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8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF SAN MATEO**

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11 In Re the Marriage of:)
12 Petitioner:) CASE NO.
13 and) STIPULATION AND ORDER RE:
14 Respondent:) APPOINTMENT OF
15 _____) SPECIAL MASTER

16 Pursuant to the stipulation of the parties hereinafter set
17 forth, and good cause appearing therefor,

18 IT IS ORDERED, ADJUDGED AND DECREED THAT:

19 **APPOINTMENT** -

20 _____ is appointed Special Master under
21 Evidence Code §730, Code of Civil Procedure §1280, et seq. and
22 Code of Civil Procedure §638 for one year from the date of this
23 Order, or until resignation, written agreement of the parties, or
24 further Order of the Court, whichever first occurs.

25 This appointment is based upon the expertise of the Special
26 Master as a licensed mental health professional. The parties, by
27 this stipulation, agree that the Special Master shall have
28

1 authority to issue Orders on the following matters:¹
2 [] [] I understand I may object to the appointment of the
3 Special Master if he/she is unqualified, is
4 related to either party or the Court, is in
5 business with either party, bears enmity or
6 bias to a party, or is otherwise susceptible
7 of objection within the grounds set out in
8 CCP §641. I further understand the Special
9 Master must disclose any such grounds upon
10 his/her becoming aware of their existence and
11 that I must, within 15 calendar days
12 thereafter, file my objection with the Court
13 to the continued participation of the Special
14 Master, or waive my objection.²

15 **AUTHORITY** -

- 16 [] Adjusting any of the following: timeshare, visitation
17 schedule, telephone or correspondence contact, supervision
18 of visitation, visitation exchanges, or transportation
19 arrangements of the child.
20 [] Changing the education, day care, and/or after-school and
21 enrichment activities for the child.
22 [] Changing religious observances and training of the child.
23 [] Determining appropriate medical, mental health, counseling
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25 ¹ As used throughout this Order, the term "child" is inclusive of "children" where
26 applicable.

27 ² The requirement to post notice of case number and telephone number of contact
28 person for all of the Special Master's proceedings outside the courthouse shall not apply. CA
Rule of Court 244.1(C) is deemed waived by the parties.

1 and psychotherapy treatment, (for issues such as co-
2 parenting, substance/alcohol abuse, domestic violence,
3 batterer's intervention, and Restraining Orders).

4 [] Requiring either or both parties to undertake testing and
5 monitoring for substance/alcohol abuse, with test results to
6 be directed simultaneously to the Court and the Special
7 Master.

8 [] Requiring psychological testing for either or both parents
9 as well as the child.

10 [] Adjusting daily routines and practices (bedtime, diet,
11 suitable clothing), and safeguarding against inappropriate
12 discipline.

13 [] Recommending to the Court that a custody evaluation or
14 assessment be conducted.

15 [] Recommending to the Court that an attorney be appointed for
16 the child.

17 [] Engaging other relevant family matters upon consensus of the
18 parties, or if no consensus, upon advice of the Court.

19 **Instances of child abuse or suspected child abuse must be**
20 **reported by the Special Master to appropriate authorities.**

21 [] [] I agree to the above issues being decided by the
22 Special Master.

23 **QUASI-JUDICIAL IMMUNITY** -

24 The Special Master is an Officer of the Court. The Special
25 Master has quasi-judicial immunity. While the Special Master may
26 be subject to subpoena process, he/she may not be required to
27 testify if the Court, by appropriate proceedings, determines the
28 best interests of justice are not served by such testimony. The

1 testimony, if given, shall not constitute a waiver of the Special
2 Master's quasi-judicial immunity, except as otherwise provided in
3 Evidence Code §703.5.

4 **PROCEDURE -**

5 Both parties shall participate in the dispute resolution
6 process as defined by the Special Master and shall be present
7 when so requested by the Special Master. The Special Master shall
8 conduct hearings and interviews either with the parties appearing
9 personally or by telephone. If either party desires a particular
10 issue to be decided by the Special Master, that party bears the
11 burden of presenting a clear statement of the issue.

12 The Special Master shall have the authority to determine the
13 protocol of all interviews and sessions including, in the case of
14 meetings with the parties, the power to determine who attends
15 such meetings. Hearings may be informal, without a formal record
16 of the proceedings, unless otherwise requested and paid by a
17 party. The Special Master may utilize consultants and/or
18 assistants as necessary to assist the Special Master in the
19 performance of the duties contained herein. The Special Master is
20 empowered to communicate with members of the immediate or
21 extended family of both parties, custody evaluators, screeners,
22 assessors, and other individuals investigating or monitoring the
23 issues, as well as other persons the Special Master deems to have
24 relevant information or to be useful participants.

25 The Special Master shall decide all matters at issue within 30
26 days of presentment unless an extension is stipulated to by the
27 parties.

