

Draft

At a Term of the (Family) (Supreme Court) of the State of New York, held in and for the County of Erie at the _____ Courthouse located at _____, New York on _____, 201_

PRESENT:

Hon.

Justice

ORDER APPOINTING PARENTING COORDINATOR

Plaintiff/Petitioner,

Index No:

- against -

Defendant/Respondent.

The above referenced (action) (proceeding) was brought pursuant to _____(Family Court Act § 6) (Domestic Relations Law § 240). The (Plaintiff) (Petitioner) _____, represented by _____and/or the (Defendant)(Respondent) _____, represented by _____seek an Order enforcing and/or modifying an existing custody and/or parenting time order concerning the following minor child(ren);

The matter has come to be heard before this Court on _____, 200__ . The Plaintiff/Petitioner and the Defendant/Respondent have appeared before this Court and have been advised by the Court of their right to

counsel pursuant to Family Court Act § 261-62; and the (Plaintiff/Petitioner) and/or (Defendant/Respondent) have waived their right to counsel or do not meet the financial threshold to qualify for Court appointed counsel, and a Law Guardian, _____ having been appointed to represent the interest of the child(ren).

The Court has examined and taken inquiry into the facts and circumstances of this matter adduced through a review of the stipulation of the parties, the conferences held before this Court on _____, a hearing held before this Court on _____, and review of the submittals before this Court.

The Court takes note that the parties are engaged in high conflict litigation over the custody and visitation issues and have demonstrated a pattern of prior and ongoing acrimony and dissension potentially detrimental to their own self interests and the interests of their child(ren).

The Court finds that the utilization of a Parenting Coordinator is necessary to assist the parties/parents herein in implementing the terms of the existing parenting plan dated _____ as incorporated but not merged by the Order/Judgment dated _____ so as to reduce conflict and/or its possible detrimental impact upon the child(ren)' welfare.

Accordingly, in attempts to mitigate against further acrimony, conflict, repeated costly court appearances and motion practice, this Court issues the following Order so as to adopt and facilitate the desired use of a Parenting Coordinator to assist the parties/parents herein in implementing the terms of the existing parenting plan dated _____ as incorporated but not merged by the Order/Judgment dated _____.

Parenting Coordinator:

The Court appoints _____ from the 8th District Court Roster of qualified parenting coordinators with offices at _____ tel. _____ to serve as the Parenting Coordinator.

A copy of this Order shall immediately be forwarded by the Court to the Parenting Coordinator upon the issuance of this Order. The parties shall thereafter contact the Parenting Coordinator within five (5) days of the issuance of this Order to engage this process.

Term:

The term of the Parenting Coordinator’s service shall be for a period of _____ months/ _____ years from the date of this Order. The Parenting Coordinator may withdraw, resign or decline service upon written notification to the Court and both parties. In addition, the Parenting Coordinator’s services may be terminated upon written agreement of both parties approved by the Court or by further Court order. Absent such resignation, agreement or order, however, the Parenting Coordinator may not be terminated by either of the parties before expiration of the term.

Fees and Compensation:

The Parenting Coordinator shall be compensated by the parties at an hourly rate established by the parenting coordinator.

The parties and Parenting Coordinator shall execute a retainer agreement concerning the fees to be paid to the parenting coordinator by the parties. In pro bono cases, the parties will each be required to pay a minimum fee of \$2.00 per hour to the parenting coordinator.

Father shall pay ____% and Mother shall pay ____% of the parenting coordinator's retainer within 10 days of this order. Father shall pay ____% and

Mother shall pay ____% for additional services beyond the retainer upon 5 days receipt of a written invoice.

Issues Subject to Parenting Coordination:

In order to facilitate the implementation of the court-ordered parenting plan, the Parenting Coordinator is appointed to assist the parties to resolve their conflicts in the following areas:

Check appropriate box(s) below:

- 1. Minor changes or clarification of parenting time/access schedules or conditions
- including vacation, holidays and temporary variation from the existing parenting plan.
- 2. Transitions/exchanges of the children including date, time, place, means of transportation and transporter;
- 3. Health care management including medical, dental, orthodontic, and vision care;
- 4. Child-rearing issues;
- 5. Psychotherapy or other mental health care including substance abuse assessment or counseling for the children;
- 6. Psychological testing or other assessment of the children and parents;
- 7. Education or daycare including the school choice, tutoring, summer school, participation in special education testing and programs or other major educational decisions;
- 8. Enrichment and extracurricular activities including camps and jobs;
- 9. Religious observances and education;
- 10. Children's travel and passports arrangements;

- 11. Clothing, equipment, and personal possessions of the children;
- 12. Communication between the parents about the children including telephone, fax, email, notes in backpacks, etc.
- 13. Communication by a parent with the children including telephone, cell phone, pager, fax and email when they are not in that parent's care.
- 14. Alteration of appearance of the children including haircuts, tattoos, ear and body piercing
- 15. Role of and contact with significant others and extended families;
- 16. Substance abuse assessment or testing for either or both parents or a child, including access to results;
- 17. Parenting classes for either or both parents.
- 18. Other

Appointments and Communications:

Each parent shall make a good faith effort to be available for appointments when requested by the Parenting Coordinator.

