

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER-MATRIMONIAL PART
.....X

Plaintiff,

Index No.:

-against-

Assigned Justice:
Hon.

Defendant.
.....X

**PRELIMINARY CONFERENCE STIPULATION/ORDER
CONTESTED MATRIMONIAL**

The parties and counsel appeared on _____, 20__ for a Virtual Preliminary Conference, conducted by _____, Court Attorney-Referee, pursuant to 22 NYCRR §202.16 and the Westchester Supreme Court Matrimonial Part Operational Rules:

The parties have filed with the Court, or will file the following documents by the date indicated:

	Dated Filed Plaintiff	or	To Be Filed Defendant
(1) A sworn statement of net worth as of the date of commencement of the action	_____		_____
(2) A signed copy of the retainer agreement	_____		_____

A. BACKGROUND INFORMATION

(1) **Attorneys for Plaintiff:**

Attorneys for Defendant:

Phone/Fax: _____

Phone/Fax: _____

Email: _____

Email: _____

Plaintiff's Email (for Skype participation):

Defendant's Email (for Skype participation):

* _____

* _____

Plaintiff's Phone (for phone conference call):

Defendant's Phone (for phone conference call):

* _____

* _____

* IF PHONE/EMAIL WITHHELD, STATE REASON:

* IF EMAIL/PHONE WITHHELD, STATE REASON:

(2) **Summons:** Date filed: _____

Date Served: _____

(3) **Date of marriage:** _____

(4) **Translator:** _____ is requesting a translator in the _____ language.

(5) **Children:** Name(s) and date(s) of birth child(ren):

(6) **Parties:** Names and dates of birth:

Plaintiff's full name: _____ Plaintiff's DOB: _____

Defendant's full name: _____ Defendant's DOB: _____

(7) **Order/Temporary Order of Protection:** (check which applies) There is / is not an Order/Temporary Order of Protection issued against _____ by _____ Court. The order is dated _____ and is / is not currently outstanding.

** **THE ORDER EXPIRES ON** _____ . Attach a copy of the order.

(8) **Court Orders:** The following other order(s) are outstanding:
Date of Order(s): _____ Court issuing Order(s): _____
Issue(s) addressed in Order(s): _____

****Attach cop(ies) of order(s).**

(9) **Marital/Pre-Marital Agreements:** State whether there are any pre-marital, marital, or separation agreements between the parties, and if so, the nature of each agreement and the date of the agreement: _____

Is there a dispute as to the validity of such an agreement? YES NO

If yes, state which part(ies) dispute the agreement, and briefly describe the nature of the dispute and whether the dispute is presently asserted in any existing pleading: _____

****Any challenge to the validity of a pre-marital, marital, or separation agreement shall be asserted no later than _____ or may be deemed waived.**

B. **GROUNDS FOR DIVORCE**: Grounds for divorce are resolved: YES NO

*****A separate Preliminary Conference Stipulation and Order with Respect to Grounds for Divorce shall be entered contemporaneously herewith, whether the issue of grounds for divorce is resolved or unresolved.***

C. **ISSUES WITH RESPECT TO CHILDREN**

(1) **Residential/Physical Custody**: The issue of residential/physical custody is:
resolved / unresolved

Resolution: _____

(2) **Parenting Time**: The issue of parenting time is: resolved / unresolved .

(3) **Decision-Making**: The issues relating to decision-making are: resolved / unresolved .

Resolution: _____

The issues of custody, including parenting time and decision-making, are resolved. The parties shall submit a custody agreement or stipulated parenting plan to the court no later than _____.

(4) **Family Case Analyst**: The parties have been referred to the Family Case Analyst:
YES NO

*****If any issue related to custody, including parenting time and decision-making is unresolved, the parties shall be referred to the Family Counseling and Case Analyst.***

(5) **Court Appointed Attorney for the Child(ren) or Neutral Forensic Evaluator**: In accordance with the Westchester Supreme Court Matrimonial Part Operational Rules, the part(ies) have/have not requested the following neutral court appointments for child issues:

Attorney for the Child(ren) Neutral Forensic Evaluator No request made at this time.

The undersigned court attorney-referee, having reviewed the application of _____ for the appointment of an Attorney for the Child(ren) and having conducted the Preliminary Conference and discussed the application with the parties and counsel, recommends that the application be determined as follows:

An Attorney for the Child(ren) should be appointed, with the fees allocated as follows:Plaintiff :___% Defendant:_____% , subject to reallocation at the time of trial.

An Attorney for the Child(ren) should not be appointed at this time.

The undersigned court attorney-referee, having reviewed the application of _____ for the appointment of a neutral forensic evaluator for child issues and having conducted the Preliminary Conference and discussed the application with the parties and counsel, recommends that the application be determined as follows:

A neutral forensic evaluator should be appointed, with the fees allocated as follows.
Plaintiff :_____% Defendant:_____% , subject to reallocation at the time of trial.

A neutral forensic evaluator should not be appointed at this time.

*****Any appointment of an attorney for the child(ren) or neutral forensic evaluator shall be by separate order, which shall designate the name of the individual appointed, the source of funds for payment, the manner of payment and the allocation of financial responsibility between the parties.***

D. FINANCIAL CLAIMS

(1) **Maintenance**: The issue of maintenance is: resolved / unresolved .

(2) **Child Support**:: The issue of child support is: resolved / unresolved .

(3) **Equitable Distribution**: The issue of equitable distribution is: resolved / unresolved .

(4) **Counsel fees**: The issue of counsel fees is: resolved / unresolved .

(5) **Separate Property Claims**:

The parties agree that the following items are the plaintiff's separate property: _____

The parties agree that the following items are the defendant's separate property: _____

Plaintiff claims that the following items of property are his/her separate property: _____

Defendant claims that the following items of property are his/her separate property: _____

(6) **Other Ancillary Relief:** List all other causes of action and ancillary relief that remain unresolved: _____

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

E. FINANCIAL EVALUATIONS/EXPERT DISCLOSURE

(1) **Real Property Appraisals:**

Marital Residence: the address of the marital residence is: _____

The name and address of the stipulated appraiser is: _____

The parties stipulate / cannot stipulate as to the allocation of costs between the parties for the appraisal of the marital residence. The parties stipulate that the costs shall be allocated as follows: Plaintiff _____% Defendant _____%, subject to reallocation at the time of trial.

Other Real Properties to be Appraised: The parties further stipulate that the following persons or firms shall conduct the appraisal(s) of the real property indicated below with the parties to bear the costs thereof in accordance with the allocation set forth below. The parties further stipulate that they will fully cooperate with such stipulated appraiser and provide all documents and information necessary to complete the appraisal(s).

<u>Name of Evaluator</u>	<u>Property to be Evaluated</u>	<u>Allocation of Financial Responsibility</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

The parties cannot agree upon the necessity for the real property appraisal(s) set forth below and/or upon the allocation of financial responsibility between the parties. The undersigned court attorney-referee, having reviewed the application of _____ for the appointment of a real property appraiser and having conducted the Preliminary Conference

and discussed the application with the parties and counsel, recommends that the application be determined as follows: _____

- (2) **Property/Business/Degree/License Evaluations**: The parties further stipulate that the following persons or firms shall conduct the evaluations of the property, business, degree, or license indicated below with the parties to bear the costs thereof in accordance with the allocation set forth below. The parties further stipulate that they will fully cooperate with such stipulated evaluator and provide all documents and information necessary to complete the evaluations.

