



Dear Parent,

Your case has been selected as part of a pilot project in Family Court. The Pro Bono Project Silicon Valley is providing attorneys for both you and the other parent for today's hearing at no cost to you. These lawyers will work with the two of you to help you reach an interim agreement regarding your children and parenting. The lawyers are here to help with settlement only. They do not represent you for any purpose other than to assist you today in the settlement process regarding your children.

If you are unable to reach an agreement, the lawyers will not make arguments to the judge on your behalf and you will have a hearing with the Judge either later today or on another day. Participation in this program is entirely voluntary and you can decide not to participate, if you want.

The primary goal today is to help you reach a temporary agreement that will get you to the next steps in the process. The attorneys will provide you with information that will help you prepare for the next steps and assist you in successfully navigating the court process.

The lawyers are here to answer your questions and work with you. We invite you to take advantage of this opportunity to work with them and create an agreement that will work for both you and your child(ren).

Included in this packet is the agreement you will sign with your attorney today. Please review it. Be sure to ask the attorney any questions you may have before signing it.

Also included in the materials in this packet is information from the California Courts Self-Help website on Custody & Visitation that may be useful as you proceed with your case. More information and resources are available on the website at:

<<http://www.courts.ca.gov/1019.htm>>

Please note that you may be contacted in the future to answer a few brief questions about your experience today to help us evaluate this pilot project. We appreciate your feedback and thank you in advance for your cooperation. If you have any comments or suggestions about this pilot project, please feel free to email us at settlement@probonoproject.org.

Congratulations on being chosen and thank you for participating.

Very truly yours,



John Hedges
Executive Director
Pro Bono Silicon Valley

Pro Bono Project Silicon Valley
Limited Scope Family Law Settlement Representation Agreement

Parties To This Agreement:

Represented Party: _____
Address: _____
City: _____, State: _____ ZIP: _____
Phone #: _____

Pro Bono Project Silicon Valley
480 North First Street
San Jose, CA 95112
Phone 408-998-5298

Attorney: _____ Volunteer _____ Staff _____

Case Number: _____ Case Name: _____

Hearing: _____ Hearing Date: _____

What This Agreement Concerns:

The Pro Bono Project(PBP) agrees, for a limited period of time, to provide you legal representation for the purpose of settling the matter before the court in this hearing with the opposing party. If a settlement is reached, the attorney will appear with you to enter the agreement into the record. If a settlement cannot be reached, the representation will cease and the attorney will not represent you at the hearing.

Upon completion of this representation PBP's obligations are complete. This does not necessarily indicate that the case or hearing is complete. There may still be remaining tasks that you will need to perform. Those tasks are your responsibility.

- PBP does not represent you in all aspects of your case, but only as stated above.
- You are responsible for all aspects of your case not specified above.

Disclosure and Waiver

The Pro Bono Project is making available a volunteer or staff attorney to the opposing party in this hearing for purposes of settlement under the same terms and conditions as are in this agreement. By signing this agreement, you agree to waive any conflict of interest that may result from the Pro Bono Project making available volunteer or staff attorneys to both parties of this matter.

Confidentiality

Anything you tell the attorney will be held in strict confidence and not disclosed without your permission.

Your Obligations:

So that your attorney may represent you effectively, you agree:

- To make all reasonable efforts to be helpful in providing your attorney with all information, documents, and other items necessary for representing you in this settlement effort;
- To cooperate with your attorney, always tell the truth and follow your attorney's advice and instructions.

Disclaimer Of Guarantee

Nothing in this Agreement and nothing in your attorney's statements to you will be construed as a promise or guarantee about the outcome of this matter. PBP makes no promises or guarantees. Any comments about the outcome of this matter are expressions of opinion only.

Termination Of This Agreement

PBP may terminate this agreement at any time by telling you that the agreement is terminated. You may terminate this agreement by telling the attorney assigned to your case that you do not want the attorney's representation.

I, the CLIENT, by my signature below, signify that I have read (or have had read to me and explained), understood, and agree to the terms of this agreement, which consists of the terms above.

Client's Printed Name

Client's Signature

Date

Printed name of signor for Pro Bono Project

Signature for the Pro Bono Project

Date

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

Custody & Visitation

Parents who come to court about child custody and visitation face decisions about parenting plans for their children. Sometimes parents cannot agree; when that happens, the judge will refer those cases to mediation with family court services. Some parents agree to a parenting plan before or after mediation and can make a custody/visitation agreement that they give to the court. The judge makes the final decision, but usually will approve an arrangement that both parents agree to.

This section gives you information about parenting after separation or divorce. It helps you understand what your children may be going through and what they may need to adjust to the changes in their lives. It also gives you information to make a parenting plan for you, your children's other parent, and your children that is based on the best interest of your children. This section also includes a brief overview of the court process in custody and visitation cases. Once you decide what steps you need to take before you file your case in court, you can move on to the other sections that specifically address the court process.

Children and Separation or Divorce

Parents that separate will need to have a plan for deciding how their children will be cared for and where they will live or spend time. This plan can be called a [parenting plan](#), a [time-share plan](#), or an agreement (“stipulation”) about [child custody](#) and [visitation](#). Children react differently to the separation of their parents, and you know your children best. But here is some information to help you understand what could be going on with your children. It is important that you remain open to talking to your children and that you give them a lot of understanding and nurturing during this time.

Many children go through different stages in dealing with the grief they may feel around their parents' separation:

- Shock and denial that their parents are separating;
- Anger because their parents are separating;
- Depression — children may become overwhelmed with feelings of helplessness and sadness when significant changes are happening in their lives;
- Bargaining — when children try hard to make things the way they were, promising themselves or their parents anything to get their parents back together; and
- Acceptance — when children begin to talk more openly about the separation and get their energy and own interests back.

Helping your children cope with your separation

Explain to your children that you and the other parent will be living in separate homes. If it is appropriate in your situation, reassure your children that they will still have contact with both parents even though the 2 of you live in separate homes.

Try to avoid arguing with the other parent in front of the children and put off a difficult discussion until later, when your children are not around.

Avoid putting your children in the middle by using them as messengers or spies between the 2 parents. Show your children that you respect their other parent, and support the time that they spend with each of you.

It may help to have your children talk to a counselor or to other children who have gone through their parents' separation.

