

PARENTING COORDINATORS

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PARENTING COORDINATORS

Statutory Authority

I. Authority to Appoint a Parenting Coordinator. ORS 107.425(3)(a) provides that: “[T]he court may appoint an individual or a panel or may designate a program to assist the court in creating parenting plans or resolving disputes regarding parenting time and to assist parents in creating and implementing parenting plans. The services provided to the court and to parents under this section may include:

(A) Gathering information;

(B) Monitoring compliance with court orders;

(C) Providing the parents, their attorneys, if any, and the court with recommendations for new or modified parenting time provisions; and

(D) Providing parents with problem solving, conflict management and parenting time coordination services or other services approved by the court.”

II. Paying for a Parenting Coordinator. ORS 107.425(3)(c) gives the court the authority to order one or both parties to pay for the parenting coordinator’s services if the parties cannot agree.

III. Qualifications of a Parenting Coordinator. ORS 107.425(3)(d) gives the presiding judge of each judicial district the authority to establish qualifications for the appointment and training of parenting coordinators. The presiding judge is directed to take into consideration the guidelines recommended by the statewide family law advisory committee.

Case Law

Heinonen and Heinonen, 171 Or App 37 (2000)

Facts and Opinion: Mother and Father stipulated to a modification of their dissolution judgment and to the appointment of a “specialist.” The specialist was empowered to resolve parenting time conflicts (including the application and interpretation of the parenting plan) and to “direct the parents’ behavior on any specific related issue.”

Mother was resistant to the specialist’s recommendations, and the parties disagreed about the extent of the specialist’s role and powers. Father filed a motion to modify the judgment. Mother filed a motion seeking to terminate the role of the specialist. After a hearing on both motions the trial court upheld the terms of the judgment and effectively continued the appointment of the specialist.

On appeal, the court explains that while there was no statutory authority for the trial court to appoint the specialist (at that time), courts can enforce settlement agreements containing terms the court cannot order. There is an exception when an agreement conflicts with the statutory powers of the court. The court found that the powers conferred to the specialist by the agreement

were in direct conflict with the court's statutory authority under ORS 107.135 to modify parenting time. In footnote 3 of the opinion the court explains that the problem with the parties' agreement was not that they appointed a non-judicial designee to assist them in resolving parenting conflicts. Rather, the problem was that it removed the court's authority to make custody and parenting time decisions and gave that authority to a non-judicial designee.

Conclusions: Parties may agree to the appointment of a specialist (parenting coordinator) to assist them with resolving parenting disputes. With the enactment of the current form of ORS 107.423(3) the court may also order the appointment of a parenting coordinator. Whether agreed to by the parties or ordered by the court, the parenting coordinator cannot retain ultimate decision making authority – that power rests with the court.

Polacek and Polacek, 232 Or App 499 (2009)

Facts and Opinion: Mother and Father stipulated to a dissolution judgment in 2006. Father had a history of domestic violence and agreed to have parenting time “only as recommended by the children's therapist.” Father was permitted to challenge the therapist's recommendations in court if he engaged in therapy.

One year later Father filed a motion to modify the judgment to eliminate the therapist's role in recommending parenting time. He argued that the provision unlawfully delegated the court's authority to make parenting time decisions to a non-judicial third party. The trial court denied Father's motion and found that the disputed provision did not unlawfully delegate judicial authority to the children's therapist.

The Court of Appeals distinguished this case from *Heinonen* on the basis that the therapist did not have the final word on parenting time – the trial court did – and the agreement specifically said so. This is unlike the disputed provision in *Heinonen* and thus not an improper delegation of judicial authority.

Conclusions: An agreement between parents to follow the recommendations of a non-judicial third party with respect to parenting issues is enforceable provided that the court retains ultimate decision making authority. Assuming the parents agree, the non-judicial third party does not have to be a parenting coordinator and could be someone like a therapist or counselor.

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ATTORNEY – PARENT COORDINATOR ALLIANCE

I. Review of Legal Status of Parent Coordination

- **History**
- **Case Law**

II. The Presenting Problem: A Maelstrom

- Mother's and Father's opposing views/perceptions of each other and the world.
- Accusations flying back and forth with no neutral check on reality and no basis to make decisions.

Example: Father accused Mother of being an alcoholic, drinking and partying during her parenting time, and leaving the children in childcare. Mother denied these allegations. Without a neutral reality check as to Mother's behavior, the lawyers and parties were unable to move forward with what restrictions, if any, there should be on Mother's behavior during her parenting time.

- Family had the financial resources to fight long term
- Due to attorney mandate to advocate for their client's position, the attorneys did not have the tools to solve the clients' problems in any practical or efficient way, which made it difficult for the case to progress.
- This also put the lawyers and clients in a more adversarial positions (Father hiring a PI to follow Mother, Father deposing Mother's childcare provider, Father insisting Mother go to a 30 day alcohol treatment program) rather than positions more conducive to constructive problem solving.

II. Assigning a PC: A partial solution

- Parties and lawyers needed neutral monitoring of reality to help with the decision making process.

Example: Does Mother have an alcohol problem? Need to answer that question in order to make decisions about parenting time and other related matters.

- The tools the lawyers had available when working alone increased conflict and were time-consuming to implement. For example, filing a motion with the court, waiting for a hearing date, going through a hearing, preparing an order or judgment, potentially dealing with enforcement issues, etc.
- The PC has the power to make immediate recommendations based on data from monitoring process and other professionals, knowledge and understanding of the parties/their children/the family dynamic (observation of patterns).

§ Results of monitoring provided a shared foundation for decision making

§ Recommendations focused the conflict so that it proceeded more efficiently and directionally

- However, the parties were not fully compliant with PC recommendations.

- **III. Relationship between and involvement of clients, lawyers and PC.**

- Attorneys and PCs have different tools to solve problems and serve different roles in solving those problems.

§ PC is a neutral source to assess issues, opine and solve problems for the clients and the attorneys. An attorney is an advocate for his/her client and not neutral.

§ PC is in a position to confront a parent/client about issues in a way that an attorney may not be able or willing to do.

§ Parents/clients may respond differently to observations, opinions and recommendations from the neutral PC than his/her own attorney or the opposing attorney.

- Ongoing relationship between attorney and client

§ Continued involvement of attorneys helps keep clients in check; both an attorney's own client and the opposing party.

§ When clients are kept in check it makes the job of the PC easier. Lawyers and the PC share the role of keeping client/parent behavior in line.

- Ongoing relationship between clients/parents and PC

§ Gives the parents an efficient way to solve problems as they arise without the need for intervention from attorneys or the court.

- Ongoing relationship between attorney and PC

§ Attorney can advise PC of new issues that arise, and vice versa.

§ When issues do arise, the attorney can use the PC as a sounding board and vice versa.

· Example: Client wants attorney to file motion to modify custody and parenting time. The attorney can consult with PC to get a neutral take on what's happening and get the PC's opinion as to what sort of resolution the family needs. The lawyer can use that information to assess whether and how to move forward.

· Example: If a parent raises a concerning issue with the PC, the PC can advise/consult with the attorney to determine whether the attorney should step in and use attorney tools to solve the problem or whether the PC has the best "tools to solve the problem.