28 **ORDERS -**

1 Orders made by the Special Master, if in writing, shall be
2 binding and effective when signed by the Special Master. Orders
3 need not be in writing and may be made orally if exigent
4 circumstances so warrant. However, written memorialization of the
5 Orders shall ensue within 5 business days. The oral Orders, as
6 with the written Orders shall be effective when made.
7 All written Orders of The Special Master shall set forth the
8 reasons for the Orders or recommendations therein contained.

9 **Any party wishing to challenge the Special Master's Order**
10 **must file a Noticed Motion or Order to Show Cause not later than**
11 **15 calendar days from the effective issue date of the Special**
12 **Master's Order. Service must be timely completed before hearing.**
13 **Further, any party who believes the Court's ruling should be**
14 **prerequisite to implementation of the Special Master's Order may**
15 **file a Request for an Order Shortening Time for the matter to be**
16 **heard. Unless superseded by an Order issued by the Court, the**
17 **Special Master's Order shall remain in effect.**

18 [] [] I understand the Special Master may make Orders that I
19 may disagree with. I also understand I have the right
20 to request the Court to make the final decision.

21 **HEARINGS** -

22 Hearings granted to review the Orders or recommendations of
23 a Special Master should, in general, be submitted on Declaration
24 under penalty of perjury, as with any other law and motion matter
25 on the Family Law Department's calendar. Exceptions are those
26 instances in which a longer Court presentation than 20 minutes is
27 contemplated, in which case oral testimony may be necessary.

28 **COMMUNICATION WITH THE SPECIAL MASTER** -

1 The parties and their attorneys shall have the right to
2 initiate or receive ex parse communications with the Special
3 Master. Any party may initiate contact in writing, or by
4 telephone, with the Special Master, provided that the opposing
5 party or counsel are simultaneously notified.

6 The Special Master may not communicate ex parse with the
7 Court, except as authorized by California Rule of Court 379(b)
8 and Uniform Local Rule 5.2(f).

9 The parties shall provide all records, documentation, and
10 information requested by the Special Master, and if unavailable,
11 shall sign any and all releases for records and information
12 requested by the Special Master.

13 Within 15 calendar days of the engagement of the Special
14 Master, [] Counsel for Petitioner, [] the Petitioner, []
15 Counsel for Respondent, or [] the Respondent, shall provide to
16 the Special Master copies of all:

17 [] pleadings

18 [] Orders

19 [] correspondence as directed by the Court

20 **DATA COLLECTION** -

21 The parties agree to execute written consents to release of
22 information to the Special Master, of the following records,
23 files and documentation regarding the welfare of the child:

24 [] child's current/previous pediatrician

25 [] child's current/previous psychologist, psychiatrist,
26 and/or mental health professional

27 [] child's current/previous teachers

28 [] child's hospital and medical records of

1 current/previous physicians
2 [] law enforcement agencies
3 [] prior Special Masters, custody evaluators, child's
4 therapist.
5 [] [] I agree that the Special Master's obtaining and use of
6 the above data is for the purpose of serving the
7 child's best interests.

8 **CHILD'S THERAPIST -**

9 If there is a therapist in place for the child, the Special
10 Master is appointed Guardian Ad Litem for said child for the
11 limited purpose of obtaining information, the non-disclosure of
12 which would be inimical to the best interests of the child. Such
13 disclosure shall NOT extend to any other proceeding and may NOT
14 be used to compel the therapist to testify in Court.

15 **FEES -**

16 **Charges and Costs:**

17 The Special Master's fee shall be set by agreement between
18 the Special Master and the parties. Time spent in interviewing,
19 report preparation, review of records and correspondence,
20 telephone conversation, travel, court preparation and any other
21 time invested in association with serving as Special Master other
22 than for Court appearances and settlement conferences will be
23 billed as agreed.

24 It is understood that despite the fact the Special Master
25 may prepare reports and/or testify in support of one party, both
26 parties will continue to be responsible for the payment of fees
27 associated with such services at the allocated percentages set
28 out below. In the event the testimony and/or written report of

1 the Special Master is required for any hearing, settlement
2 conference, or Court action by one or both parties, the Special
3 Master's fees for such services shall be paid by both parties, in
4 advance, according to an estimate provided by the Special Master,
5 according to the specified allocation of costs. Ultimately, the
6 Court shall determine the proper allocation between the parties
7 of the fees of the Special Master for such services and may
8 require reimbursement by one party to the other for any payment
9 to the Special Master.

10 The Special Master shall be reimbursed for any reasonable
11 expenses he/she incurs in association with his/her role as
12 Special Master. These costs may include, but are not limited to
13 photocopies, messenger service, long distance telephone charges,
14 express and/or certified mail costs, and excess postage to
15 foreign countries, parking, tolls, mileage, travel expenses, and
16 word processing.

