

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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Plaintiff,

Index No.:

-against-

Assigned Judge:
Hon.

Defendant.

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**PRELIMINARY CONFERENCE STIPULATION/ORDER
CONTESTED MATRIMONIAL**

The parties and counsel appeared on _____, 2013 for a Preliminary Conference, conducted by _____, Court Attorney-Referee, pursuant to 22NYCRR§202.16 and the Westchester Supreme Court Matrimonial Part Operational Rules:

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

	<u>Date Filed</u>	or	<u>To Be Filed</u>
	<u>Plaintiff</u>		<u>Defendant</u>
(1) A sworn statement of net worth as of the date of commencement of the action.	_____		_____
(2) A signed copy of the retainer agreement with his/her attorney.	_____		_____

A. BACKGROUND INFORMATION

(1) Attorneys for Plaintiff: _____ Attorneys for Defendant: _____

Phone: _____ Phone: _____
Fax: _____ Fax: _____
Email: _____ Email: _____

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

(3) Date of Marriage: _____

(4) Name(s) and date(s) of birth child(ren):

(5) There is _____ or is not _____ an Order of Protection issued against _____ by _____ Court. The order is dated _____ and is/is not currently outstanding. Attach a copy of order.

(6) The following other orders are outstanding:

Order:
Court issuing:
Issue addressed:
Attach a copy of order.

(7) _____ is requesting a translator in the _____ language.

(8) Premarital, Marital or Separation Agreements:

(a) State the nature of each agreement and the date of the agreement:

(b) State whether the validity of any such agreements is disputed, and if so, by whom, and briefly state the basis for such dispute:

(c) If the validity of any such agreement is disputed, state whether such dispute is presently asserted in any existing pleading, and, if not interposed in any existing pleading, state date by which pleading asserting the invalidity of any such agreement will be interposed:

B. GROUNDS FOR DIVORCE

The issue of fault is resolved _____ or unresolved _____.

A separate Preliminary Conference Stipulation/Order With Respect to Grounds for Divorce is entered into contemporaneously herewith. *(The separate Preliminary Conference Stipulation/Order with Respect to Grounds for Divorce must be completed, whether the issue of grounds for divorce is resolved or unresolved.)*

C. ISSUES WITH RESPECT TO CHILDREN

(1) The issue of custody-decision-making is:

resolved _____ unresolved _____

(2) The issue of parenting time is:

resolved _____ unresolved _____

(3) The issues relating to decision-making are: resolved _____ unresolved _____.

If any issue related to custody, including parenting time and decision-making is unresolved: The parties are to submit a stipulated parenting plan no later than _____.

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.

The parties have _____ or have not _____ requested the appointment of an attorney for the child(ren) and/or a forensic evaluator for child issues in accordance with the provisions of the Westchester County Supreme Court Matrimonial Operational Rules.

(To be completed by the court attorney-referee where applicable:) The undersigned court attorney-referee, having reviewed the application of _____ 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:

(To be completed by the court attorney-referee where applicable:) The undersigned court attorney-referee, having reviewed the application of _____ for the appointment of a 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:

D. FINANCIAL CLAIMS

- (1) Maintenance is: resolved _____ unresolved _____
- (2) Child support is: resolved _____ unresolved _____
- (3) Equitable distribution is: resolved _____ unresolved _____
- (4) Counsel fee is: resolved _____ unresolved _____

The parties agree that the following items are the separate property of Plaintiff:

The parties agree that the following items are the separate property of Defendant:

In addition to any items agreed as being the separate property of Plaintiff, Plaintiff claims that the following items of property are his/her separate property:

In addition to any items agreed as being the separate property of Defendant, Defendant claims that the following items of property are his/her separate property:

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

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

E. FINANCIAL EVALUATIONS

A. The parties stipulate that the following persons or firms shall conduct the property evaluations indicated 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(s) and provide all documents and information necessary to complete the evaluation(s). The evaluation(s) shall be completed by:

_____.

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

B. The parties agree that the following evaluation is necessary and agree as to the allocation of financial responsibility as set forth below but cannot agree upon a person or firm to conduct the evaluation:

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

As to the foregoing evaluations, the parties may submit proposed names to the court attorney-referee, by not later than _____, who shall forward them to the assigned Matrimonial Part Justice to order the designation.

- C. The parties cannot agree upon the necessity for the evaluation(s) set forth below of upon the allocation of the responsibility therefor:

Property Sought to be Evaluated

Positions of Parties as to Financial Allocation

(To be completed by the court attorney-referee where applicable:) The undersigned court attorney-referee, having reviewed the parties' positions as to the referenced evaluation(s) and allocation of financial responsibility, recommends that the application as follows:

F. PENDENTE LITE RELIEF

The parties stipulate as follows as to the *pendente lite* support, exclusive occupancy, counsel fees and other interim issues:

(To be completed by the court attorney-referee where applicable:) As to the following *pendente lite* issues which have not been resolved by the parties, the court attorney-referee, having conducted the Preliminary Conference reports as follows as to each such issue and recommends that the Court enter the following orders:

G. DISCOVERY

1. *(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 directs that all disclosure be completed and a note of issue filed by _____. *(Where case is noncomplex, 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 eleven (11) months of the Preliminary Conference).*

2. *(To be completed by the court attorney-referee:)* **The undersigned court attorney-referee hereby directs that a Compliance Conference be conducted 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., hard disks, floppy disks, backup tapes), or other electronic data. Such items included 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:

(a) The parties shall exchange the following records for the following periods by _____:

Check if needed	Time Period	
_____	_____	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
_____	_____	Other: (specify)

Absent the specification of a time period above, records 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 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, 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, and failure to timely insist upon production may result in waiver of production.

(b) Plaintiff shall serve his/her notice for discovery and inspection by not later than _____. Plaintiff shall respond to said notice by not later than _____.

(c) Defendant shall serve his/her notice for discovery and inspection by not later than _____. Plaintiff shall respond to said notice by not later than _____.

5. Each party may serve a Demand for Interrogatories by not later than _____. Each party shall respond to any Demand for Interrogatories by not later than _____.

6. Examinations before trial shall be conducted as follows:

(A) Plaintiff shall appear for examination before trial on or before _____ and the examination shall be completed by _____.

(B) Defendant shall appear for examination before trial on or before _____ and the examination 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.

7. 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.

8. The parties stipulate as follows with respect to disclosure disputes presently existing:

9. *(To be completed by the court attorney-referee where applicable:)* As to the following disclosure issues which have not been resolved by the parties, the court attorney-referee, having conducted the Preliminary Conference reports as follows as to each such issue and recommends that the Court enter the following orders:

H. ADDITIONAL STIPULATIONS

The parties further stipulate and agree as follows:

J. CONCLUSION

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

Dated:

Plaintiff

Defendant

Attorney(s) for Plaintiff

Attorney(s) for Defendant

I recommend that the Court approve the foregoing stipulation and further recommend the adoption of the items identified above as recommendations:

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:

ENTER:

Dated: _____
White Plains, New York

Hon.
Justice of the Supreme Court