IV: Current Status:

- Reduced Conflict
- Efficient decision-making
- The prayer of St. Francis

**Guidelines for
Parenting Coordination**

Developed by

The AFCC Task Force on Parenting Coordination

May 2005

Foreword

The *Guidelines for Parenting Coordination* ("Guidelines") are the product of the interdisciplinary AFCC Task Force on Parenting Coordination ("Task Force"). First appointed in 2001 by Denise McColley, AFCC President 2001-02, the Task Force originally discussed creating model standards of practice. At that time, however, the Task Force agreed that the role was too new for a comprehensive set of standards. The Task Force instead investigated the issues inherent in the new role and described the manner in which jurisdictions in the United States that have used parenting coordination resolved those issues. The report of the Task Force's (2001-2003) two-year study was published in April of 2003 as "Parenting Coordination: Implementation Issues."¹

The Task Force was reconstituted in 2003 by Hon. George Czutrin, AFCC President 2003-04. President Czutrin charged the Task Force with developing model standards of practice for parenting coordination for North America and named two Canadian members to the twelve-member task force. The Task Force continued investigating the use of the role in the United States and in Canada and drafted *Model Standards for Parenting Coordination* after much study, discussion and review of best practices in both the United States and Canada.

AFCC posted the *Model Standards* on its website, afccnet.org, and the TaskForce members also widely distributed them for comments. The Task Force received many thoughtful and articulate comments which were carefully considered in making substantive and editorial changes based upon the feedback that was received. Even the name of this document was changed to "Guidelines for Parenting Coordination" to indicate the newness of the field of parenting coordination and the difficulty of coming to consensus in the United States and Canada on "standards" at this stage in the use of parenting coordination. The AFCC Board of Directors approved the Guidelines on May 21, 2005.

The members of the AFCC Task Force on Parenting Coordination (2003 – 2005) were: Christine A. Coates, M.Ed., J.D., *Chairperson and Reporter*; Linda Fieldstone, M.Ed., *Secretary*; Barbara Ann Bartlett, J.D., Robin M. Deutsch, Ph.D., Billie Lee Dunford-Jackson, J.D, Philip M. Epstein, Q.C. LSM, Barbara Fidler, Ph.D., C.Psych, Acc.FM. Jonathan Gould, Ph.D., Hon. William G. Jones, Joan Kelly, Ph.D., Matthew J. Sullivan, Ph.D., Robert N. Wistner, J.D.

¹ See AFCC Task Force on Parenting Coordination, *Parenting Coordination: Implementation Issues*, 41 Fam. Ct. Re. 533 (2003).

GUIDELINES FOR PARENTING COORDINATION

Overview and Definitions

Parenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, educating parents about children's needs, and with prior approval of the parties and/or the court, making decisions within the scope of the court order or appointment contract.

The overall objective of parenting coordination is to assist high conflict parents to implement their parenting plan, to monitor compliance with the details of the plan, to resolve conflicts regarding their children and the parenting plan in a timely manner, and to protect and sustain safe, healthy and meaningful parent-child relationships. Parenting coordination is a quasi-legal, mental health, alternative dispute resolution (ADR) process that combines assessment, education, case management, conflict management and sometimes decision-making functions.

The Parenting Coordinator (hereinafter referred to as "PC") role is most frequently reserved for those high conflict parents who have demonstrated their longer-term inability or unwillingness to make parenting decisions on their own, to comply with parenting agreements and orders, to reduce their child-related conflicts, and to protect their children from the impact of that conflict. Because the PC makes recommendations and/or decisions for the parties and possibly reports to the court, the PC should be appointed by and be responsible to the court. This delegation of judicial authority is a serious issue and courts should only appoint qualified professionals. The power and authority inherent in the role of the PC are substantial whether stipulated by the parties or assigned by the court. Therefore, it is important that any jurisdiction implementing a parenting coordination program adopt and adhere to guidelines for PC practice and programs.

As the parenting coordination model has been implemented in various jurisdictions, there has been variation in the manner in which the PC practices, the authority of the PC, the stage of the legal process when the PC is appointed and functions, the various roles of the PC, the qualifications and training of the PC, and the best practices for the role.

The alternative dispute resolution process described above as central to the parenting coordinator's role may be inappropriate and potentially exploited by

perpetrators of domestic violence who have exhibited patterns of violence, threat, intimidation and coercive control over their co-parent. In those cases of domestic violence where one parent seeks to obtain and maintain power and control over the other, the role of the PC changes to an almost purely enforcement function. Here, the PC is likely to be dealing with a court order, the more detailed the better, rather than a mutually agreed upon parenting plan; the role is to ensure compliance with the details of the order and to test each request for variance from its terms with an eye to protecting the custodial parent's autonomy to make decisions based on the children's best interests and guarding against manipulation by the abusing parent. ADR techniques in such cases may have the effect of maintaining or increasing the imbalance of power and the victim's risk of harm. Accordingly, each jurisdiction should have in place a process to screen out and/or develop specialized PC protocols and procedures in this type of DV case. Likewise, PCs should routinely screen prospective cases for DV and decline to accept such cases if they do not have specialized expertise and procedures to effectively manage DV cases involving an imbalance of power, control and coercion.

The purpose of these *Guidelines for Parenting Coordination* ("*Guidelines*") is to provide:

1. detailed guidelines of practice for PCs;
2. guidelines for PCs regarding their ethical obligations and conduct;
3. qualifications for PCs, including relevant education, training and experience;
4. assistance to jurisdictions that are implementing parenting coordination programs by providing guidelines of practice that they can adopt; and
5. assistance to jurisdictions, professional organizations, educational institutions and professionals in the development and implementation of parenting coordination programs.

These *Guidelines* are aspirational in nature and offer guidance in best practices, qualifications, training and ethical obligations for PCs. Although they are not intended to create legal rules or standards of liability, they do provide very specific and detailed recommendations for training and best practices because of the expressed need for guidelines for program development and training. It is understood that each jurisdiction may vary in its practices; however, for parenting coordination to be accepted as a credible professional role, certain minimum guidelines of conduct and best practices must be articulated and followed.

The *Guidelines for Parenting Coordination* include different levels of guidance:

- Use of the term “may” in a *Guideline* is the lowest strength of guidance and indicates a practice that the PC should consider adopting, but, from which the PC can deviate in the exercise of good professional judgment.
- Most of the *Guidelines* use the term “should” which indicates that the practice described in the *Guideline* is highly desirable and should be departed from only with very strong reason.
- The rarer use of the term “shall” in a *Guideline* is a higher level of guidance to the PC, indicating that the PC should not have discretion to depart from the practice described.

Guideline I

A PC shall be qualified by education and training to undertake parenting coordination and shall continue to develop professionally in the role.

- A. The PC shall be required to have training and experience in family mediation. The PC should become a certified/qualified mediator under the rules or laws of the jurisdiction in which he or she practices, if such certification is available.
- B. The PC shall be a licensed mental health or legal professional in an area relating to families, or a certified family mediator under the rules or laws of the jurisdiction with a master’s degree in a mental health field.
- C. The PC should have extensive practical experience in the profession with high conflict or litigating parents.
- D. The PC shall have training in the parenting coordination process, family dynamics in separation and divorce, parenting coordination techniques, domestic violence and child maltreatment, and court specific parenting coordination procedures. A model training curriculum incorporating four modules is included in these *Guidelines* as Appendix A.
- E. A PC shall acquire and maintain professional competence in the parenting coordination process. A PC shall regularly participate in educational activities promoting professional growth. It is recommended that a PC participate in peer consultation or mentoring to receive feedback and support on cases. PC orders and/or private agreements should specify that such professional consultation is permitted.

F. A PC shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the PC's skill or expertise.

G. A jurisdiction should consider "grandfathering" existing professionals with appropriate experience.

Guideline II

A PC shall maintain impartiality in the process of parenting coordination, although a PC is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

A. A PC shall withdraw if the PC determines he or she cannot act in an impartial or objective manner.

B. A PC shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the parenting coordination process. During the parenting coordination process, a PC shall not solicit or otherwise attempt to procure future professional services or positions from which the PC may profit.