For those families parenting together after separation

- Give your children the stable and predictable routine they need.
- Figure out how you and the other parent can each make time to be with your children.
- Get the information you need to make good decisions about what your children need at each age.
- If possible, find a way to parent well together and separately.
- Take care of yourself. Find ways to feel good about yourself and to understand your confusing feelings.
- Set goals. Try to stay calm in difficult situations.

Children benefit when their parents:

- Avoid conflict and any physical violence or emotional abuse.
- Handle rules and discipline in similar ways.
- Support appropriate and safe contact with grandparents and other extended family so the children do not experience a sense of loss.
- Are flexible so the children can take advantage of opportunities to participate in special family celebrations or events.
- Give as much advance notice as possible to the other parent about special occasions.
- Provide an itinerary of travel dates, destination, and ways that the children or parent can be reached when on vacation.
- Establish a workable “businesslike” method of communication.
- Plan their vacations around the children's regularly scheduled activities.

Children are harmed when parents:

- Use physical violence.
- Make their children choose between each parent.
- Question their children about the other parent's activities or relationships.
- Make promises they do not keep.
- Put down the other parent in the children's presence or range of hearing.
- Discuss problems they are having with the other parent with the children or in the children's range of hearing.
- Use the children as a messengers, spies, or mediators.
- Withhold access to the children for reasons unrelated to safety concerns.

Parenting resources

Taking a parenting class may help you understand how to best parent your children after separating from their other parent. Also, mental health professionals can help to point out important issues for the family and help you make the separation as easy on your children as possible.

The family court in your county has an office, called Family Court Services, which usually has a list of parenting classes. Find the [Family Court Services in your county](#). Also, most areas have

groups like the YMCA or YWCA, youth agencies, community agencies, and religious groups that offer:

- Handouts on normal development for babies, toddlers, and preschoolers
- Articles with checklists for picking a quality daycare
- Parenting classes with tips for handling typical situations

Because there are so many resources available, it is best if you search for what you want in your city or county. Go to an Internet search engine and search for “parenting resources” or “parenting classes” in your city. There are online parenting classes, guidelines, and handouts for parents and children of all ages. Many cities also have parenting classes in languages other than English.

Parenting resources for gay and lesbian parents

You can find information on the Internet and through some community organizations on issues specific to children of gay and lesbian couples.

Here are some resources:

- [Lesbian and Gay Parenting](#) by the American Psychological Association
- [Lesbian and Gay Parents and Their Children: Research on the Family Life Cycle](#) by Abbie E. Goldberg. Published by the American Psychological Association
- [Claiming a Place at the Table](#) from the American Psychological Association
- [“The kids are all right”](#) by Sadie Dingfelder

Basics of Custody and Visitation

This section helps you understand some legal words that are used in family court to describe the sharing of parenting responsibilities. For example, you will often hear the words “custody” and “visitation” being used in separation and divorce cases. “Child custody” refers to the rights and responsibilities between parents for taking care of their children. In your case, you will need to decide on custody. You also need to decide on “visitation,” which means how each parent will spend time with the children. Here are some other things you need to know:

There are two kinds of **child custody**:

- **Legal custody**, which means who makes important decisions for your children (like health care, education, and welfare), and
- **Physical custody**, which means who your children live with.

Visitation (also called “time-share”) is:

- The plan for how the parents will share time with the children.

In California, either parent can have custody of the children, or the parents can share custody. The judge makes the final decision about custody and visitation but usually will approve the arrangement (the parenting plan) that both parents agree on.

If the parents cannot agree, the judge will make a decision at a court hearing. The judge will usually not make a decision about custody and visitation until after the parents have met with a mediator from Family Court Services.

Types of custody orders

Legal custody can be:

- Joint, where both parents share the right and responsibility to make the important decisions about the health, education, and welfare of the children.

OR

- Sole, where only 1 parent has the right and responsibility to make the important decisions about the health, education, and welfare of the children.

Parents with legal custody make decisions or choices about their children's:

- School or child care
- Religious activities or institutions
- Psychiatric, psychological, or other mental health counseling or therapy needs
- Doctor, dentist, orthodontist, or other health professional (except in emergency situations)
- Sports, summer camp, vacation, or extracurricular activities
- Travel
- Residence (where the children will live)

Parents who share legal custody both have the right to make decisions about these aspects of their children's lives, but they do not have to agree on every decision. Either parent can make a decision alone. But to avoid having problems and ending up back in court, both parents should communicate with each other and cooperate in making decisions together.

Physical custody can be:

- Joint, which means that the children live with both parents.
- Sole or primary, which means the children live with 1 parent most of the time and usually visit the other parent.

Joint physical custody does not mean that the children must spend exactly half the time with each parent. Usually the children spend a little more time with 1 parent than the other because it is too hard to split the time exactly in half. When 1 parent has the children more than half of the time, then that parent is sometimes called the "primary custodial parent."

Sometimes, a judge gives parents joint legal custody, but not joint physical custody. This means that both parents share the responsibility for making important decisions in the children's lives, but the children live with 1 parent most of the time. The parent who does not have physical custody usually has visitation with the children.

Types of visitation orders

- **Visitation:** A parent who has the children less than half of the time has visitation with the children. Generally, it helps the parents and children to have detailed visitation plans to prevent conflicts and confusion.
- **Supervised visitation:** This is used when the children's safety and well-being require that visits with the other parent be supervised by you, another adult, or a professional agency. Supervised visitation is sometimes also used in cases where a child and a parent need time to become more familiar with each other, like if a parent has not seen the child in a long time and they need to slowly get to know each other again.
- **No visitation:** This option is used when visiting with the parent, even with supervision, would be physically or emotionally harmful to the children. In these cases, it is not in the best interest of the children for the parent to have any contact with the children.

The law on deciding custody and visitation

The law says that judges must give custody according to what is in the "best interest of the child."

To decide what is best for a child, the court will consider:

- The age of the child,
- The health of the child,
- The emotional ties between the parents and the child,
- The ability of the parents to care for the child,
- Any history of family violence or substance abuse, and
- The child's ties to school, home, and his or her community.

Courts do not automatically give custody to the mother or the father, no matter what the age or sex of your children. Courts cannot deny your right to custody or visitation just because you were never married to the other parent, or because you or the other parent has a physical disability or a different lifestyle, religious belief, or sexual orientation.

In addition to custody orders, the judge will probably also make child support orders. Keep in mind that a child support order is separate from child custody and visitation, so you cannot refuse to let the other parent see the children just because he or she is not making the child support payments that the court ordered. And you cannot refuse to pay child support just because the other parent is not letting you see your children. But child support and custody are related because the amount of time each parent spends with the children will affect the amount of child support.