17 Payment for the Special Master's services shall be made
18 prior to the initial interview in the form of an advance together
19 with an agreed protocol for payment of on-going charges. Any
20 unexpended funds remaining at the conclusion of the Special
21 Master's services shall be promptly refunded to the parties.

22 Any objection to the Special Master's bills must be brought
23 to his/her attention in written form within 30 calendar days of
24 the billing date; otherwise the billing shall be deemed agreed
25 to.

26 In the event that a legal action becomes necessary to
27 enforce any provision of this Order the non-prevailing party
28 / / / /

1 shall pay attorney's fees and costs as may be Ordered by the
2 Court.

3 **Allocations:**

4 Except as otherwise provided herein, the fees of the Special
5 Master shall be shared by the parties in the following manner:

6 Father shall pay [] % and Mother shall pay [] % of the
7 Special Master's fees and expenses.

8 The Special Master shall have the right to recommended a
9 reallocation of the payment of his/her fees at percentages
10 different from the above if he/she believes the need for his/her
11 services is attributable to the conduct and/or intransigence of
12 one party, or if a party's changed financial circumstances so
13 warrant.

14 Telephone calls to the Special Master by either party are
15 part of the process and appropriately paid for the parties
16 according to their percentage share as Ordered, unless otherwise
17 determined by the Special Master.

18 In the event that either party fails to provide 24 hours
19 telephone notice of cancellation of any appointment with the
20 Special Master, such party shall pay all of the Special Master's
21 charges of such missed appointment at the full hourly rate, at
22 the discretion of the Special Master.

23 **GRIEVANCES** -

24 The Special Master may be disqualified on any of the grounds
25 applicable to the removal of a Judge, Referee or Arbitrator.

26 The Special Master's decision or action taken may be vacated
27 or corrected on any of the applicable grounds specified in CCP
28 §641, 1286.2 and 1286.6.

1 Any complaints or grievances from either party regarding the
2 performance or actions of the Special Master shall be dealt with
3 according to the following procedure:

4 ♦ A party having a complaint or grievance alleging bias,
5 unethical practices, or unprofessional conduct on the
6 part of the Special Master, may submit a complaint to
7 the Court in writing within 30 calendar days of his/her
8 receipt of the Special Master's Order or Evaluation
9 Report. The Court will then proceed pursuant to its
10 local Court Rule 5.5(c).

11 ♦ Notwithstanding the above, a party having any complaint
12 regarding the Special Master's conduct, Order, or
13 Evaluation Report, should first discuss the specific
14 issue(s) complained of, personally with the Special
15 Master before pursuing it in any other manner.

16 ♦ If, after discussion, no resolution of the issue(s) is
17 reached, and the complaint relates to matters other
18 than bias, unethical practices, or unethical conduct of
19 the Special Master, a party shall submit a written
20 letter detailing the complaint or grievance to the
21 Special Master as well as to the other party and to the
22 attorneys (if any).

23 ♦ The Special Master will, within 30 calendar days of
24 his/her receipt of the complaint or grievance, provide
25 a written response. The Special Master will thereafter
26 meet with the complaining party and his/her attorney
27 (if any), to discuss the matter. Within 10 calendar
28 days following the meeting, the complaining party may

1 either then submit a letter to the Special Master
2 stating the grievance is satisfactorily resolved, or
3 apply to the Court for appropriate relief, by filing,
4 and serving, either a Noticed Motion or Order to Show
5 Cause detailing the reasons why the Court should
6 resolve the grievance.

7 **SUBSTITUTION OF SPECIAL MASTER -**

8 The Special Master may resign at any time he/she determines
9 the resignation to be in the best interests of the child or if
10 the Special Master is unable to serve out his/her term, upon 30
11 days written notice to the parties. The remaining term of the
12 Special Master shall remain in full force and effect and shall be
13 filled by a new Special Master unless otherwise mutually agreed
14 by the parties, or unless the resigning Special Master
15 recommends, and the Court determines, that the Special Master
16 process is no longer in the best interests of the child. Upon
17 notice of impending resignation, the Special Master shall
18 recommend to the parties 3 qualified Special Masters. The new
19 Special Master shall be chosen by agreement of the parties or, if
20 the parties are unable to agree, the Judge to whom the case is
21 assigned shall choose a new Special Master to fulfill the
22 remaining term of this Stipulation.

23 **NOTICE TO FAMILY COURT SERVICES -**

24 A copy of this Order shall forthwith be delivered to Family
25 Court services by _____.

26 DATED:

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JUDGE OF THE SUPERIOR COURT

The undersigned agree to the foregoing Order.

Dated: _____
Petitioner

Dated: _____
Attorney for Petitioner

Dated: _____
Respondent

Dated: _____
Attorney for Respondent

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