C. A PC shall not coerce or improperly influence any party to make a decision.

D. A PC shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.

E. A PC shall not accept any engagement, provide any service or perform any act outside the role of PC that would compromise the PC's integrity or impartiality in the parenting coordination process.

Guideline III

A PC shall not serve in a matter that presents a clear conflict of interest.

A. A conflict of interest arises when any relationship between the PC and the participants or the subject matter of the dispute compromises or appears to compromise a PC's impartiality.

B. A PC shall disclose potential conflicts of interest as soon as practical after a PC becomes aware of the interest or relationship giving rise to the potential conflict.

C. After appropriate disclosure, the PC may serve with the written agreement of all parties. However, if a conflict of interest clearly impairs a PC's impartiality, the PC shall withdraw regardless of the express agreement of the parties.

D. During the parenting coordination process, a PC shall not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.

E. A PC may make referrals to other professionals to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration shall be given or received by a PC for parenting coordination or other professional referrals.

Guideline IV

A PC shall not serve in dual sequential roles.

A. A PC shall not serve in multiple roles in a case that create a professional conflict.

1. A child's attorney or child advocate shall not become a PC in the same case.

2. A mediator or custody evaluator shall be cautious about becoming a PC in the same case, even with the consent of the parties, because of the differences in the role and potential impact of the role change.

3. A PC shall not become a custody evaluator either during or after the term of a PC's involvement with the family.

4. A PC shall not be appointed after serving as a therapist, consultant, or coach, or serve in another mental health role to any family member.

5. A PC shall not become a therapist, consultant, or coach, or serve in any other mental health role to any family member, either during or after the term of the PC's involvement.

6. A PC shall not become one client's lawyer, either during or after the term of the PC's involvement, nor shall one client's lawyer become the PC in that client's case.

B. A PC should attempt to facilitate resolution of issues by agreement of the parties; however, the PC is not acting in a formal mediation role. An effort towards resolving an

issue (which may include therapeutic, mediation, educational, and negotiation skills) does not disqualify a PC from deciding an issue that remains unresolved after efforts of facilitation.

Guideline V

A PC shall inform the parties of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A PC shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process, which is obtained during the parenting coordination process, except as provided by court order or by written agreement of the parties.

A. Parenting coordination is not a confidential process, either for communications between the parties and their children and the PC, or for communications between the PC and other relevant parties to the parenting coordination process, or for communications with the court.²

B. A PC shall inform the parties of the following limitations of confidentiality:

1. The PC shall report suspected child abuse or neglect to child protective services whether or not a mandatory or voluntary reporter under state, provincial or federal law; and

² Parenting coordination is an unusual type of intervention that does not fit within the existing framework of rules and laws dealing with the subjects of "statutory privileges," "rules of evidence," and "professional codes of ethics" related to the subject of "confidentiality" and statements made by parents or people involved in any disputed parenting case. In cases not involving a PC, the statements of parties may be protected from use as evidence in the dispute resolution process, for any of those reasons. However, the essence of the PC concept is that all such confidentiality protections need to be stripped away, so the PC is free to make quick decisions based upon all knowledge the PC has obtained from the parties and other sources. Consequently, in order for the PC to be empowered to operate freely and effectively in the role of expeditious dispute resolver, appropriate provisions need to be included in the written agreement and/or court order of appointment for the effective waiver of all privileges and rules of evidence or professional conduct regarding confidentiality which may be waived. In addition, a clear statement should be included to provide that the PC will not provide either party with legal advice or representation or psychotherapy, and the parents are advised to seek any such advice from independent providers of their own choice. The parents are entitled to a very clear and unambiguous description of the privileges and rules they are being asked to waive in order to empower the PC to perform the rather unique services contemplated in the parenting coordination process. Likewise, the PC has a significant concern with establishing a barrier from complaints of unprofessional conduct from disgruntled parents who are not happy about PC decisions.

2. The PC shall report to law enforcement or other authorities if the PC has reason to believe that any family member appears to be at serious risk to harm himself or herself, another family member or a third party.

Guideline VI

A PC shall assist the parties in reducing harmful conflict and in promoting the best interests of the children consistent with the roles and functions of a PC.

A. A PC serves an assessment function. The PC should review the custody evaluation, other relevant records, interim or final court orders, information from interviews with parents and children and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parties.

B. A PC serves an educational function. The PC should educate the parties about child development, divorce research, the impact of their behavior on the children, parenting skills, and communication and conflict resolution skills. The PC may coach the parties about these issues.

C. A PC serves a coordination/case management function. The PC should work with the professionals and systems involved with the family (e.g. mental health, health care, social services, education, legal) as well as with extended family, stepparents, and significant others.

D. A PC serves a conflict management function. The PC's primary role is to assist the parties to work out disagreements regarding the children to minimize conflict. The PC may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parents in reducing conflict, the PC may monitor the faxed, emailed, or written exchanges of parent communications and suggest more productive forms of communication that limit conflict between the parents. In order to protect the parties and children in domestic violence cases involving power, control and coercion, a PC should tailor the techniques used so as to avoid offering the opportunity for further coercion.

E. A PC serves a decision-making function. When parents are not able to decide or resolve disputes on their own, the PC shall be empowered to make decisions to the extent described in the court order, or to make reports or recommendations to the

court for further consideration. PCs should communicate their decisions in a timely manner in person or by fax, e-mail or telephone. In the event decisions are provided orally, a written version shall follow in a timely manner.

F. A PC shall not offer legal advice.

Guideline VII

A PC shall serve by parent stipulation and/or formal order of the court, which shall clearly and specifically define the PC's scope of authority and responsibilities.

A. A court order is necessary to provide the PC authority to work with the parents outside of the adversarial process, to obtain information, and to make recommendations and decisions as specified in the order.³

B. In addition to the court order for the PC, a written agreement between the parties and the PC may be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers.

C. The court order or consent order should specify a term of service for the PC, including starting and ending dates.⁴ Parents can request that a PC continue for additional terms of service following the expiration of each term or can decline to renew the PC's services. Similarly the PC can give notice prior to the end of the term of service that the PC will not continue to serve as PC.

D. A PC should not initiate providing services until the PC has received the fully executed and filed court order appointing the PC, or the parents, their counsel (if any) and the PC have signed a consent agreement, if any.

³ In some jurisdictions, a stipulation or consent decree is required for the appointment of a PC. A few jurisdictions allow the court to appoint the PC on its own authority. In Canada, the authority of the PC to make decisions is derived from arbitration statutes and a PC may function with the parents' consent only.

⁴ Many experienced PC's have found a period of 18 months to 2 years to be optimal in terms of becoming familiar with the family and developing a working relationship with the parents.

Guideline VIII

A PC shall facilitate the participants' understanding of the parenting coordination process so that they can give informed consent to the process.

A. The position of the PC is one of considerable authority and power. It is important that parents fully understand the extent of the parental rights and power they are assigning to the PC in the form of decision-making, the limited nature of the confidentiality of the process, the professional persons with whom the PC will be authorized to consult or obtain information, and what the parents' rights are in seeking redress with the court.

B. In the first session, a PC should carefully review the nature of the PC's role with the parents, to ensure that they understand what the parenting coordination process involves.

Guideline IX

A PC shall fully disclose and explain the basis of any fees and charges to the participants.