Sometimes, if giving custody to either parent would harm the children, courts give custody to someone other than the parents because it is in the best interest of the children. Usually this is called “guardianship,” where someone who is not the parent asks for custody of the children because the parents cannot care for them. Click here<[link to Guardianship section](#)> for more information on guardianship.

Ways to get a custody and visitation court order

In most cases, parents can make their own agreements for custody and visitation, without a court order. If you make an agreement between the 2 of you, the agreement becomes binding and enforceable. But if 1 of you does not follow the agreement, a court cannot enforce it until it becomes a court order. So if you and the other parent agree on custody and want a court order that either of you can enforce if 1 of you violates the agreement, you can turn in your agreement to a judge. The judge will probably approve the agreement, sign it, and it will become a court order. After the judge signs your agreement, file it with the court clerk.

If you cannot agree, the judge will send you to mediation and a mediator from [Family Court Services](#) or another court-related program will help you. If you still cannot agree, you and the other parent will meet with the judge. Generally, the judge will then decide your custody and visitation schedule.

In some cases, the judge may appoint a child custody evaluator to do a [custody evaluation](#) and recommend a parenting plan. A parent can also ask for an evaluation, but the request may not be granted. Parents may have to pay for an evaluation.

The judge also may appoint lawyers for children in custody cases. The judge will also decide who will pay for the children's lawyer's fees.

After a judge makes a custody or visitation order, 1 or both parents may want to change the order. Usually, the judge will approve a new custody and visitation order that both parents agree to. If the parents cannot agree on a change, 1 parent can ask the court for a change. That parent will probably have to complete certain forms to ask for a court hearing and prove to the judge that there is a significant change in circumstances (for example, the children would be harmed

unless the order is changed) or other good reason to change the order. Both parents will most likely have to meet with a mediator to talk about why the court order needs to be changed.

To get an overview of the child custody and visitation process, read the *Child Custody Information Sheet* ([Form FL-314-INFO](#)). This information sheet is also available in [Spanish](#), [Chinese](#), [Korean](#), and [Vietnamese](#).

Contested custody or visitation cases, where the parents cannot agree, are complicated. Talk with a lawyer to understand how the law affects you and your rights.

Parenting Plans

This information is for parents who are not facing issues of drug abuse, sexual abuse, or domestic violence.

CAUTION: If your family has problems with drug abuse, violence, neglect, or sexual abuse, it can be very hard to make a safe parenting plan that works. Get help from an agency or counselor.

The court's website can help you find:

Find [resources in your county](#).

Read more about [domestic violence and child custody](#).

Read more about [child abuse](#). Find [child abuse resources](#).

Find [information and help on substance abuse issues](#).

Once the court is involved, there may be additional ways to help you create a safe parenting plan, and the court's [Family Court Services](#) can help you.

Basics of parenting plans

A parenting plan, also called a "custody and visitation agreement," is the parents' written agreement about:

- Time-share: a schedule for when the children will be with each parent; and
- Decision-making: how the parents will make decisions about the health, education, and welfare of the children.

With a written plan, you and your children will know what to expect and will have fewer conflicts about shared parenting time.

Your parenting plan becomes a court order after it is signed by both of you, signed by the judge, and filed with the court. Make a parenting plan that is in the best interest of your children. When both parents are active in their children's lives and do not fight over custody and visitation schedules, the children will usually do much better. Change is hard for children.

The particular needs of your children will vary depending on many factors. We do not know how long young children can go without seeing either parent, how many transitions children can handle, or how long children should stay in each household. We do know that children can get attached to caregivers when they have good relationships that are consistent over time. In many instances, it may make sense for infants and toddlers to be able to see each parent regularly, especially if a child is safe with either parent. Younger children's concept of time is different from that of older children, and they often need more consistency. It is generally a good idea to have a regular schedule and stick to it. Most children benefit from having a routine they can count on. When you make a schedule, think about the quality of the relationships. Not just the relationship between the children and each parent, but also between the parents and between the children and any other caregivers.

Some suggestions:

- Meet your children’s basic needs for:
 - Love, protection, and guidance,
 - A healthy diet,
 - Good medical care, and
 - Enough rest.
- Consider your children’s ages, personalities, experiences, and abilities. Every child is different. Adjust your plan to your children, NOT your children to your plan.
- Give your children regular, consistent times with each of you for day-to-day care, overnights, activities, schoolwork, vacations, and holidays. Use a calendar to help you.
- Give your plan enough detail so it is easy to understand and enforce.
- Give your children a sense of security and a reliable routine.

Also, be flexible. For example, if a child is not feeling well when it is time to go to the other parent’s house, think about what would be best for your child. Clearly, the age of the child and the seriousness of the illness need to be taken into account. Also, the distance between the 2 homes will be a major factor in decisionmaking. Some parents use the standard that if the child is well enough to go to school, he or she is well enough to move from 1 home to another. However, deciding whether a child should go to school or not is often difficult, so that standard is not too helpful.

Here are some considerations:

- Both parents have not just the right, but an obligation to care for a child while the child is ill. It is unreasonable to expect the primary custodial parent to take over all care of a sick child, just as it is unreasonable to deny parenting time due to minor illnesses.
- The child’s feelings count. It is typical for a sick child to be cranky and unhappy; moving him or her to the other home may only intensify these feelings. On the other hand, children are prone to “cabin fever” just like adults. A change of environment may very well make a child feel better and help take his or her mind off the illness.
- When parents share care of an ill child, clear communication is crucial. If the child is on any kind of medication, knowing when the child took his or her last dose or when the next dose should be given is important information that parents should convey when exchanging the child. Both parents may want to keep a simple log of what medications the child is taking and what the medication schedule is.

If parenting time is missed due to sickness, the noncustodial parent probably may want to make the time up. Reasonable “illness contingencies” may be written into every parenting plan to provide guidance for these situations. When adding these contingencies to your parenting plan, you need to take into account that each parent’s situation (travel, work schedule, etc) is different.

Communicating with each other

How you talk to each other and to your children can make a big difference. Try to think about the other parent as a business partner. Acting “businesslike” may help get your mind off the pain and stress so you can focus better on your children. Here are some tips:

1. Be polite, just like you would be at work.
2. Stay on the subject. Focus on doing what is best for your children.
3. Control your emotions, just like you would do at work.

