

Stipulation and Order: Appointment for Special Master Jenny Ward

Case Number:

Parties:

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The parties stipulate the as follows:

Appointment:

1. Jenny Ward is appointed Special Master under Code of Civil Procedure 638, until resignation of Jenny Ward or written agreement of the parties, further court order, or 2 years from date of appointment, whichever first occurs.
2. This appointment is based upon the expertise of the Special Master as a licenced parent coordinator, licensed mediator and 30 years of expertise in child education/ research.
3. The Special Master may make orders resolving conflicts between the parents which do not affect the court's exclusive jurisdiction to determine fundamental issues of custody and visitation. Each party specifically agrees the Special Master may make decisions regarding possible conflicts they may have on the following issues and that such decisions are effective as orders when made and will continue in effect unless modified or set aside by a court of competent jurisdiction:
 - a. Times of pick up and delivery
 - b. Method of pick up and delivery
 - c. Transportation to and from visitation.
 - d. Coordination of information on child care-daycare and babysitting.
 - e. After school and enrichment activities.
 - f. Health care management and non emergency health care decisions.
 - g. Participation in visitation (significant others, relatives, etc.)
 - h. Unexpected plans: funerals, illness of relatives.
 - i. In the case of foddlers, younger children, increasing timeshare when developmentally appropriate.
 - j. Special trips or events i.e. weddings, funerals, set specific times for Facetime calls
 - k. Ms. Ward has the discretion to appoint a minor's counsel under FC 3150. I. Ms, Ward will provide direction on the appropriateness of communications between child and any parent.
 - m. Such issues are explicitly mentioned in the custody order or letter written by attorneys to which this order is an attachment.
 - n. Travel plans/summer vacations, allocating time for travel for both parents
4. The Special Master shall not make any orders which substantially alter the parties time

sharing arrangements, alter an award of physical custody, alter an award of legal custody, or substantially interfere with a party's contact with his/her child. These decisions and others relating to the best interest of the child are reserved for the San Mateo/Santa Clara Superior Court for adjudication, and may be presented to the court by either party upon the recommendation of the Special Master in the form of an order to show cause or notice of motion. In an emergency, the Special Master may ask the court to initiate an order to show case on its motion.

5. Ms. Ward may attempt to resolve any issues not addressed in the order but this is a voluntary submittal to be done on a case by case basis in writing in advance.

Quasi-Judicial Immunity

6. The Special Master is a court officer/mediator. The Special Master has quasi-judicial immunity. The Special Master cannot be sued based on her actions in this matter. The Special Master cannot be compelled to testify.

Procedure

7. Both parties shall participate in the dispute resolution process as defined by the Special Master and shall be present when so requested by the Special Master. The Special Master may conduct hearings which are informal in nature by telephone or in person, and need not comply with the rules of evidence. No record need be made except the Special Master's written recommendations. The Special Master shall have the authority to determine the protocol of all interviews and sessions including, in the case of meeting with the parties, the power to determine who attends such meetings.

8. The Special Master may utilize consultations and/or assistant as necessary to assist the Special Master in the performance of the duties contained within.

Decisions

9. Decisions of the Special Master relating to the items listed in paragraph 3 above, by their very nature are often made in circumstances involving severe time constraints, and, possibly, emergencies; therefore, these decisions may be made orally, but in the fashion communicated to both parties. They are binding when made in such an event, these decisions should be communicated to the parties by confirming letters as well.

Warning In signing this agreement, both mother and father should assume the Special Masters decisions on the issues listed in paragraph 3 as final, Because of the time constraints and because of the language of this stipulation, the possibility of obtaining a court order changing a Special Masters decision on these issues is unlikely. Any party challenging the Special Masters decision on any of these uses will have a burden of proving, with clear and convincing evidence, the Special Master's decision was legally incorrect and/or not in the best interest of the child.

10. Whoever challenges the Special Master's order pays \$2,500 as an advance on fees to the other party unless they prevail on the motion of the court, in which case the \$2,500 is refunded and they may request their own fees paid by the other parent.

Communication with the Special Master

11. The parties and their attorneys shall have the right to initiate or receive ex parte communications with the Special Master. Any party may initiate contact in writing with the Special Master, provided copies are provided to the opposing counsel simultaneously.

12. The Special Master may communicate ex parte with the judge, at the discretion of the Special Master and the judge. Such communication shall be made only after giving notice to both parties, provided however, the notice may be excused if notice would frustrate the very purpose of the communication. If the Special Master communicates with the judge without having given notice, she shall notify the judge of the fact and her reasons for not giving notice.

13. The parties shall provide all reasonable records, documentations, and information requested by the Special Master.

14. No physician-patient or therapist-patient relationship and /or privilege is created by this stipulation.

Mediation and Evaluation

15. Ms. Ward may also act as a non reporting confidential mediator for any motions filed by either party to modify custody or visitation. Any conflict of interest is waived.

16. If mediation fails and evaluator is needed, Ms. Ward will also give the parties three names of evaluators to which each party may eliminate one name from the list of three. The evaluator selectee must be able to prepare to submit their written report no later than 9 months.

Fees

17. The Special Master's retainer shall be paid equally by the parties. Or paid in a way that was ordered by court in percentage.

18. The Special Master shall be reimbursed by any expenses she incurs in association with her role as Special Master. These costs may include, but are not limited to, photocopies, messenger service, mileage, travel expenses and word processing.

19. Any objections to the Special Master's bills must be brought to her attention in written form

within 25 business days of the billing date: otherwise the billing shall be deemed agreed to.

20. In the event arbitration proceedings or a legal action becomes necessary to enforce any provision of this order, the non prevailing party shall pay attorneys fees and costs may be incurred.

21. The court reserves jurisdiction in the family law action to enforce the provisions of this stipulation.

Allocations

22. Except as otherwise provided, the fees of the Special Master shall be shared by the parties in the following manner: Mother shall pay ____ % of the Special Masters fees, expenses and advance deposit, and Father shall pay of the ____ % Special Master's fees, expenses and advance deposit. Ms. Ward may allocate her fees between the parents if she deems requests frivolous or repetitive or the parent is otherwise abusing the Special Master process.

23. Texts and phone calls to the Special Master by either party are part of the process and appropriately paid for the parties according to their percentage share as ordered.

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

Grievances

25. The Special Master may be disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator.

26. Neither party may initiate court proceedings for removal of the Special Master or to bring to the court's attention any grievances regarding the performance or actions of the Special Master without meeting and conferring with the Special Master in an effort to resolve the grievance.

27. Neither party shall complain about the Special Master to the Special Master's licensing board without first meeting and conferring with Special Master in an effort to resolve the grievance.

28. The court shall reserve jurisdiction to determine if either or both parties and/or the Special Master shall ultimately be responsible for any portion or all of the Special Master's time and costs spent in response to any grievance and the Special Master's attorneys fees, if any.

29. If either party or the Special Master believes there exists a grievance between them with respect to this stipulation that cannot be resolved, either party or the Special Master can move the court for relief from this stipulation, after complying with paragraph 25 above.

Resignation of Special Master

30. The Special Master may resign at any time she determines the resignation to be in the best interest of the child, or the Special Master is unable to serve out her term, upon 30 written days to the parties.

It is so stipulated.

Date

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Date

Attorney for Petitioner

Attorney for Respondent

This above is made order for the court

Date

By: