

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

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Plaintiff,

Index No.: _____

- against -

Part No.: 17

Defendant.

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**PRELIMINARY CONFERENCE STIPULATION/ORDER
CONTESTED MATRIMONIAL**

**PRESIDING: Hon. Hope Schwartz Zimmerman
Justice of the Supreme Court**

The parties and counsel have appeared before this Court on _____
_____ at a preliminary conference on this matter held pursuant to 22 NYCRR
§202.16.

A. BACKGROUND INFORMATION:

1. Summons: Date filed: _____ Date served: _____

2. Date of Marriage: _____

3. Name(s) and date(s) of birth of child(ren):

Name: _____ DOB: _____

Name: _____ DOB: _____

Name: _____ DOB: _____

Name: _____ DOB: _____

4. Attorneys for Plaintiff:

Attorneys for Defendant:

Phone: _____

Phone: _____

Fax: _____

Fax: _____

Email: _____

Email: _____

5. The Court has received a copy of:

Plaintiff Defendant
(Date Filed **OR** To Be Filed)

(a) A sworn statement of net worth as of date of commencement of the action.

(b) A signed copy of each party's attorney's retainer agreement.

6. An Order of Protection has been issued against:

Plaintiff: ___ YES ___ NO

Defendant: ___ YES ___ NO

Issue Date: _____

Issue Date: _____

Issuing Court: _____

Issuing Court: _____

Currently in Effect?
___ YES ___ NO

Currently in Effect?
___ YES ___ NO

7. Plaintiff/Defendant requests a translator in the _____ language.

8. (a) Please identify and state the nature of any Premarital, Marital, Separation or other Agreements and/or Orders which affect the rights of either of the parties in this action.

- (b) Plaintiff/Defendant shall challenge the Agreement dated _____ by _____. If no challenge is asserted by that date, it is waived unless good cause is shown.

B. GROUNDS FOR DIVORCE:

1. The Complaint (was) (or will be) served on: ____/____/____
2. A Responsive Pleading (was) (or will be) served on: ____/____/____
3. Reply to Counterclaim, if any, (was) (or will be) served on: ____/____/____
4. The issue of grounds is resolved unresolved.

If the issue of grounds is **resolved**, the parties agree that Plaintiff/Defendant will proceed on an uncontested basis to obtain a divorce on the grounds of DRL § 170(7) and the parties waive the right to serve a Notice to Discontinue pursuant to CPLR 3217(a) unless on consent of the parties.

5. Other: _____

C. CUSTODY:

1. The issue of parenting time is resolved unresolved.
2. The issues relating to decision-making are resolved unresolved.
- (a) If the issues of custody, including parenting time and decision-making, are resolved: The parties are to submit an agreement/stipulation no later than _____.

(b) If the parties do not notify the Court that all issues related to custody are resolved, a conference shall be held on _____ at which time the Court shall determine the need for an Attorney for the Child/Guardian ad Litem and/or a forensic evaluation and set a schedule for resolving all issues relating to custody.

1. **ATTORNEY FOR CHILD(REN) or GUARDIAN AD LITEM:** Subject to judicial approval, the parties request that the Court appoint an Attorney for the parties' minor child(ren) ("AFC"). The cost of the AFC's services shall be paid as follows: _____.

FORENSIC: Subject to judicial approval, the parties request that the Court appoint a neutral forensic expert to conduct a custody/parental access evaluation of the parties and their child(ren). Subject to Judicial approval, the cost of the forensic evaluation shall be paid as follows: _____.

Any appointment of an Attorney for the Child/Guardian ad Litem or forensic evaluator shall be by separate order which shall designate the individual appointed, the manner of payment, source of funds for payment, and each party's responsibility for such payment.

D. FINANCIAL:

(1) Maintenance is **resolved** **unresolved**

(2) Child Support **resolved** **unresolved**

(3) Equitable Distribution is **resolved** **unresolved**

(4) Counsel Fees are **resolved** **unresolved**

List all other causes of action and ancillary relief issues that are **unresolved**.

Any issues not specifically listed in this Order as unresolved may not be raised in this action unless good cause is shown.

E. OTHER:

List all other causes of action and ancillary relief issues that are **unresolved**.