4. Be clear and specific when you talk to the other parent. Write things down and keep businesslike records of important agreements.
5. Keep your promises. Your children need to be able to trust and rely on you. This is very important right now.
6. Watch the words you use when you talk about divorce.

INSTEAD OF SAYING:	TRY SAYING:
wife, husband, ex-wife, ex-husband, my “ex”	children’s mother, children’s father
has visitation with	stays with, comes over
custody and visitation agreement	parenting plan

What should be in your parenting plan?

- “Physical custody,” which means where the children live and how they spend their time. Think about activities, overnights, and day-to-day care, and ask yourselves:
 - Where should our children be during the week? On weekends?
 - Where should our children be for holidays, summer vacations, and special days?
 - Which parent will be in charge of which activities (sports, music, homework)?
 - Which parent is in charge at which times?
 - How will our children get from one parent to the other? Who will pay the costs of transportation?
- “Legal custody,” which means who makes important decisions about the children. Be clear and specific about which decisions each parent can make on his or her own and which decisions you will make together about:
 - Schools
 - Daycare
 - Religion
 - Medical and dental care
 - Emergency care
 - Jobs and driving (for older children)

Stay informed and up-to-date on your children’s lives and activities.

Except in cases of abuse or violence:

- Both parents can have information about the children.
- Both parents can call the children.
- Both parents can look at the children’s medical and school records.
- Each parent can have the other parent’s address and phone numbers and other contact information (like e-mail).

Parenting plans can be general or specific and can have restrictions. It depends on the court order and what the parents agree to. A good way to learn about what should be in your parenting plan is to look at the court forms for custody and visitation, like the *Child Custody and Visitation Order Attachment* ([Form FL-341](#)) and the *Child Custody and Visitation Application Attachment* ([Form FL-311](#)).

These forms can also help you when you think about your parenting plan:

- *Supervised Visitation Order* ([Form FL-341\(A\)](#))
- *Child Abduction Prevention Order Attachment* ([Form FL-341\(B\)](#))
- *Children’s Holiday Schedule Attachment* ([Form FL-341\(C\)](#))
- *Additional Provisions — Physical Custody Attachment* ([Form FL-341\(D\)](#))
- *Joint Legal Custody Attachment* ([Form FL-341\(E\)](#))

These forms talk about plans that include weekdays, weekends, holidays, vacations, cost of transportation for visitation, and restrictions on traveling or moving with the children.

Writing up your parenting plan (custody and time-share agreement)

The procedure for writing up your parenting plan and getting a judge’s signature so that it becomes a court order may be a little different from court to court.

In general, these are the steps you will have to follow:

1. Fill out your court forms

Fill out:

- *Stipulation and Order for Custody and/or Visitation of Children* () as a cover sheet for your custody and visitation agreement.
- *Child Custody and Visitation Order Attachment* ([Form FL-341](#))
- Other forms you may want to use are:
 - *Children’s Holiday Schedule Attachment* ([Form FL-341\(C\)](#))
 - *Additional Provisions — Physical Custody Attachment* ([Form FL-341\(D\)](#))
 - *Joint Legal Custody Attachment* ([Form FL-341\(E\)](#))

2. Sign the stipulation

Both parents must sign the *Stipulation and Order for Custody and/or Visitation of Children* ([Form FL-355](#)) or similar document. Both of you must make sure you understand everything you are agreeing to, and no one is being forced to sign.

3. Have your forms reviewed

If your court’s [family law facilitator](#) helps people with custody and visitation cases, ask him or her to review your stipulation paperwork. The facilitator can make sure you filled it out properly before you present it to the judge to review and sign.

4. Make at least 2 copies of all your forms

One copy will be for you; another copy will be for your children’s other parent. The original is for the court.

5. Get the judge’s signature on your stipulation

Turn in the original and 2 copies of your signed stipulation to the judge for the judge’s signature. Make sure you ask the court clerk for the procedure in your court and that you know when to return to pick up your paperwork.

6. File your forms with the court clerk

Once you have the judge’s signature, make sure you file the stipulation (agreement). The court will keep the original and you and the other parent will each have a copy, stamped “Filed” by the court clerk.

If you need help, your local [family law facilitator](#) may be able to help both of you write up an agreement.

Making your parenting agreement work

- **Use a calendar**

Have a calendar that shows where the children will be and when. Put your calendar in a place that is easy to see. If you need to make a change, talk to the other parent about it to reach an agreement and make sure you explain the change to your children. Children and parents do better when things are clear.

- **Watch your children**

You know your children, so:

- Watch to see how they do with the schedule. If they are not doing well, talk to the other parent and try to find a way to fix things.
- Make sure they know that the separation or divorce is not their fault.
- Tell them you love them and will take care of them.
- Let them tell you how they feel about all the changes and what they need from you.
- And try to listen without getting defensive.

- **When you and the other parent do not agree**

Parents do not always agree on what is best for their children. This is natural. It happens in every relationship, even when parents do not separate or divorce.

- Listen to the other parent and respect his or her point of view.
- Control your emotions, just like you do at work.
- Read the section on “[Communicating with each other](#).”
- Do what is best for your children.
- Do NOT put your children in the middle of your arguments with the other parent.
- Do NOT use physical violence or be mentally or emotionally abusive.

- **Changing your plan**

You may need to change your parenting plan when your children get older and things in their lives change. Talk it over with the other parent or see a counselor to help you. If that does not work, you may want to go back to family court mediation.

If you have questions, ask your mediator or lawyer about any questions you have. Find the [family court services mediators in your county](#). Your family court will try to make the mediation process as easy as possible.

You can also ask the [family law facilitator](#) in your county for information on family court procedures and forms or referrals to local resources.

Good luck with your parenting plan!

Special Situations

One parent wants to move away with the children

The law on these types of cases is very complicated and changing. You should talk to a lawyer if you want to move away with your children or if you are worried that the other parent will move away with your children. Click for [help finding a lawyer](#).

Generally, a parent who has a permanent order for [sole physical custody](#) (also called “primary physical custody”) can move away with the children unless the other parent can show that the move would harm the children. But it is not always clear whether a custody order is permanent or temporary, so what the law requires may be different in your case. Talk to a lawyer to make sure you understand how the law applies to your specific circumstances.

If the parents have [joint physical custody](#) of the children and 1 parent does not want the child to move, the parent that wants to move with the children must show the court that the move is in the best interest of the children.

Keep in mind that, although the physical custody label (“joint” or “sole”) you agree to in your parenting agreement is important, if there is a dispute, the court will usually look at the actual parenting schedule at the time of the move, rather than rely on the schedule the parents put in their parenting agreement.

If you are worried that the other parent may want to move away with your children, or if you think you may want to move away with the children, talk to a lawyer before you make a parenting plan to make sure your plan protects your rights as much as possible.

Staying close to your children if they move away with the other parent

You can make a parenting plan that takes into consideration that your children are moving away and changes the visitation so that you can still have quality time with your children. Click for [help with parenting plans](#).

Also, thanks to the Internet, there are other ways for you to stay connected to your children, not just e-mail. There is something called “virtual visitation” that helps you have “visits” with your children through web-based camera-computer technology. Find more [information on virtual visitation](#).

Traveling out of state or the country with your children

Usually, you need the other parent’s permission to travel out of state with your children, especially if you want to leave the country, or if, because of your traveling with your children, the other parent will miss his or her court-ordered visitation. If you cannot find the other parent, you will need to go to court and ask the judge for permission to let you leave without the other parent’s permission. You will have to look for the other parent and tell the judge everything you tried to find him or her.

You should also closely look at your existing custody and visitation court order and make sure that there are no restrictions on you leaving the state or your country with the children. If there are limits on whether you can take your children outside of your country or state, you usually need a court order giving you special permission to travel.

If the judge gives you an order letting you travel, make sure you get it in writing. Also make sure the order has everything you need, including the dates of travel and any other information so that you can travel with your children safely. Carry a copy of the order on you everywhere you go when you travel. You may need to show it to the border patrol, airport staff, or any official that asks to see it.

When the parents live in different states

If you and the other parent live in different states and you are trying to resolve custody issues, you should work with lawyers who have experience with these types of cases.

All states of the United States and the District of Columbia have adopted the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). This law sets standards for when a court may make a custody decision and when a court must accept an existing decision from another state.

In general, a state may make a custody decision about a child if 1 of the following is true:

- The state is the child’s “home” state. This means the child has lived in the state for the last 6 months, or was living in the state but is not there because a parent took the child or kept him or her out of the state.
- The child has significant connections with people in the state, such as teachers, doctors, and grandparents. It can be proven that the child’s care, protection, training, and personal relationships are based there.
- The child is in the state and either has been abandoned or is in danger of being abused or neglected if sent back to the other state.
- No other state can meet 1 of the 3 tests listed above, or a state can meet at least 1 of the tests but has declined to make a custody decision.

A custody decision can only be made in 1 state. Once the first state makes a custody decision, another state cannot make another “initial” decision or modify the existing order.

Having the same law in all states helps achieve consistency in the treatment of custody decisions. It also helps solve many of the problems created by kidnapping or disagreements over custody between parents living in different states.

Needs of Children of Different Ages

This information is for parents who are not facing issues of drug abuse, sexual abuse, or domestic violence.

CAUTION: If your family has problems with drug abuse, violence, neglect, or sexual abuse, it can be very hard to make a safe parenting plan that works. Get help from an agency or counselor.

The court’s website can help you find:

Find [resources in your county](#).

Read more about [domestic violence and child custody](#).

Read more about [child abuse](#). Find [child abuse resources](#).

Find [information and help on substance abuse issues](#).

Once the court is involved, there may be additional ways to help you create a safe parenting plan, and the court’s [Family Court Services](#) can help you.

Children are very different and have different needs, depending on their relationship with their parents, their maturity level, and their extended family, friends, community, cultural background, and other factors. So, there is no “one size fits all” parenting plan for children of different ages.

But there has been a lot of research on this subject and there are a lot of resources on the Internet for help developing parenting plans. You can also talk to counselors, your mediator at Family Court Services, community agencies, and lawyers.

These Web sites can give you some guidelines that you may find helpful, but an individualized plan for your children is best:

- [Using Child Development Research to Make Appropriate Custody and Access Decisions for Young Children](#) by Joan B. Kelly and Michael E. Lamb.
- [CYFERnet’s articles](#).
- [Parents Forever: Resources for parents and families](#) from the University of Minnesota Extension classes.
- [The Arizona Supreme Court’s Model Parenting Time Plans for Parent/Child Access](#) has suggestions for parenting plans for children of different ages. Remember, these are just suggestions.

NOTE: Active links to these web sites can be found on the California Courts website:
<<http://www.courts.ca.gov/1019.htm>>

What Do Young Children (5 Years Old or Younger) Need?

This section includes research from studies of children who were 5 years old or younger when their parents divorced or separated. This information may be helpful to you and your children. Separation and divorce can be difficult and may present emotional challenges for adults and children. Your children may need extra love, time, attention, and stability to deal with these changes. Get support from family, friends, support groups, and professionals so that you have the energy to help your children.

Children usually need some consistency in both parents' homes to help them get used to the changes. You need to find a way to talk to the other parent about your children on a regular basis. This will help you avoid misunderstandings and keep small problems from getting big. Try to remember that most families make it through a separation or divorce and are happy, well-adjusted children and parents. But if you or your children have problems that just do not seem to go away, ask your doctor, a parenting educator, counselor, or mediator to help.

What young children need from their parents:

Children going through divorce or separation have certain needs. Although there are no foolproof ways to raise young children before, during, and after a separation, you and the other parent can help your children cope better with the divorce or separation.

Most families are more calm and stable 2 years after the parents separate. However, your children need your help now to get used to the changes in their lives.

All types of families can give young children what they need. Parents do not have to be perfect. Even so, when parents live apart, young children need them to:

- Give them warmth, affection, and love.
- Understand their needs and feelings, but set limits to help them grow up.
- Know the children well and spend time playing with, teaching, and caring for them.
- Make sure that caregivers (babysitters, daycare centers, family members, etc.) are stable, reliable, sensitive to the children, and accepted by both parents.
- Control any negative feelings, especially in front of the children.
- Share information with the other parent regularly and with respect.
- Decide which parenting decisions need to be made together and which can be made by 1 parent.
- Solve problems and disagreements that affect the children.
- Give them enough food, clothes, toys, and equipment.
- Give them good medical care and education.

It helps children if their parents feel good about themselves. Grandparents, other family members, and close friends need to support both parents and be dependable, sensitive, and helpful “advisors.”