A. All charges for parenting coordination services shall be based upon the actual time expended by the PC or as directed by the local jurisdiction's parenting coordination program. All fees and costs shall be appropriately divided between the parties as directed by the court order of appointment or as agreed upon in the PC's written fee agreement with the parties with the approval of the court.⁵

B. Prior to beginning the parenting coordination process, and in writing, a PC shall explain to the parties and counsel the basis of fees and costs and the method of payment and any fees associated with postponement, cancellation and/or nonappearance, as well as any other items and the parties' *pro rata* share of the fees and costs as determined by the court order or agreed to by the parties with approval of the court. In cases of domestic violence involving power, control and coercion, the PC shall hold individual sessions with the parties to convey this information.

⁵ Typically the fees are split equally between the parties, although if their assets and income differ substantially, fees may be apportioned accordingly. In states that have the Income Shares child support guidelines, courts sometimes apportion responsibility for PC costs in the same percentages as child support is apportioned. The court, rather than the PC, should make a determination of the appropriate ratio of payment based on the available financial data. The order may also include a provision for the parent coordinator to alter the usual ratio of payment if one parent abuses the process. In the event that a party requests judicial review of a parenting coordinator decision and does not prevail, the court may order full payment of fees by that party.

C. Activities for which a PC may charge typically include time spent interviewing parents, children and collateral sources of information; preparation of agreements; correspondence, decisions and reports; review of records and correspondence; telephone and electronic conversation; travel; court preparation; and appearances at hearings, depositions and meetings.

D. The PC should comply with any local statute, constitutional rulings, or practice rules regarding fees. A PC may request a retainer or advance deposit prior to starting a case.⁶ The parties should be billed on a regular basis and notified when the retainer or advance deposit, if any, is to be replenished.

E. A PC shall maintain records necessary to support charges for services and expenses and should make a detailed accounting of those charges to the parties, their counsel or the court on a regular basis, if requested to do so.

Guideline X

A PC will communicate with all parties, counsel, children, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parents and children. The PC will have access to persons involved with family members and to documentary information necessary to fulfill the responsibilities of the PC.

A. Because parenting coordination is a non-adversarial process designed to reduce acrimony and settle disputes efficiently, a PC may engage in *ex parte* (individual) communications with each of the parties and/or their attorneys, if specified in writing in the order of appointment, PC agreement or stipulation. The PC may initiate or receive *ex parte* oral or written communications with the parties and their attorneys, legal representatives of the children, and other parties relevant to understanding the issues. The PC should do so in an objective, balanced manner that takes into consideration the possibility or perception of bias. The PC should communicate agreements, recommendations, or decisions to all parties and counsel at the same time.

B. If reports are written, the PC should follow the court's rules or instructions regarding whether the court should receive a copy. The PC shall not communicate *ex parte* with the judge.

C. The PC typically should have access to any persons involved with family members including, but not limited to, the custody evaluator, lawyers, school officials, and

⁶ In some jurisdictions, the PC also requires a refundable deposit from each party for any fees and expenses incurred but not paid prior to ending the case.

physical and mental health care providers. The PC shall have the authority to meet with the children, any stepparent or person acting in that role, or anyone else the PC determines to have a significant role in contributing to or resolving the conflict. The PC should notify any such collateral sources that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.

D. The PC should have access to all orders and pleadings filed in the case, as well as the custody evaluation report, school and medical records of the children, and reports of psychological testings that were generated prior to, during or after the pendency of the case. The court order should require that the parties execute releases and consents to permit access to such data and other relevant information.

E. The PC should have initial individual and/or joint interviews with the parties, and may want to interview the children if the PC has the appropriate training and skills. PCs may interview any individuals who provide services to the children as needed to assess the children's needs and wishes. The communication between the parties may be in joint face-to-face meetings, telephone conference calls, individual face-to-face or telephone meetings, e-mail, or fax. The PC should determine whether separate or joint sessions are most appropriate at any particular time. In cases of domestic violence involving power, control and coercion, the PC shall conduct interviews and sessions with the parties individually.

F. The PC shall be alert to the reasonable suspicion of any acts of domestic violence directed at the other parent, a current partner, or the children. The PC should adhere to any protection orders, and take whatever measures may be necessary to ensure the safety of the parties, their children and the PC.

G. The PC should be alert to the reasonable suspicion of any substance abuse by either parent or child, as well as any psychological or psychiatric impairment of any parent or child.

H. The PC should keep notes regarding all communications with the parties, the children and other persons with whom the PC speaks about the case.

I. A PC shall document in writing all resolutions agreed upon by the parties or determined by arbitration, noting the process by which the agreement or decision was made.

J. The PC shall maintain records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support decisions and recommendations by the PC.

Guideline XI

A PC should attempt to facilitate agreement between the parties in a timely manner on all disputes regarding their children as they arise. When parents are unable to reach agreement, and if it has been ordered by the court, or authorized by consent, the PC shall decide the disputed issues.

A. A PC may be granted the authority to make decisions for the parties when they cannot agree, or the PC may be allowed only to make recommendations to the parties or the court. The scope of the PC's decision-making authority may be limited in some jurisdictions by constitutional law or statute. A PC should be knowledgeable about governing law and procedure in the PC's jurisdiction regarding decision-making or arbitration by the PC.

B. A PC shall have only the authority that is delegated in the court order or the consent provided by the parties. If so written in the order or consent agreement, a PC may have authority to resolve the following type of issues:

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 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 passport arrangements;
11. Clothing, equipment, and personal possessions of the children;
12. Communication between the parents about the children including telephone, fax, e-mail, notes in backpacks, etc.;
13. Communication by a parent with the children including telephone, cell phone, pager, fax, and e-mail 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; and
17. Parenting classes for either or both parents.

C. The PC should use or gather written or verbal statements of the dispute from each party, as well as other relevant sources of information. The methodology used by the PC shall be fair to both parties, and be transparent to both the court and the parties. Each party shall be given an opportunity to be heard in the process. Notice shall be given as to what is expected from the participation of the parties and the consequences of nonparticipation. If one party refuses to cooperate after notice, then the PC may continue to resolve the dispute.⁷

D. The PC shall issue a written resolution of the dispute or a verbal decision in time sensitive matters to be followed by a written decision.⁸

⁷ In some jurisdictions, the PC must notify the parties of the intent to proceed to an arbitration phase if the parties do not reach agreement on their own or with the assistance of the PC.

⁸ There is variation in the destination of the PC's recommendations and decisions. In most but not all jurisdictions in which PCs are appointed by court order, the PC is expected to send all recommendations, reports, and decisions to the court, as well as to each parent and their attorneys. Where the PC has not been appointed by the court, PCs should prepare recommendations, reports and decisions in such a manner that the court can access the information if requested. In most jurisdictions, that determination becomes an order and is considered binding. Standards for appeal and judicial review vary from jurisdiction to jurisdiction.

E. A PC shall refrain from making decisions that would change legal custody and physical custody from one parent to the other or substantially change the parenting plan. Such major decisions are more properly within the scope of judicial authority. PCs may need to make temporary changes in the parenting plan if a parent is impaired in his or her functioning and incapable of fulfilling his or her court-ordered parenting functions until further information and assessment is obtained and the court has assumed decision-making responsibility.

Guideline XII

A PC shall not engage in marketing practices that contain false or misleading information. A PC shall ensure that any advertisements regarding qualifications, services to be rendered, or the parenting coordination process are accurate and honest. A PC shall not make claims of achieving specific outcomes or promises implying favoritism for the purpose of obtaining business.

APPENDIX A:

RECOMMENDATIONS FOR COMPREHENSIVE TRAINING OF PARENTING COORDINATORS

A Parenting Coordinator ("PC") should have training in each of the following subject areas as reflected in the modules below. It is anticipated that mental health and legal professionals will have acquired some of the knowledge and experience in the competency areas listed, particularly in Section II, and in mediation training. Training programs may want to accommodate different levels of prior training and experience by offering training in these four modules and developing a process for exempting certain professionals from any of the modules where competency is established. Individual jurisdictions should set guidelines, approve trainings, and assign trainers to ensure that candidates can demonstrate minimum competencies in order to begin practice, and should require the completion of scheduled follow up trainings to achieve mastery within a reasonable amount of time. Individual jurisdictions and provinces might consider developing mentoring programs to provide consultation and support for beginning "PCs" to reinforce and develop the skills that are covered in the recommended subject areas.

Module 1: The Parenting Coordination Process

- A. The various functions of the PC
- B. Limitations of the parenting coordination process, including the difference between parenting coordination and parent education, therapy, custody evaluation and dispute resolution processes
- C. Professional guidelines of practice for PCs
 - 1. The interplay between other professional guidelines and professional practice guidelines and local/state guidelines for court-appointed PCs
 - 2. The potential for conflict of interest of the PC and the people to whom parenting coordination services are offered
- D. Issues that are appropriate and not appropriate for parenting coordination
- E. Characteristics of individuals who are appropriate and not appropriate to participate in the parenting coordination process
 - 1. Appropriate courses of action when confronted with substance abuse during the parenting coordination process
 - 2. Screening for domestic violence and appropriate courses of action when confronted with domestic violence during the parenting coordination process

3. The effect of domestic violence on parents involved in the parenting coordination process
 4. Situations in which the PC should suggest that the parties contact the supervising judicial officer, independent legal counsel, postpone or cancel the parenting coordination session, suspend the parenting coordination process, or refer the parties to other resources
- F. When to refer parties to services for child protection or elder abuse, and the issue of confidentiality as it applies to each
- G. Special needs of the *pro se* or *pro per* party

Module 2: Family Dynamics in Separation and Divorce

- A. Psychological Issues in Separation and Divorce and Family Dynamics
1. The impact divorce has on individuals and on family dynamics and the implications for the parenting coordination process
 2. Useful psychological research and theories applicable to the intervention for high conflict families
 3. How emotions impact on divorce issues and on a party's ability to participate effectively in the parenting coordination process.
 4. Sources of divorce/separation impasses, including parental behaviors associated with personality disorders, and the related implications
 5. How to promote awareness by the parties of the interests of persons affected by actual or potential agreements, who are not represented during the parenting coordination process
 - a. The impact of grandparents, step-parents and significant others on family systems and the parenting coordination process
 - b. Situations in which participation of non-parties (e.g., grandparents, children, new spouses) may be necessary in the parenting coordination process
- B. Issues concerning the needs of children in the context of divorce
1. The needs and adjustment of children and the effect of divorce on their relationships with their mother, father, step-families, siblings and others in the family relationship
 2. Child(ren)'s developmental stages and how they relate to divorce and parenting arrangements

3. The impact the parenting coordination process can have on the children's well-being and behavior
 4. When and how to involve children in the parenting coordination process
 5. Indicators of child abuse and/or neglect and the process and duty to report allegations of child abuse and/or neglect
- C. Dealing with high conflict parents
1. The impact of parental conflict and appropriate parenting on children's well-being
 2. The dynamics of child alignments, estrangements and alienation
 3. Various parenting arrangements that consider the needs of the child(ren) and each parent's capacity to parent, including modifications for high conflict situations
- D. Dealing with domestic violence issues
1. The different research-based types of domestic violence, including conflict-instigated violence, violence involving power, control, and coercion (often referred to as male battering), female violence, and separation-engendered violence
 2. The unique problems and inherent dangers presented by domestic violence of all types in terms of parental contacts, and the need for safe PC procedures and child exchanges
 3. The importance of monitoring compliance with the parenting plan and reporting to a judicial officer any infractions of the court order, including the parenting plan
 4. The psychological impact of domestic violence on child and adolescent development
- E. The different co-parenting relationships of cooperative, parallel, and conflicted parenting

Module 3: Parenting Coordination Techniques and Issues

- A. Structuring the parenting coordination process
1. The initial session and preparing the parties for the process
 2. Scheduling the time and location, and establishing the format of each conference and focusing discussion
 3. Structuring and managing the discussion, maintaining control of the sessions, and utilizing appropriate case management skills

4. Managing separate sessions, telephonic and e-mail communication
5. Maintaining appropriate records and documentation as a PC
- B. The PC's informed consent, including limits on confidentiality
- C. The PC's service contract and fee allocation
- D. The role of the parenting plan in the parenting coordination process, including how to develop, monitor and modify a parenting plan
- E. The characteristics that enhance or undermine the effectiveness of the PC including, but not limited to: demonstrating empathy, building rapport, establishing trust, setting a cooperative tone, sympathetic listening and questioning, empowering the parties, remaining non-judgmental, language use, and non-verbal communication skills
- F. Awareness of personal biases, prejudices and styles that are the product of one's background and personal experiences that may affect the parenting coordination process
- G. Socio-economic, cultural, racial, ethnic, language, age, gender, religious, sexual orientation and disability issues, which may arise and/or affect the parties' negotiation styles, ability or willingness to engage in the parenting coordination process
- H. Building on partial agreements including when and how to switch between dispute resolution processes
- I. Arbitration procedures, appropriate arbitration decisions, and writing and filing arbitration decisions/awards
- J. Appropriate techniques for handling difficult situations
- K. Appropriate boundaries of a PC
 1. Safety procedures for those participating in the parenting coordination process
 2. Office safety policies and working with clients having current restraining and protective orders
 3. Establishing appropriate limits for client demands
- L. When and how to use outside experts effectively
 1. How to assist the parties in deciding on appropriate community resources
 2. Developing a list of social service resources, including those for domestic violence situations
- M. The impact of high conflict client behavior on the parenting coordination process and the PC and avoiding professional burn-out
- N. Reasons for a PC to decline an appointment, withdraw or request

- appropriate assistance including, but not limited to, when the facts and circumstances of the case are beyond the PC's skill or experience
- O. The Americans with Disabilities Act (ADA) requirements and strategies for handling situations when faced with disability issues or special needs

Module 4: Court Specific Parenting Coordination Procedures

- A. The PC's responsibility to the court
- B. Knowledge of and adherence to jurisdiction-specific qualifications for a PC
- C. Mentorship and certification requirements, if applicable
- D. Local/state/province family law as it may pertain to the parenting coordination process
 - 1. The state statute and/or rule governing family parenting coordination
 - 2. The difference between neutrality and impartiality as it applies to parenting coordination and the ability to demonstrate each appropriately
 - 3. Legal concepts as they relate to the parenting coordination process including, but not limited to: geographic relocation, equitable distribution, child support, law of modification, parenting time adjustment, law of relocation, law of due process law of *ex parte* communication and law of privilege
 - 4. The statutory constraints of parenting coordination where domestic violence exists and/or protective orders are in place
- E. How and when the PC should interface with the court system
 - 1. The appointment and discharge processes of the PC
 - 2. The importance of a court designation to the parenting coordination process
 - 3. The ethical constraints on confidentiality and both in relation to the entire parenting coordination process and separate sessions within the process
- F. Forms utilized in local courts pertaining to parenting coordination and local court procedures
- G. How to work with legal, mental health and other professional disciplines, and promote cooperation among those dealing with the family H. When and how to utilize a qualified expert and/or a team approach to best serve the parties in the parenting coordination process

- H. The grievance procedure contained in the local/state rules for PCs, if any
- I. Possible ethical dilemmas that may confront a PC and how to avoid them

Domestic Violence Training: *The need for additional and/or separate training on domestic violence should continue be considered in setting up a PC training program.*

APPENDIX B:

BEST JUDICIAL AND PROGRAM PRACTICES

A parenting coordination program operates most efficiently and effectively when judges understand, support and are involved in the formation of the program. Judicial monitoring of the program, the PCs and their work is essential to protect parents, children and PCs. The process is most effective at weaning the parties from litigation when judges encourage them to rely on the PC to resolve their disagreements and discourage ongoing court proceedings. To these ends, the following best practices for the judiciary and for program development are recommended.

1. Scope of Authority:

In some jurisdictions, the role or scope of authority of the PC may be limited by the provisions of state constitutions, statutes, court rules or case law on public policy considerations regarding the delegation of a court's authority to protect the best interests of children in contested custody and parenting time cases. Some jurisdictions permit those disputes to be resolved in private arbitration, while other jurisdictions prohibit arbitration as against public policy (*parens patriae* doctrine). Consequently, local law should be researched carefully before a new parenting coordination program is designed.

2. Qualifications of PCs:

In jurisdictions establishing or revising a parenting coordination program, it is recommended that judges appoint qualified professionals to undertake this difficult work as the best means for achieving the goals of the court. Judges in each jurisdiction are encouraged to establish a means for confirming the qualifications and training of mental health and legal professionals seeking to be appointed as PCs. This information should be available for review by parents and lawyers considering a PC.

3. Standard Order:

It is recommended that each jurisdiction initiate an interdisciplinary effort, appointed by the judiciary, to develop and adopt a standard order describing the legal authority, duties, and responsibilities of the PC, issues to be decided, fees, grievance process, and term of service. This will minimize confusing variations in practice for professionals and parents. The order should be signed by the lawyers, parents, and a judge prior to the PC's beginning service.

4. Submission and Objection to PC Recommendations and Reports to Court:

There is variation in the destination of the PC's recommendations and decisions. In most, but not all jurisdictions, where PCs are appointed by court order, the PC is expected to send all recommendations, reports, and orders of decision to the court, as well as to each parent and any attorney. Where there is no court-appointed authority, PCs should prepare recommendations, reports, and decisions in such a manner that the court can access the information if requested.

5. Parent Grievances Regarding the PC and Objections to Recommendations and Decisions:

When PCs are appointed by the court or by consent agreement, it is important that the order contain clear language and procedures to handle parent grievances regarding the PC and to handle parent objections to the PC's recommendations and decisions, including wishes that the PC be removed. Some orders include language that indicates that the PC can be removed or disqualified on any of the grounds applicable to the removal of a judge, referee or arbitrator. It has been found to be helpful to articulate a series of steps for managing such grievances, which may stem from PC's acting in an unprofessional manner or may arise from anger about the PC's recommendations or decisions which were not favorable to the complaining party. These procedures have been developed to protect PCs from unfounded complaints to the professionals' licensing boards and also to provide parents with sanctioned avenues for seeking redress.

One grievance model requires that the complaining parent first set up and attend an appointment with the PC to discuss the grievance, prior to initiating any court proceedings for removal or complaining to the licensing board, in an attempt to resolve the grievance. If no resolution is reached, both parents and the PC then attend a judicially supervised settlement conference prior to any action being taken. The court reserves jurisdiction to determine if the PC's time and expenses should be reimbursed in part or totally, including any attorney's fees incurred by the PC. If either the complaining party or the PC believes that the complaint cannot be resolved, either party can file a motion to the court to terminate the PC's services. The judge is the final gatekeeper on the grievance process unless there is a PC certification body.

As an arm of the court with judicially delegated authority, PCs should be afforded quasi-judicial authority and immunity to protect them from lawsuits.

6. Standard Procedures and Literature:

Parenting coordination programs may consider developing and adopting a standard parenting coordination information pamphlet that describes in clear and simple

language what the parenting coordination model is, what the objectives of the parenting coordination process are, how the PC functions, the limitations on confidentiality, and what type of decisions the PC is typically authorized to make in the event of unresolved disputes. This educational sheet can routinely be made available to parents and lawyers who are considering the appointment of a PC.

Jurisdictions should consider establishing an appointment conference with the judge soon after the decision to use a PC. At the conference which the parties, their attorneys, any children's advocates and the proposed PC must attend; the order or consent agreement is signed and distributed, the PC's role and authority are explained, fees are determined, initial appointments are scheduled, releases and contracts are signed, and responsibility for providing documents and other information is assigned, all with the goal of commencing the pc process without delay.

Each local jurisdiction should consider creating a committee to facilitate the establishment of local rules (if any), standardized procedures and orders, and needed training, and to provide PCs with peer feedback.

APPENDIX C:
PARENTING COORDINATORS AND THE CANADIAN EXPERIENCE

It is to be noted that the Canadian experience with respect to PCs may differ substantially from the process as utilized in the United States.

First and foremost, the Canadian constitutional framework does not permit judges to delegate to third parties any judicial or quasi-judicial functions. In essence, this means that it is not possible for a judge to order the parties to attend and work with a PC under any circumstances and, accordingly, it is also not possible for a judge to order parties to attend with a PC who has arbitral powers or any decision-making powers. That would be considered an improper delegation.

Nevertheless, there is a significant increase in the number of families that are utilizing the services of a PC in order to help them resolve parenting issues. This process in Canada is always on consent. In Canada, the parties, if desirous of using a PC, enter into a Parenting Coordinator Agreement. This Agreement usually gives the PC both mediation and decision-making powers, and the limitation of the PC's powers is set out in the Agreement. Usually this means that the PC can attempt to mediate any parenting issues that do not fundamentally change the structure of the Parenting Agreement and, failing mediation, the PC can arbitrate and, thereby, resolve the parenting dispute.

It is common for the parties to incorporate the Parenting Coordinator Agreement into a court order. This does not constitute improper delegation by a court but is a recognition that the parties are thereby agreeing to arbitrate their parenting issues and this forms a submission to arbitration under the various provincial arbitration Acts that exist in each province. That is, the courts are no longer supervising the parenting issues that are covered in the Parenting Coordinator Agreement and the parties are bound by the Parenting Coordinator Agreement to arbitrate the issues for the terms set out in the Parenting Coordinator Agreement.

In Canada, therefore, it is very common that PCs are both mediators and arbitrators in the same case. That also means that the PC, when arbitrating, may utilize information learned in the mediation process to inform the PC as to how the decision on the disputed issue will be resolved.

There are virtually no PCs in Canada that would confine their role to just arbitration, and most lawyers have found that to confine a PC's role to strictly mediation is not effective. Accordingly, a hybrid model has developed in Canada that allows the PC to both mediate and arbitrate.

APPENDIX D:

Members of the AFCC PC Taskforce 2003-2005

Chairperson and reporter: Christine A. Coates, M.Ed., J.D. is an experienced Colorado family law attorney who now emphasizes alternative dispute resolution (ADR) in domestic relations and has been an innovator in interventions for high conflict parents. She also is an adjunct professor at the University of Colorado School of Law and the author of articles on parenting coordination, high conflict families and ADR. A former president of AFCC and the chair of the first AFCC Parenting Coordination Task Force, she is the President of the Institute for Advanced Dispute Resolution and is a popular national speaker and trainer in conflict resolution, parenting coordination and family law. She co-authored *Working with High Conflict Families of Divorce* (Jason Aronson, 2001) and *Learning From Divorce* (Jossey-Bass, 2003).

