles of due process. The process will include, at a minimum, the opportunity for each to express his or her opinion. In the event a party does not attend a meeting or otherwise fails to respond in a timely manner, the PC may deem the party’s participation waived. The PC may also proceed by joint or individual in-person meetings, telephone, written correspondence or other means determined appropriate by the PC as the situation warrants. If a party fails to provide input into a decision of the PC after a reasonable period of time following a request for input, the PC may resolve this issue in controversy without input from that party.

E. Once a PC has agreed to make a decision about an issue, that decision shall be made promptly. All decisions of the PC shall be made in writing. Decisions of the PC are by their very nature often made in circumstances involving time constraints, and possibly emergencies; therefore, these decisions may, initially, be made orally, but must be communicated to both parties and subsequently documented in writing. These decisions are binding when made.

VII. DUTIES OF PARTIES

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

B. To the extent a release is required by any non-party to disclose information to the PC, both parties shall sign all releases necessary for the PC to access any information the PC deems necessary.

C. The parties agree to abide by 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 parties 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. The PC may consult with other professionals as necessary to conduct her duties. Parties shall execute all necessary authorizations to permit such communication without limitation.

F. Upon request, the parties shall provide the PC with all relevant Court Orders and other PC and PTE documents.

G. If one or both of the parties disagree with the decision of the PC, that party must obtain a court hearing date to contest the PC's decision, as set forth in Paragraph XII (Review by the Courts and/or Appeals).

VIII. PAYMENT OF FEES

A. The parties agree to pay the fees and retainer as required by the PC fee agreement.

B. It is within the discretion of the PC to allocate fees and costs differently if the PC determines that one party has unreasonably contributed to the costs or abused the process. The PC may allocate the fees, costs and retainer in a manner different 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 retainer is made.

D. In the event one party does not pay his or her share of the fees, costs and retainer, the other party may pay the full retainer requested and bring a motion seeking reimbursement for the non-complying party's share of the retainer.

E. It is understood that despite the fact that the PC may make decisions or orders in favor of one party, both party will continue to be responsible for the payment of fees associated with such services.

IX. CONFIDENTIALITY AND PRIVILEGE

A. This alternative dispute resolution process is not confidential.

B. There is no privilege accorded to the PC pursuant to law, and the confidentiality provisions of Rule 114 do not apply.

C. All communications with the parties and others with whom the PC has conferred or discussed the case are subject to disclosure, with the exception of the communications identified in item X (“Safe Harbor”) below.

D. Statements made to the PC by the attorneys and/or parties may lose the protection of the attorney-client privilege.

E. Licensed mental health professionals providing services as a PC are mandated to report any:

1. Suspected maltreatment or abuse of children (Minn. Stat. § 626.556); and,
2. Suspected maltreatment or abuse of vulnerable adults (Minn. Stat. § 626.557).

F. Licensed mental health professionals also have a “Duty to warn” as defined by Minn. Stat. § 148.975.

G. An attorney PC is not a mandated reporter of child maltreatment but has the discretion to make such a report.

X. SAFE HARBOR

A. If the child(ren) are receiving mental health services, the PC may seek information from his/her/their mental health provider(s).

B. In order to preserve the safety and confidentiality of the child(ren)’s therapeutic environment, it is essential that the child(ren) feel free to speak openly with his/her/their therapist(s) without fear of their statements being disclosed, so that the therapist’s office may serve as a “safe harbor” for the child(ren).

C. Information obtained by the PC which she determines is or could be harmful to the child(ren) or their relationship with a treating professional or party may be, within the discretion of the PC, made unavailable to a party or counsel for a party.

- D. Any information given to the PC by (a) mental health provider(s) for the child(ren) will be maintained as confidential by the PC.
- E. Any documents containing information provided by (a) mental health professional(s) treating the child(ren) shall be kept in a file separate from the PC file.
- F. Neither party shall, nor will either party permit his or her attorney to, subpoena the information contained in this separate file.
- G. Any party (or his or her 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.
- H. If the PC makes a decision based on input from the therapist(s), the PC reserves the right to document this decision stating only “I have decided this based on input from the child(ren)’s therapist,” without further explanation.
- I. 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. The PC shall not be precluded from participation as a witness or collateral contact in a custody or parenting time study or inquiry involving either party. Both party may, upon making payment as provided by the law and rules of Court pertaining to experts, use the PC as a collateral resource and/or call the PC as a witness to testify in any proceeding involving the child(ren) or the subject matter of the PC’s work with the parties.
- 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. The procedure below shall be followed and neither of the parties may apply to the Court for relief from the decision of the PC, except as provided below and in item VII(F)(1-5).

B. If one or both of the parties disagree with the decision of the PC, that party must obtain a court hearing date to contest the PC's decision.

1. The party in disagreement with a decision of the PC shall bring a motion to contest the PC's decision.
2. The motion must be brought within fourteen (14) days of receiving the written decision.
3. The PC shall receive all pleadings at the time of filing.
4. The party shall be obligated to 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.

C. Any claims filed in Court arising from the parties' work with the PC, including, but not limited to, fee disputes, shall be raised in the file under which the Order was made.

D. Parties agree that the Court shall review the decisions of the PC using the abuse of discretion standard.

XIII. REMOVAL OF PC

The PC shall only be removed according to the terms set forth herein. 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 parties 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 parties' execution of the PC's fee agreement. The appointment is not final until the fee agreement has been executed by both parties.

STIPULATION

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

Petitioner

Respondent

Subscribed and sworn to before me
this ___ day of _____, 20__.

Subscribed and sworn to before me
this ___ day of _____, 20__.

Notary Public

Notary Public

APPROVED AS TO FORM:

ATTORNEY FOR PETITIONER

ATTORNEY FOR RESPONDENT

ORDER

The Court, having reviewed the Stipulation herein of the parties and finding the same to be fair and equitable and in the best interests of the minor children of the parties, and thereafter being fully advised in the premises, does hereby enter the Stipulation of the parties as its Order.

Dated: _____

Judge of District Court