No matter where your children are, they need to be with adults who:

- Are warm and comforting,
- Listen carefully,
- Help them make sense of the world, and
- Give them interesting things to do and think about.

Your children will do best if you and the other parent respect each other and support each other as parents. Do not show your anger in front of your children. Try to find ways to work out your disagreements with the other parent.

Finding common ground as parents

All couples disagree about what they think is important for their children. When parents live together, they have more chances to work out their differences and agree on a way of parenting (a “common ground”). It is much harder for parents to find a common ground when they live apart. It is easier to think that the other parent is not listening or is making a mistake.

If you and the other parent talk about your differences, you can learn from each other and your children can get the best of both parents.

Some suggestions:

- Have regular, positive conversations with the other parent. Try to solve problems; talk about your worries and your children’s activities, successes, and problems.
- Figure out what you can do to let the other parent know you are listening to his or her concerns.
- Decide what you need from the other parent to believe that he or she is taking your concerns seriously.

For example:

- A father is really worried about safety. He buys the newest car seat and installs gates at the top of the stairs and safety latches on the cabinets. The mother wants her child to be independent. At the playground, she stands by the slide while the child climbs to the top, instead of lifting the child up.
- The problem: The father thinks the mother is being “unsafe” because she lets the child be independent. The mother thinks the father is “overprotective” for worrying so much about safety.
- The solution: If the father sees the child in a car seat every time the child comes over, he sees that the mother thinks safety is important. If the father and child tell the mother how much fun the slide is, she sees that the father will support the child’s independence. This way, both parents feel that they are important to their child. And both feel respected.

Working together as parents

There are different ways for parents to work together after separating:

- Some work together as a team. They respect and support each other.
- Some have a more distant, businesslike relationship. They are not friends, but they talk about important issues, plan their households, and find ways to work out disagreements.
- Others do not fight, but they do not talk much either. They avoid fights by keeping each household separate.
- Some parents also have to deal with abuse or violence. These parents need to think about how to protect themselves and their children, and how to stop being violent.

Problems between parents can make children:

- Feel bad about themselves,
- Disobey and not cooperate,
- Have problems in school, and
- Have trouble getting along with friends.

Children should not feel that they are “in the middle” of their parents’ disagreements. Children should NOT:

- Take messages from 1 parent to the other,
- Feel that you expect them to take sides,
- Feel that they caused their parents’ disagreements, or
- See violence.

If you do not agree on anything

Here is an example of a couple, Chris and Jack, who started off not having any common ground and were able to reach an agreement that was best for their son, Sean:

Chris:

- Thinks that babies need to be with 1 parent during the day and not with a babysitter.
- Had to work to make ends meet after separating from Jack
- Is angry to have to be away from their son, Sean. And feels guilty for leaving him with a babysitter.
- Is worried that Sean will be mad at Chris for leaving him and that he will love the babysitter more than his parents.
- Does not like that Sean’s time with Jack takes away from the few hours Chris has to spend with him.
- Cannot stand the thought that Sean might get to like Jack’s new partner.
- Is impatient and irritable when Sean gets cranky.
- Cannot think of good ways to help the baby get used to the changes in their lives, so Chris ends up feeling even worse.
- Misses the quiet times with Sean before the separation.

Jack:

- Is scared that Chris does not see him as important. He thinks Chris would be happier if he would get out of Sean’s life altogether.
- Feels stretched to the limit, working overtime, starting a new relationship, and finding time for Sean.
- Wants to be helpful and reasonable. But when Chris suggests that he change his work schedule to give Sean more time with both of them, he fights with Chris about how important his job is.
- Does not know what type of relationship his new partner should have with Sean. But he needs his partner’s help to take care of Sean.
- Thinks Chris is being unreasonable and jealous over Sean being left with Jack’s new partner.

Working together:

- Things got really tough when Sean had to go to the hospital because he was dehydrated.
- Jack and Chris were embarrassed that they yelled at each other in front of the doctor. They were both worried sick about Sean.
- After the hospital experience, they went to a mediator that knows about small children and made some agreements:
- They agreed to take a parenting class at the YMCA.
- Chris found a support group for divorced people.

- Jack called the Stepfamily Association of America for information about how to bring his partner into the household.
- Jack also agreed to limit the time Sean spends with his new partner until Chris is comfortable enough to meet his new partner in person.
- They both changed their schedules so Sean can have more time with each of them.

Helping each other co-parent your children well

Here is an example of another couple, Dolores and Carlos, who want to work together to help their daughter Rosa adjust to the separation as best as possible.

Dolores:

- Knows what her 18-month-old daughter Rosa wants, what makes her cry, and what makes her happy.
- Knows that Rosa needs to have a close relationship with her father, Carlos.
- Wants Rosa to live with her. But she also wants to make sure that Rosa is happy in different places.
- Has tried to stay up-to-date about what happens when Rosa is with Carlos. She gives Carlos useful information, without telling him what to do.
- Remembers what helped Rosa get used to the babysitter and has told Carlos what seemed to work.
- Has noticed that since the separation, Rosa gets tired and cranky more easily, especially when she travels from Carlos's home to Dolores's home.
- Now puts aside quiet time to spend with Rosa after the child returns from being with Carlos. And Rosa seems to handle the changes better.

Carlos:

- Felt terrible when Rosa cried for her mother the first overnight at his apartment.
- Remembered what Dolores told him: that Rosa cried with the babysitter at first, but stopped when she started playing.
- Tried some of Dolores's ideas and a few of his own.
 - For example: Carlos made up stories to tell Rosa. He tried different nighttime routines until bedtime went smoothly.
- Knew Dolores would worry. So he made sure to tell her how he makes bedtime work.
- Also told Dolores what he thinks should be the same in the 2 houses and what differences he thinks Rosa can handle.

Working together:

- Rosa got more comfortable going back and forth between her 2 homes.
- The doctor told Carlos that Rosa was doing "everything an almost-2-year-old ought to be doing." She told Carlos and Dolores that they were parenting well together.
- Even though problems or arguments come up from time to time, Dolores and Carlos talk with each other until the problem is solved. They remind themselves that the most important thing is Rosa's best interest.

Managing parenting and work

It is generally good for children to spend time with their parents.

- But it is NOT bad for children to spend some time away from their parents.
- Children who are away from both parents for most of the day can do well if their daycare is good and if their time with their parents is not too stressful.