Secretary: Linda Fieldstone, M.Ed. is supervisor of Family Court Services of the 11th Judicial Circuit of Florida, a parenting coordinator and trainer, and Certified Family Mediator, assisting the circuit in the development of its current PC program, policies and procedures. She is on the Board of Directors of AFCC, currently the President of the Florida Chapter of AFCC, and serving as Coordinator for the FLAFCC PC Interest Group and FLAFCC PC Taskforce. Ms. Fieldstone was appointed to the Florida Supreme Court Parenting Coordination Workgroup which has developed a PC Administrative Order/Order of Referral/Training Program which could be utilized uniformly statewide.

Barbara Ann Bartlett, J.D. has been an attorney for 20 years in Tulsa, Oklahoma and has been on the ground floor of the family law court reforms for Tulsa since they began in the early nineties. She was a co-author of the first Parenting Coordinator legislation in the nation that passed the Oklahoma legislature in 2001 and wrote the *amicus curiae* brief in support of it in the first constitutional challenge of a PC statute. She is on the Bar Register of Preeminent Lawyers.

Robin M. Deutsch, Ph.D. is a psychologist at the Massachusetts General Hospital where she is the Co-Director of the Children and the Law Program of the Law and Psychiatry Service. She is an Assistant Clinical Professor of Psychology at Harvard Medical School. Her work has focused on the application of child development research to children's adjustment to divorce, the evaluation of families involved in family change, parenting issues, and management of high conflict divorce. She is the co-author of 7 Things Your Teenager Can't Tell You (and How to Talk About Them Anyway) (Ballantine, 2005). Dr. Deutsch is a member of the Board of Directors of the AFCC and the Massachusetts chapter of AFCC (of which she is a former president). She is frequently invited to provide educational and scientific presentations to judges, lawyers, and mental health professionals

Billie Lee Dunford-Jackson, J.D. is the Co-Director of the Family Violence Department of the National Council of Juvenile and Family Court Judges. She works on law and policy issues pertaining to child custody and child protection in the context of domestic violence and provides training and technical assistance to practitioners seeking new approaches to working with families where both mothers and children are abused. She was instrumental in developing and launching the National Judicial Institute on Domestic Violence and continues to play an active role in the Department's expanding educational programs for judges and court personnel handling domestic violence caseloads. Ms. Dunford-Jackson received her Masters and Juris Doctor degrees from the University of Virginia and practiced law for sixteen years, much of her caseload devoted to representing victims of domestic violence, before joining the Department in 1997.

Philip M. Epstein, Q.C. LSM is a lawyer in Toronto, Ontario, Canada.

Barbara Fidler, Ph.D., C.Psych, Acc.FM. is a registered psychologist and accredited mediator practicing in Ontario, Canada. She has been working with high conflict and custody/access disputing families since 1982, providing various interventions including: treatment, education, assessment, mediation, parenting coordination, supervision, training and consultation. Dr. Fidler is a frequent presenter on high conflict families and related topics. Her practice includes marital/couple, individual (child, adolescent, and adult) and family therapy. In addition to maintaining an independent practice, Dr. Fidler is a member of Family Solutions, which provides a team intervention with high conflict families.

Jonathan Gould, Ph.D. is a psychologist in Charlotte, North Carolina.

Hon. William G. Jones is a retired Chief District Court Judge from Charlotte, North Carolina. He was instrumental in establishing a parenting coordination program there and in implementing other initiatives to facilitate the resolution of child custody disputes. He is also active in the National Council of Juvenile and Family Court Judges.

Joan Kelly, Ph.D. is a psychologist, researcher, and mediator, who was Director of the Northern California Mediation Center for 20 years. Her research, clinical, and teaching career of three decades has focused on child and family adjustment to divorce, custody and access issues, child development, divorce and custody mediation, and parenting coordination. She has published 75 articles and chapters in these areas of interest, and is co-author of Surviving the Breakup: How Children and Parents Cope with Divorce. Dr. Kelly has been honored for her work with many awards, including the Distinguished Mediator Award from the Academy of Family Mediators, Fellow of the American Psychological Association, and the Stanley Cohen Distinguished Research and Meyer Elkin Awards from AFCC. Joan presents seminars and keynote addresses throughout the

United States, Canada, and abroad.

Matthew J. Sullivan, Ph.D. is a clinical psychologist in private practice in Palo Alto, California, specializing in forensic child and family psychology. He has written articles, presented and done training at numerous national and international venues on topics such as high-conflict divorce, parenting coordination and child alienation. He is currently on the editorial board of the Journal of Child Custody.

Robert N. Wistner, J.D. is a Board Certified Specialist in Family Relations Law in Columbus, Ohio. After 30 years as a family law litigator, he limits his practice to non-adversarial family dispute resolution processes. In addition to service as a member on the first AFCC Task Force on Parenting Coordination, he has served as Vice-Chair of the Ohio Task Force on Family Law and Children and is currently a member of the Ohio Supreme Court Advisory Committee on Children, Families and the Courts.

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3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF _____

6 In the Matter of the Marriage of:

7 _____,
8 Petitioner,

9 and

10 _____,
11 Respondent.

Case No. _____

ORDER APPOINTING PARENTING
COORDINATOR

12
13 IT IS HEREBY ORDERED as follows:

14 1. Parenting Coordinator. _____ is appointed as Parenting
15 Coordinator (hereafter referred to as "the coordinator") pursuant to the provisions of
ORS 107.425. Mother and father have one child/children, _____.

16 2. Term:

17 The term of the coordinator's service shall begin on the date of this order. The term of
18 the coordinator's appointment shall continue until _____.

19 3. Authority of Parenting Coordinator.

20 The coordinator shall have the authority to do any or all of the following:

21 A. Assist the parties in avoiding litigation and resolving disputes.

22 B. Provide conflict management services.

23 C. Make recommendations regarding participation by relatives or other
significant persons regarding parenting time.

24 D. Recommend that an attorney be appointed for the children.

25 E. Supervise the parties' participation and compliance with any mental health
26 treatment program, and to resolve issues regarding the medical and psychological care
or counseling of the child or of either parent relating to their parenting ability.

1 F. Recommend appropriate medical and mental health evaluation and
2 treatment, including evaluations, psychotherapy, counseling and parenting classes for
3 the child/children and/or either parent, including forensic recommending a forensic
4 custody and parenting time evaluation.

5 G. Monitor compliance by each party regarding the parenting plan and all
6 terms and conditions thereof.

7 H. Determine and recommend sanctions for violations by either party of any
8 of the terms and conditions of the parenting plan.

9 I. Recommend and implement new or modified parenting time, subject to
10 the court's authority to approve, modify or reject the recommendations.

11 J. Assist in the resolution of any other matter submitted to the coordinator by
12 either parent, subject to final review by the court to the extent required by law.

13 4. Appointments.

14 A. Appointments with the coordinator shall be scheduled at the request of
15 either parent. Such appointments shall be conducted by telephone or in person and no
16 written notice shall be required. Each parent shall make a good faith effort to be
17 available for appointments when requested by the other parent or the coordinator.

18 B. The coordinator shall set a time and place for an initial meeting with each
19 parent within 20 days after the date this order is signed by the judge. Each parent shall
20 attend the meeting at the time scheduled by the coordinator. Each parent shall also
21 notify the coordinator regarding any factors that are relevant to the process of
22 scheduling appointments with the coordinator.

23 5. Process for Making Recommendations or Requirements.