<u>Name of Evaluator</u>	<u>Property/Business/License/Degree to be Evaluated</u>	<u>Allocation of Financial Responsibility</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The parties stipulate that an income stream analysis is: required / not required of the following asset(s): _____

The parties cannot agree upon the necessity for the property/business evaluation(s) set forth below and/or upon the evaluator and/or the allocation of financial responsibility between the parties. The undersigned court attorney-referee, having reviewed the application of _____ for the appointment of a business/property evaluation and having conducted the Preliminary Conference and discussed the application with the parties and counsel, recommends that the application be determined as follows: _____

- (3) **Retained Party Experts**: Each party may retain his/her own expert with regard to: _____

_____.

The expert shall be identified to the other party by letter with their qualifications no later than _____. Expert reports are to be exchanged by _____. If no date is specified, expert reports are to be exchanged no later than 60 days before trial. Reply expert reports

shall be exchanged no later than 30 days after service of an expert report.

****All parties shall timely comply with expert disclosure pursuant to the provisions of the CPLR and the Court Rules. Failure to comply may result in sanctions, including preclusion and/or the award/denial of legal fees.**

F. PENDENTE LITE RELIEF

The parties have stipulated to *pendente lite* support and other interim relief in a separate stipulation submitted herewith.

The parties stipulate as to *pendente lite* support and other interim issues as follows:

G. DISCOVERY

(1) **Discovery Completion and Note of Issue Date:** *(To be completed by the court attorney-referee:)* The undersigned court attorney-referee, having reviewed the issues and conducted a Preliminary Conference, hereby designates this action as:

non-complex moderately complex complex

Accordingly, the court attorney-referee directs that all disclosure be completed and a note of issue filed by _____.

(Where case is non-complex, this date shall be within four [4] months of the Preliminary Conference; where the case is moderately complex, this date shall be within seven [7] months of the Preliminary Conference; where the case is complex, this date shall be within within eleven [11] months of the Preliminary Conference.)

(2) **Compliance Conference Date:** *(To be completed by the court attorney-referee:)* The undersigned court attorney-referee hereby directs that a Compliance Conference be conducted **virtually** on _____ (this date shall be at least ten (10) days prior to the date by which disclosure is to be completed), for the purpose of confirming that all disclosure is complete or will be completed timely.

(3) **Preservation of Evidence:**

(a) **Financial Records:** Each party shall maintain all financial records in his or her possession through the date of the entry of 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. cloud computing storage, hard drives, flash drives, USB devices, CDs, DVDs, disks, 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.

(4) **Document Production:** (COMPLETE THIS SECTION ONLY IF THE PARTIES WAIVE NOTICES FOR DISCOVERY AND INSPECTION)

The parties shall exchange the following documents by_____.

<u>Check if needed</u>	<u>Time Period</u>	
_____	_____	Federal, state and local tax returns, including all schedules, K-1's, 1099's, W-2's and similar data.
_____	_____	Credit card statements for all credit cards used by a party.
_____	_____	Joint checking account statements, checks and registers.
_____	_____	Individual checking account statements, checks and register.
_____	_____	Brokerage account statements.
_____	_____	Savings account records.
_____	_____	Retirement Accounts
_____	_____	Other: (specify)_____

If a party does not have complete records for the time period, the party shall execute and deliver a written authorization to obtain such records from the source within five (5) days of presentation. Any costs associated with the use of the authorization shall, unless otherwise ordered, be allocated by the Court once the amount of the expense is determined.

In the event that a party or parties fails to comply with the foregoing provision for document production, the party or parties aggrieved shall forthwith contact the court attorney-referee. Failure to produce documents may result in sanctions, including preclusion and the award/denial of legal fees. Failure to timely insist upon production may result in waiver of production.

Due to the COVID-19 pandemic, parties are encouraged to provide the other party with online access to records in lieu of utilizing subpoenas and making direct requests to agencies/non-parties.

(5) **Notices for Discovery and Inspection:** Plaintiff shall serve his/her notice for discovery and inspection by_____. Defendant shall respond to said notice by_____.

Defendant shall serve his/her notice for discovery and inspection by_____. Plaintiff shall respond to said notice by_____.