F. PENDENTE LITE RELIEF:

See annexed Order _____

See annexed Stipulation _____

G. DISCOVERY:

1. Preservation of Evidence:

- (a) **Financial Records:** Each party shall maintain all financial records in his or her possession or under his or her control through the date of the entry of a judgment of divorce.
- (b) **Electronic Evidence:** For the relevant periods relating to the issues in this litigation, each party shall maintain and preserve all electronic files, other data generated by and/or stored on the party's computer system(s) and storage media (i.e. hard drives, floppy disks, backup tapes), or other electronic data. Such items include, but are not limited to, e-mail and other electronic communications, word processing documents, spreadsheets, data bases, calendars, telephone logs, contact manager information, internet usage files, offline storage or information stored on removable media, information contained on laptops or other portable devices, and network access information.

2. **Document Production:**

- (a) No later than ____ days after the date of this Order, the parties shall exchange the following records for the following periods:

Time Period

_____ Federal, state and local tax returns, including all schedules, K-1s, 1099s, W-2s and similar data.
_____ Credit card statements for all credit cards used by a party.
_____ Checking account statements, cancelled checks and check registers for joint and individual accounts.
_____ Brokerage account statements for joint and individual accounts.
_____ Savings account statements for joint and individual accounts.
_____ Other: (specify)_____

Absent any specified time period, the records listed above are to be produced for the **three years** prior to the commencement of this action through the present. If a party does not have complete records for the time period, the party shall provide a written authorization to obtain such records directly from the source within five days of presentation.

- (b) Service of Notice For Discovery and Inspection:

Plaintiff: ____/____/____ Defendant: ____/____/____

- (c) Responses to Notice for Discovery and Inspection:

Plaintiff: ____/____/____ Defendant: ____/____/____

- (d) Service of Interrogatories:

Plaintiff: ____/____/____ Defendant: ____/____/____

- (e) Response to Interrogatories:

Plaintiff: ____/____/____ Defendant: ____/____/____

- (f) Depositions (date to be held):

Plaintiff: ____/____/____ Defendant: ____/____/____

(g) Non Party Depositions (date to be held):

Plaintiff: ___/___/___ Defendant: ___/___/___

Failure to comply with the provisions of this section may result in sanctions, including the award of legal fees, and other penalties.

H. VALUATION/FINANCIAL EXPERTS

1. **Neutral Experts** – The parties request that the Court appoint a neutral expert to value the following:

The cost of the valuations shall be paid (subject to reallocation): _____% Plaintiff and _____% Defendant

- (a) Deferred compensation/Retirement assets _____
- (b) Business interest _____
- (c) Professional practice _____
- (d) Real property _____
- (e) Stock options, stock plans or other benefit plan _____
- (f) Intellectual property _____
- (g) Other (identify): _____

The parties agree that the appointment of the neutral expert as specified above, shall be pursuant to a separate order which shall designate the neutral expert, what is to be valued, the manner of payment, the source of funds for payment, and each party’s responsibility for such payment if not agreed above.

If the Court does not appoint the neutral expert(s) requested above simultaneously with the signing of this Order, then the parties may suggest names for the Court to consider appointing. Said names shall be submitted by letter no later than _____.

The parties shall notify the Court no later than _____ as to whether any other neutral experts are required.

2. **Experts to be Retained by a Party:**

Each party shall select his/her own expert to value _____ . The expert shall be identified to the other party by letter with their qualifications and retained no later than _____. If a party requires fees to retain an expert and the parties cannot agree upon the source of the funds, an application for fees shall be made. Any expert retained by a party must represent to the party hiring such expert that he or she is available to proceed promptly with the valuation.

Expert reports are to be exchanged by _____. Absent any date specified, they are to be exchanged 60 days prior to trial or 30 days after receipt of the report of the neutral expert, whichever is later. Reply reports are to be exchanged 30 days after service of an expert report.

3. **Additional Experts:**

If, as of the date of this order, a net worth statement has not been served or a party cannot identify all assets for valuation or cannot identify all issues for an expert, then, upon the parties' becoming aware of such assets or issues, that party promptly shall notify the other party as to any assets for valuation or any issue for which an expert is needed. If the parties cannot agree upon a neutral expert or the retention of individual experts, either party may notify the Court for appropriate action. Timely application shall be made to the Court if assistance is necessary to implement valuation or the retention of an expert.

I. HEALTH INSURANCE COVERAGE NOTICE:

Each party fully understands that upon the entry of a divorce judgment, he/she may no longer be allowed to receive health coverage under his/her former spouse's health insurance plan. Each party understands that he/she may be entitled to purchase health insurance on his/her own through a COBRA option, if available, otherwise he/she may be required to secure his/her own health insurance coverage.