The Parenting Coordinator shall set a time and place to meet with each parent individually for a brief informational meeting within twenty (20) days of the signing of this Order. Each parent shall attend, or shall notify the Parenting Coordinator upon receipt of the meeting notice, of any scheduling difficulties.

During subsequent meetings, the Parenting Coordinator may meet with the

parties and the children jointly or separately. The Parenting Coordinator shall determine whether appointments will be joint, separate, by telephone, or in person. Either parent may contact the Parenting Coordinator if meeting in the same room with the other parent would be uncomfortable. The Parenting Coordinator has the discretion to decide if subsequent meeting will held together or separately.

The Parenting Coordinator shall assist the parties in resolving parenting issues in this matter only after ascertaining that the parties cannot resolve the issues themselves.

Assistance provided by the Parenting Coordinator is not intended to be a “crisis service.” The Parenting Coordinator should not be contacted outside of normal working hours as defined in the Parenting Coordination Agreement.

It is the responsibility of each parent to contact the Parenting Coordinator to schedule, and arrange times for meetings, and also attend appointments when scheduled by the Parenting Coordinator.

The parents, their attorneys and/or the law guardian, if any, may communicate with the Parenting Coordinator *ex parte* (without the other parent present). This applies to oral communications and any written documentation or communication submitted to the Parenting Coordinator.

The Parenting Coordinator may have *ex parte* communications with the parents, their attorneys or the law guardian, and other professionals involved in the case. This applies to both written and oral communications. The Parenting Coordinator may talk with the law guardian or each parent without the presence of either counsel.

In specific circumstances, the Parenting Coordinator may request and notify the parties and/or their attorneys that communications with the Parenting Coordinator not be *ex parte*.

The Parenting Coordinator shall not communicate with the Judge assigned to the case and/or any member of the Judge's staff except to notify the Court that he or she is not available to provide the services contemplated by the parties, which notification shall be made on notice to both parties.

The parties and/or their attorneys shall cooperate with the Parenting Coordinator and agree to follow the terms specified in this Order. The parties shall further cooperate with the Parenting Coordinator by providing any documents, papers or information requested, including the execution of releases and/or authorizations permitting the Parenting Coordinator to speak with, or receive information from, any mental health professionals, social service workers or agencies, physicians, schools or other facilities or individuals who may have information regarding the parties or their child(ren).

The Parenting Coordinator is not a substitute for having independent legal counsel or working with an independent mental health professional. Whether or not your Parenting Coordinator is an attorney or mental health professional, the Parenting Coordinator will be functioning with you solely as a Parenting Coordinator.

Both parties shall fully cooperate with completing anonymous questionnaires that are part of the parenting coordination program evaluation.

Role of Parenting Coordinator:

The primary role of the Parenting Coordinator is to assist parties to implement their court ordered parenting plan in a way that minimizes conflict and is in their child(ren)'s best interests. In the event of an unresolved parenting

conflict, either party may contact the Parenting Coordinator and the Parenting Coordinator may:

Check box(s) below:

- Educate the parties on communication skills, principles of child development, litigation impact on children and the parties and other issues relevant to the parties' controversy and the child's(children's) needs;
- Facilitate the execution of and compliance with the existing child custody and parenting time agreement;
- Maintain communication among the parties by serving, if necessary, as a conduit of information.

- Recommend how a particular element or elements of the existing parenting plan or parenting schedule should be implemented, including without limitation the frequency and length of visitation, temporary changes in the parenting schedule, holiday or vacation planning, logistics of pick up and drop off, suitability of accommodation, and issues dealing with stepparents and significant others;

- Propose clear and detailed plans which reallocate parenting time to the parties as a means of reducing conflict but without significantly reducing actual net parenting time;

- Notify and remind the parties that the Parenting Coordinator is not the ally of either party, but a neutral professional whose role is to actively and specifically focus on helping parents work together for the benefit of the children;

- Consult with professionals, family members and others who have information about the parents or children, such as law guardians, therapists, custody evaluators, school teachers, doctors, etc. To this end, the parties agree to execute any written authorization requested by the Parent Coordinator and necessary to access such information;