*****All parties shall timely comply with all discovery demands pursuant to the provisions of the CPLR. Failure to comply may result in sanctions, including preclusion and/or the award/denial of legal fees.***

(6) **Interrogatories**: Each party may serve interrogatories by_____. Each party shall respond to any Interrogatories by_____.

*****Due to the COVID-19 pandemic, parties are encouraged to utilize Interrogatories in lieu of depositions.***

(7) **Examinations Before Trial**: All examinations before trial shall be completed by _____.

*****Absent express written permission of the court attorney-referee and/or the assigned Matrimonial Part Justice, examinations before trial may not be conducted after the expiration of the period allowed therefor.***

*****Due to the COVID-19 pandemic, parties are encouraged to conduct depositions virtually.***

H. MEDIATION

The parties acknowledge that they have been notified of the availability of the Westchester County Matrimonial Mediation Program: YES NO

The parties agree to attend mediation through the Westchester County Supreme Court Matrimonial Mediation Program: YES NO

*****If yes, the Order of Reference to mediation is attached.***

The parties request additional information on the Westchester County Supreme Court Matrimonial Mediation Program: YES NO

I. NOTICE OF AUTOMATIC ORDERS

Pursuant to Domestic Relations Law §236B(2)(b) and 22 NYCRR §202.16a, the parties are bound by following automatic orders, which shall remain in effect during the pendency of the action unless terminated, modified, or amended by further order of the court or upon written agreement between the parties :

- (1) Neither party shall sell, transfer, encumber, conceal, assign, remove or in any way dispose of, without the consent of the other party in writing, or by order of the court, any property (including, but not limited to, real estate, personal property, cash accounts, stocks, mutual funds, bank accounts, cars and boats) individually or jointly held by the parties, except in the usual course of business, for customary and usual household expenses or for reasonable attorney's fees in connection with this action.
- (2) Neither party shall transfer, encumber, assign, remove, withdraw or in any way dispose of any tax deferred funds, stocks or other assets held in any individual retirement accounts, 401k accounts, profit sharing plans, Keough accounts, or any other pension or retirement account,

and the parties shall further refrain from applying for or requesting the payment of retirement benefits or annuity payments of any kind, without the consent of the other party in writing, or upon further order of the court.

- (3) Neither party shall incur unreasonable debts hereafter, including, but not limited to further borrowing against any credit line secured by the family residence, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards, except in the usual course of business or for customary or usual household expenses, or for reasonable attorney's fees in connection with this action.
- (4) Neither party shall cause the other party or the children of the marriage to be removed from any existing medical, hospital, and dental insurance coverage, and each party shall maintain the existing medical, hospital, and dental insurance coverage in full force and effect.
- (5) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners and renters insurance policies in full force and effect.

J. HEALTH INSURANCE COVERAGE NOTICE

The parties are advised that pursuant to Domestic Relations Law §255, once a judgment of divorce is signed and entered in this action, either party may no longer be eligible to receive health insurance coverage under the other party's health insurance plan. Each party may be entitled to purchase health insurance on his or her own through a COBRA option, if available, otherwise he or she shall be responsible to obtain his or her own health insurance coverage.

K. CONCLUSION: The parties hereby confirm that they have agreed to the stipulations and agreements set forth above.

Dated: _____

Plaintiff (signature)

Defendant (signature)

Plaintiff's Attorney (signature)

Defendant's Attorney (signature)

Plaintiff's Attorney (print name)

Defendant's Attorney (print name)

I recommend that the Court approve the foregoing stipulation in _____ v. _____, Index No. _____

Dated: _____
White Plains, New York

Court Attorney-Referee

The stipulation of the parties is approved and entered as an Order of the Court. The recommendations of the court attorney-referee are adopted and made an Order of the Court, except that: _____

SO ORDERED:

Dated: _____
White Plains, New York

Hon.
Justice of the Supreme Court