- Children should be with consistent caregivers (that is, babysitters, daycare workers, grandparents, or other family members).
- The fewer changes in caregivers, the better.
- Children need to be taken care of by people that are sensitive to them, understand their needs, and give them affection and a sense of security.
- A caregiver that has a close relationship with the child (called an “attachment”) can help during this stressful time.

Most children need time with both parents on a regular basis. Work together to spend as much time as possible with your children. Create a routine that your children can count on and stick to it.

Try to work out your schedules so that the children are with 1 parent when the other parent is at work or in school. This way, you will both have more time with the children.

Not all parents can work out this type of work schedule. Watch your children to see if they are stressed or having trouble dealing with changes.

Suggestions for positive conversations

- Agree on a time and place to talk (in person or by phone) that works for both of you. Talk on a regular basis to avoid misunderstandings. This will make it easier for the children to live in 2 homes.
- Try to solve problems when the children are not around.
- Meet in public places like restaurants, libraries, or coffee shops. This will help you talk calmly and will give you a chance to leave if you need to.
- Start by sharing information. Then, try to solve problems. Keep talking as long as the conversation stays positive.
- Agree that either parent can end the talk if it is too uncomfortable or not positive.
- When you end the conversation, agree to keep talking about the problem the next time you talk. Even 5 minutes of positive conversation every week can lead to good decisions.
- Keep parenting talks separate from talks about other subjects. Try to talk about other things at a different time.

Important! All parents have disagreements. What affects children is HOW parents fight and how they work out their problems. Children know when their parents are fighting. Even if you avoid each other most of the time, children can sense angry, repeated fights. This can be bad for them emotionally.

Some suggestions for less-experienced parents

Spend a little bit of time alone with your children at first.

- Slowly spend more time alone with your children.
- Learn from the people around you (family, other parents, parenting classes).
- Listen to information from the other parent.
- Commit to a regular schedule. You may have to talk to your boss about your schedule and sick time for your children’s doctor’s appointments.

Some suggestions for more-experienced parents

Give the other parent a chance to take care of your children. Not just playing, but feeding, dressing, bathing, having them take naps, putting them to bed, and taking care of them when they are sick.

- Think about what you need to know to feel better about how your children are being taken care of. Tell the other parent.
- It is usually all right if 1 parent does some things a little differently than the other.
- Tell the other parent about what your children need, what they are used to doing, and what they like. For example:
 - What are their favorite foods?
 - What calms them down when they are upset?
 - What helps them go to bed?
- The other parent may discover new things about your children. Listen to this new information about your children.
- Talk to the other parent about how your children act when they are doing well with a change. And how they react when they are stressed or upset.

Taking care of yourself

Children do best when both parents take care of them regularly. They need you both to be sensitive, caring, and prepared to take care of them.

- Parents do best when they help, support, and respect each other.
- When you first separate, it is a lot harder to work well together.
- If you are under a lot of stress, you may feel depressed, anxious, moody, and worried. This can make it hard to be sensitive and calm with a fussy child.
- Try to figure out what would help you feel better and take the time to do it. For example:
 - Plan regular activities for when you have the children and for when you are alone.
 - Look for good examples of successful divorced families. Their experience can give you support and good ideas.
 - Talk to close friends who will listen when you are upset and angry but will not take sides.
 - Get help from support groups and professionals if you need to.

More information on parenting your young children

Most areas have groups like the YMCA or YWCA, youth agencies, community agencies, and religious groups that offer:

- Handouts on normal development for babies, toddlers, and preschoolers.
- Articles with checklists for picking a quality daycare.
- Parenting classes with tips for handling typical situations.

Mental health professionals also can help to point out important issues for the family and help you to plan.

There are also a lot of Web sites with helpful information on parenting children of different ages.

Here are some Web sites that may be helpful:

- CYFERnet (Children, Youth and Families Education and Research Network) offers information from the country's top universities based on research on child development
 - [For infants](#).

- [For toddlers and preschoolers.](#)
- [Ages and Stages for Caregivers fact sheets](#) (from 0 to 5 years; published by the Ohio State University Extension)
- [Parenting and child development fact sheets](#) (for the first year; published by Rutgers NJAES Cooperative Extension, with most available in English and Spanish)
- Zero to Three:
 - [0 to 8 months;](#)
 - [8 months to 18 months;](#)
 - [18 months to 36 months.](#)
- Superior court of Los Angeles County:
 - [Creating a Parenting Plan: Children under 3](#)
 - [Creating a Parenting Plan: Children Three to Five Years](#)

NOTE: Active links to these web sites can be found on the California Courts website:
<<http://www.courts.ca.gov/1019.htm>>

What Do Children 6 Years Old and Older Need?

There is a lot of information on the Internet about the needs of children of school age and teenagers.

Here are some resources:

- CYFERnet (Children, Youth and Families Education and Research Network) offers information from the country's top universities based on research on child development:
 - [For school-agers.](#)
 - [For child and adolescent development.](#)
- Superior court of Los Angeles County:
 - [Creating a Parenting Plan: Children six to nine years.](#)
 - [Creating a Parenting Plan: Children ten to thirteen years.](#)
 - [Creating a Parenting Plan: Children 14 to 18 years.](#)

NOTE: Active links to these web sites can be found on the California Courts website:
<<http://www.courts.ca.gov/1019.htm>>

HOW MEDIATION WORKS

State law requires that those parents who are unable to agree on a child-sharing plan must proceed to mandatory mediation. It is the Family Court's hope that parents will be given every opportunity to decide, for themselves, what will be in the best interests of their children.

Mediation is generally more successful if the parents come prepared. We suggest that you seek guidance and support from your attorney, therapist, family members and friends in developing your child-sharing proposal. Financial issues will not be addressed in court-funded mediation sessions.

To schedule and attend Family Court Parenting Program:

- You must sign-in for a class by calling Family Court Services (FCS) at 534-5600, or you may sign-up in person at 170 Park Avenue in San Jose.

How you get a Mediation Appointment:

- Both parents must complete an intake form for FCS, available at FCS, by mail or in person.
- After both parents have completed the Parenting Program, FCS will mail out the date and time of your mediation.
- Mediation is offered in the morning at 8:15 a.m., 9:00 am and in the afternoon at 1:30 p.m.