- Determine the protocol and time of all interviews and sessions including but not limited to, the discretion to determine who attends such meetings and whether a child or children should attend with the parents or parent;
- Upon consent of the law guardian, interview the children privately in order to ascertain their needs as to the issues in controversy;
- Attorneys to give consent before any communications that the parenting coordinator has with the parties;
- Ensure that both parents maintain ongoing relationships with the children so long as it is safe to do so;
- Provide both parents with a written summary of the parenting coordinator's recommendations;
- If parents are still unable to reach an agreement about how to facilitate the implementation of their court-ordered parenting plan after the Parenting Coordinator has provided parents with relevant parenting information, tried to help them resolve the disagreement themselves, and offered suggestions, then the Parenting Coordinator has decision making authority on these specified issue areas:

- Other:

Scope of agreements:

- Upon consent of the parties, counsel and the Law Guardian the Parenting Coordinator will submit the agreement to the Court to be incorporated into a court order.
 - Supreme Court may confirm the agreement through an Amended Court Order.
 - Family Court will confirm the agreement under the same docket number used in the case from which the instant order issued.

- ❑ Absent consent, the decision of the Parenting Coordinator will remain in effect until otherwise changed by the parties or the Court.

CONTINUING JURISDICTION OF COURT

The parties retain their right to return to Court and the Court retains continuing jurisdiction over the case until termination of the appointment of the parenting coordinator.

The Parenting Coordinator may send a letter to the Court on notice to all parties requesting a court conference to resolve an outstanding issue or to report on the compliance of the parties.

- Supreme Court will schedule a court conference upon receipt of a letter from the Parenting Coordinator and will notify the parties of the return date. Parties will determine whether they will have counsel present for this initial court conference.

If an issue regarding contempt of an Order of the Court is raised during this court conference, a motion will be required by the Court prior to addressing this issue.

- Family Court will require the filing of a new petition by one of the parties prior to the scheduling of a court conference to address any issues raised by the parenting coordinator regarding the parties' compliance with the court order.

Confidentiality:

Communications between the parents and the Parenting Coordinator are not confidential. The parties will sign any waivers of privilege of confidentiality with any of the following in order to permit the Parenting Coordinator to communicate with law guardians, custody evaluators, screeners, assessors, any mental health professionals, social service workers or agencies, physicians, schools or other facilities or individuals who may have information regarding the parties or their child(ren). During such communications, the parties authorize and direct the

Parenting Coordinator to use at the Parenting Coordinator's discretion information learned while working with the parties.

The Parenting Coordinator may be required by law to report child and domestic abuse, and threats of abuse against another person. In such cases, the Parenting Coordinator and legal counsel (or the parents themselves if not represented) shall address any safety concerns to the Court.

Waiver of Liability:

The parties and their attorneys agree that the Parenting Coordinator shall be immune from suit by any of the parties, attorneys or other participants in this case because of or based upon the Parenting Coordinator's activities as such in this matter. The Parenting Coordinator shall not be liable to the parties or counsel for any acts or omissions in his or her deliberations and recommendations. The parties and counsel agree that the Parenting Coordinators shall not be subject to subpoena for trial, deposition, or other purpose. The recommendations made by the Parenting Coordinator are made to help the parties settle their custody and parenting disputes. Accordingly, anything said by the attorneys, Parenting Coordinator, law guardians or parties in and during the course of the Parenting Coordinator's services is confidential and may not be used for trial, deposition or any other purpose.

Grievance Procedures:

Any grievance from either parent regarding the performance or actions of the Parent Coordinator shall be dealt with in the following manner:

A person with a grievance shall discuss the matter with the Parent Coordinator in person before pursuing it in any other manner.

If, after meeting with the Parenting Coordinator the parent decides to pursue a complaint, the parent must then submit a written letter detailing the complaint to the Parenting Coordinator, to the other parent, and any attorneys representing the parents and/or children. The Parenting Coordinator shall provide a written response to the parent and attorneys

within thirty (30) days.

D. The Parenting Coordinator will then meet with the complaining parent and his or her attorney (if any), to discuss the matter. As noted above, the Parenting Coordinator retains the right to withdraw or decline service for any reason upon written notification to all parties.

E. If the Parenting Coordinator does not make notification that he or she is resigning, and the complaint remains unresolved after the above referenced meeting, the complaining party may file a motion with the Court for removal of the Parenting Coordinator. The motion shall proceed and be determined by the Court on the written documents submitted by both parents and the Parenting Coordinator and without appearances absent Court order.

I have read, understand and agree to the above provisions contained herein:

Plaintiff/ Petitioner:

Defendant/Respondent:

X _____

X _____

Address

Address

Phone No.: _____

Phone No. _____

Dated: _____

Dated: _____

Attorney for Plaintiff/ Petitioner:

Attorney for Defendant /Respondent:

Phone No.: _____

Phone No. _____

Attorney for child/children

Phone No.: _____

So Ordered:

Dated _____

_____ JSC JFC