24 A. The coordinator shall have discretion to set rules and procedures for the
25 conduct of meetings. The coordinator shall investigate and decide matters submitted to
26 the coordinator by either parent, by meeting with the parents, reviewing written
materials, and by considering any other information relevant to the matter or matters at
issue. Meetings may be held with both parents present or by meeting with one parent
at a time at the coordinator's discretion. The coordinator shall have discretion to allow
either parent to appear by telephone.

27 B. The coordinator may consult with professionals, family members and other
28 who have information about the parents or the child, such as therapists, custody
29 evaluators, school teachers and other such professionals, and may consider such
30 information in making any recommendations or requirements. The coordinator shall
31 have the authority to determine the protocol for all interviews and sessions, including, in
32 the case of meetings with the parents, the power to determine who attends such
33 meetings.

34 C. The coordinator may interview the child/children privately in order to
35 ascertain his/her/their needs as to the issues being decided. The coordinator shall
36 avoid placing a child in a position in which a child is required to take sides in a dispute

1 between the parents. The coordinator may allow the child the freedom and opportunity
2 to fully express any concerns or desires to the coordinator.

3 D. The coordinator may issue oral recommendations or requirements where
4 warranted. At the request of either parent or at the direction of the coordinator, specific
5 recommendations may be confirmed in writing and provided to the parents and their
6 attorneys, if any. The coordinator shall not be required to file a transcript of any
7 proceedings or meetings with the court.

8 E. Either party may request judicial review of any recommendations or
9 requirements made by the coordinator by filing an appropriate motion with the court
10 within 21 days after the date that he or she received the recommendations or
11 requirements. If an appropriate motion is filed, the parties understand that the court has
12 the final authority to determine whether the coordinator's recommendations or
13 requirements will be approved by the court. Prior to any scheduled hearing, if either
14 party so requests, the parents and their attorneys, if any, shall meet and confer with the
15 coordinator to attempt to resolve any objections to the recommendations or
16 requirements. In the event that the issues are resolved, a written stipulation shall be
17 prepared by the coordinator or by one of the attorneys involved, and such stipulation
18 shall then be submitted to the court before the hearing is scheduled to take place.

19 F. The parties shall be required to follow any disputed recommendations made
20 by the coordinator until the court has ruled whether it should approve the
21 recommendations or requirements. If neither party requests judicial review of any
22 recommendations or requirements within the 21 day period set forth above, the
23 coordinator shall inform the court of the recommendations or requirements and request
24 that the court review and approve such recommendations or requirements. If the
25 recommendations or requirements made by the coordinator should result in a
26 modification of the parenting plan, the recommendations or requirements shall be
accompanied by a proposed supplemental judgment, which shall be prepared by a
parent's attorney or by a parent acting pro se, as designated by the coordinator.

6. Communication. The parents may communicate with the coordinator without the
other parent present. This applies to oral communications or any written documentation
or communications submitted to the coordinator. The coordinator may communicate
separately with either parent, and with other medical or mental health professionals who
have information that the coordinator deems to be relevant. The coordinator may speak
with either parent without his or her attorney being present.

7. Confidentiality. There is no confidentiality concerning communications with the
coordinator. The coordinator may communicate with custody evaluators, medical
professionals, counseling professionals, teachers, and any other persons who may
have information relevant to the parenting coordinator's work. The coordinator may be
required by law to report child and elder abuse and threats of abuse against another
person. In cases involving domestic violence, the coordinator and legal counsel (or the
parents if not represented by legal counsel) shall bring safety concerns to the attention
of the court.

8. Cooperation with the Parenting Coordinator. Both parents shall abide by all rules
and procedures specified by the coordinator. The parents shall attend all appointments
scheduled by the coordinator, or give a least two working days advance notice if the

parent cannot attend. If one parent fails to appear for a previously scheduled appointment without first providing at least two working days notice that the parent will not be able to attend that appointment, the coordinator may proceed at that time and make recommendations without participation of the absent parent, or, at the coordinator's discretion, the meeting may be postponed to a future day with notice to the absent parent.

9. Involvement of parenting Coordinator in Litigation. If either parent desires the coordinator to testify at a hearing, other than to give a report on findings, that parent will be required to pay a deposit to the coordinator before the hearing to secure the coordinator's testimony.

10. Immunity. The coordinator acts as a quasi-judicial officer in his capacity pursuant to the terms of this judgment, and, as such, the coordinator has limited immunity consistent with Oregon law as to all actions undertaken pursuant to the court appointment and this order. Mother and Father agree that neither party will initiate or maintain an action at law or in equity against the coordinator for acts or omissions made within the scope of the coordinator's duties.

11. Fees.

A. The coordinator's hourly fee shall be set pursuant to a written agreement entered into between the parents and the coordinator. Each party shall pay 100% of the coordinator's fee for individual contact between that party and the coordinator and 50% of the coordinator's other fees. The coordinator may recommend to the court that the allocation of professional fees charged by the coordinator be modified if the coordinator finds that one parent uses parenting coordinator services unnecessarily and, as a result, is causes the other parent greater expense, or if one parent acts in bad faith.

B. The coordinator's fees shall include time spent reviewing documents and correspondence, conducting meetings and telephone calls with parents, attorneys and other professionals involved in the case, and deliberation and issuance of recommendations. Costs shall include long distance telephone calls, copies, facsimile charges, and all other similar costs incurred while working with the parents. The coordinator shall also be compensated for time spent in any hearing, settlement conference, or other court appearance when the coordinator's presence is requested or required. Nonpayment of fees shall subject the nonpaying parent to possible liability for contempt of court. Before the first appointment, Father shall initially pay 50% of any retainer required by the coordinator and Mother shall initially pay 50% of any retainer required by the coordinator.

C. The parents shall provide at least two working days notice to the coordinator or to his professional staff if it should be necessary to cancel an appointment. If one parent does not appear at an appointment without giving two working days notice and the other parent is prepared to appear, the parent who did not appear shall be responsible for payment of both parents' fees for that appointment.

12. Duty to Comply. Both parents are ordered to comply with each provision of this order. Each parent understands that he or she could be subject to a contempt proceeding for failure to comply with any provisions of this order.

13. Resignation. The coordinator may resign at any time after providing 30 days written notice to each party. If appropriate, the coordinator shall issue written recommendations as to any matter under consideration at the time of the resignation. Should the coordinator resign, either party may seek the appointment of a successor coordinator.

14. Grievances. The coordinator may be disqualified on any of the grounds applicable to disqualify a judge or arbitrator. Any grievance from either parent regarding the performance or actions of the coordinator shall be dealt with in the following manner.

A. The parent with a grievance shall discuss the matter with the coordinator in person before pursuing it further. If, after discussion, the parent decides to pursue the grievance further, the parent shall submit a written statement detailing the grievance to the coordinator and provide copies of the statement to the other parent and to any attorneys representing either parent or any child. The coordinator shall provide a written response to the parent and attorneys within 14 days.

B. The coordinator and the complaining parent shall then meet to discuss and attempt to resolve the matter.

C. If the parent's grievance is not resolved after this meeting, the complaining parent may file a motion with the court requesting removal of the coordinator. The motion shall be decided based on written materials submitted by both parents and the coordinator, unless the court orders an evidentiary hearing.

D. The court reserves jurisdiction to determine if either or both parents shall be responsible to pay for some or all of the coordinator's time and expenses incurred in connection with the parent's grievance, and the coordinator's attorney fees, if any.

Dated this _____ day of _____, 2013.

Circuit Court Judge

SUBMITTED BY:

, OSB #
Of Attorneys for Petitioner

APPROVED AS TO FORM:

, OSB #
Of Attorneys for Respondent