J. AUTOMATIC STATUTORY RESTRAINTS (D.R.L. §236[B][2])

Each party acknowledges that he/she has received a copy of the Automatic Statutory Restraints/Automatic Orders (D.R.L. §236[B][2]). Each party acknowledges that he/she understands that he/she is bound by those Restraints/Orders during the pendency of this action, unless terminated, modified, or amended by order of the Court upon motion of either party or upon written agreement between the parties duly executed and acknowledged.

K. PARENT EDUCATION:

- The Court:** has provided information as to parent education.
 has taken no action with respect to parent education.
 hereby orders the parties to attend parent education.

L. ALTERNATE DISPUTE RESOLUTION/MEDIATION:

The parties *are* OR *are not* aware of the existence of mediation, collaborative processes and other alternative dispute resolution methods.

M. NOTICE OF GUIDELINE MAINTENANCE

Each party acknowledges receipt of the following notice from the Court:

If your divorce was commenced on or after January 25, 2016, this Notice is required to be given to you by the Supreme Court of the county where your divorce was filed to comply with the Maintenance Guidelines Law ([S. 5678/A. 7645], Chapter 269, Laws of 2015) because you may not have counsel in this action to advise you. **It does not mean that your spouse is seeking or offering an award of “Maintenance” in this action. Maintenance” means the amount to be paid to the other spouse for his or her support, either during the pendency of the divorce action as temporary maintenance or after the divorce is final as post-divorce maintenance.**

You are hereby given notice that under the Maintenance Guidelines Law (Chapter 269, Laws of 2015), there is an obligation to award the guideline amount of maintenance on income up to \$184,000 to be paid by the party with the higher income (the maintenance payor) to the party with the lower income (the maintenance payee) according to a formula, unless the parties agree otherwise or waive this right. Depending on the incomes of the parties, the obligation might fall on either the Plaintiff or Defendant in the action.

There are two formulas to determine the amount of the obligation. If you and your spouse have no children, the higher formula will apply. If there are children of the marriage, the lower formula will apply, but only if the maintenance payor is paying child support to the other spouse who has the children as the custodial parent. Otherwise the higher formula will apply.

Lower Formula

- (a) Multiply Maintenance Payor's Income by 20% .
- (b) Multiply Maintenance Payee's Income by 25% .
- (c) Subtract Line b from Line a: = **Result 1**
- (d) Subtract Maintenance Payee's Income from 40 % of Combined Income* = **Result 2.**
- (e) Enter the lower of **Result 2** or **Result 1**, but if less than or equal to zero, enter zero.

THIS IS THE CALCULATED GUIDELINE AMOUNT OF MAINTENANCE WITH THE LOWER FORMULA

Higher Formula

- (a) Multiply Maintenance Payor's Income by 30%
- (b) Multiply Maintenance Payee's Income by 20%
- (c) Subtract Line b from Line a= **Result 1**
- (d) Subtract Maintenance Payee's Income from 40 % of Combined Income*= **Result 2**
- (e) Enter the lower of **Result 2** or **Result 1**, but if less than or equal to zero, enter zero.

THIS IS THE CALCULATED GUIDELINE AMOUNT OF MAINTENANCE WITH THE HIGHER FORMULA

***Combined Income equals Maintenance Payor's Income up to \$184,000 plus Maintenance Payee's Income**

The Court is not bound by the Guideline Amount of Maintenance and may deviate therefrom in the Court's discretion as set forth in the statute.

The Court will determine, in its discretion, how long maintenance will be paid in accordance with the statute.

- N. 1. The Court directs that the parties and their respective counsel are to appear at a compliance conference to be held on _____/_____/_____ at _____ am/pm. All discovery as set forth herein above is expected to be completed prior to the compliance conference. At the conference, counsel shall also be prepared to discuss settlement.
2. A Note of Issue shall be filed on or before _____. Failure to file a Note of Issue as directed herein may result in dismissal pursuant to CPLR 3216.

THE TRIAL IN THIS MATTER SHALL BE HELD ON:

_____ in part/room _____ at _____.

All of the above is hereby stipulated to by the parties:

Plaintiff (Signature)

Defendant (Signature)

Plaintiff (Print Name)

Defendant (Print Name)

Plaintiff's Attorney (Signature)

Defendant's Attorney (Signature)

Plaintiff's Attorney (Print Name)

Defendant's Attorney (Print Name)

Dated: _____, 20____

SO ORDERED:

Hon. Hope Schwartz Zimmerman
J.S.C.

There is no addendum to this Preliminary Conference Order.

There is an addendum of two (2) pages which is attached to this Preliminary Conference Order: Rules and Procedures, IAS Part 17.