General Information Regarding Mediation:

- There is no charge for litigated mediation.
- There is a \$160 per hour charge for guardianship mediations.
- There is a non-litigated mediation charge of \$160 per hour.
- Appointments last up to 2 hours.
- Written mediated agreements are sent to attorneys.
- Mediation agreements will become court orders after 15 days if there are no objections from either party.
- Mediation is confidential. (Exceptions: Child Abuse or Danger to Self or Other)
- You may not select your mediator through FCS.
- Any documents submitted to FCS must be copied to the other side.
- You shall be charged a fee of \$100 if you do not show for an appointment or provide late cancellation.

The Mediator Cannot:

- Speak to your attorneys or the Judge regarding what happened in mediation unless both parents choose to sign waivers of confidentiality.
- Make recommendations to the Court.
- Require you to agree.
- Discuss issues of property or support.

The Mediator Will Not:

- Interview children on the first appointment.
- Interview by phone.
- Interview you if more than 30 minutes late.
- Reschedule after two failed appointments.
- See you individually unless required to do so by law, such as, in domestic violence cases where one of the parties has a temporary restraining order a written declaration under penalty of perjury.

POSSIBLE RESULTS OF MEDIATION

FULL AGREEMENT REACHED:

- The mediator shall prepare a copy of the agreement in a court order format and will mail a copy to the parents' attorneys or to the parties themselves if they are in pro per. The parties shall have fifteen (15) days to object, in writing, to the mediated agreement. If written objections are not received before the deadline of 15 days, the mediated agreement will automatically become an order.

PARTIAL OR NO AGREEMENT REACHED:

- The mediator shall prepare a copy of the agreement in a court order format. A separate memorandum shall be prepared which outlines the issues remaining in dispute, including a referral to a Judicial Custody Conference. Copies of both forms shall be mailed to the parent's attorneys or to the parties themselves if they are self-represented.

FEE REQUIREMENTS FOR EVALUATIONS, SCREENINGS, GUARDIANSHIPS

- There is a \$160 per hour charge for guardianship mediations.
- There is a non-litigated mediation charge of \$160 per hour.

Fees for Screenings and Evaluations:

- A deposit of \$250 each for Screenings;
- a deposit of \$750 each for Evaluations.
- The rate is \$160 per hour due equally by the parties unless the judge orders something else.
- There is a required deposit of \$150 per day when there is a Subpoena with additional hours billed later.
- If you cannot afford the fee, an Applications for Waiver of Court Fees and Costs is available at the Front desk of FCS and on the FCS page of www.scscourt.org

JUDICIAL CUSTODY CONFERENCE/ORDERS TO EVALUATION

- Attorneys and parents are directed to meet and confer regarding the remaining issues and attempt resolution.
- The attorneys and parties may then set up an appointment for a Judicial Custody Conference (JCC) with the Family Court Judge. The purposes of the Conference are to resolve as many of the remaining issues as possible, to have an Evaluation conducted by an FCS Counselor, if needed. A fee of \$160 an hour will be charged for Evaluations and testimony including preparation time.
- If ordered to a Screening or Evaluation, you must submit the deposits described above. Checks should be given to FCS, payable to the Office of the County Clerk. FCS also accepts credit cards.
- You may request that the fee be waived. To do so, fill out the Application of Waiver of Court Fees and Costs. This application will be submitted to the Judge who will determine the amount of money, if any, you must pay and assign you a payment plan. Both parties must have submitted an Application for a Waiver of Court Fees and Costs for the deposit.
- If the cost of the service is more than covered by the deposit, you must submit another Application for a Waiver of Court Fees and Costs. If you do not do this within 5 court days of the first day of a Screening, or before the first day of an evaluation, you will owe the full amount.

PREPARING FOR MEDIATION

Mediation is generally more successful if parents come prepared with ideas and proposals regarding a parenting plan that they believe will be best for the children and the family. It is important that you know not only what you believe will be best, but also why you believe that. It is imperative that you come with an open mind prepared to listen to the other parent's thoughts.

The mediator is a neutral. FCS mediators are mental health professionals who understand child development and family dynamics. They are highly qualified to assist you with developing an age appropriate parenting plan. They cannot and will not give you legal advice.

The only thing that will be discussed in mediation is your parenting plan. The mediator will not discuss support or property issues. Please do not bring those issues to the mediation. They are not relevant to your parenting plan.

NOTE: Even if a parent has not paid support and/or is behind on paying support, they still get to have their time with the children. In general, it is in the children's best interest for them to have frequent and continuing contact with BOTH parents. Support is an issue between you and the other parent and your children must not be put in the middle.

Remember that even though you and the other parent are not together, to your children you are a family — ***their family***. When considering what you believe will be best for the children, keep in mind that you must consider ***their family*** and that includes the other parent.

Custody

There are two kinds of custody:

Legal Custody: This has to do with making important decisions regarding the health, education and welfare of your children. It includes, among other things, making decisions about health care providers, schools, and religion. In general, parents share “joint legal custody” unless there are circumstances warranting one parent being given “sole legal custody” — the right to make all decisions.

Physical Custody: This has to do with where your children live. More and more, parents are opting for orders that give both “joint physical custody.” Then, if one parent has significantly more time with the children, that parent's residence will be specified as the “primary residence” or the parent will be specified as having “primary physical custody.”

When thinking about custody, keep in mind that your children will do better if you and the other parent are willing to work together, communicate and make joint decisions. Your children will suffer if you put them in the middle, use them to control or hurt the other parent, or make them choose between you and the other parent.

While you of course need to consider your own needs and preferences, you should consider them in context with the needs and preferences of the other parent.

Your Parenting Plan

There are many things to consider when developing your parenting plan. Some common things are:

- Ages of the children;
- Developmental needs of YOUR children;
- Children's special needs;
- What are they used to, that is, where have they been living, what is their relationship to each parent? (Often referred to as the "status-quo);
- How close to the other parent do you live?;
- Where are the children's schools/childcare in relation to each parent's home?;
- Each parent's work schedule;
- Is childcare readily available?;
- Do both you and the other parent drive and have a car to provide transportation for the exchange of the children?;
- What schedule do your children have? (Bedtimes, mealtimes, and other routines);
- Children's extra-curricular activities;
- Anything else that will make the transition to two households easier for the children.

Schedules

The first part of your timeshare schedule will be how you and the other parent share the children on a regular basis, that is from day-to-day. This will include weekdays and weekends and will be largely dependent upon the age of your children. You should consider what schedule will be easiest for the children and what you and the other parent can reasonably do given your own schedules.

The age of your children is a most important consideration. Very young children will not adjust well to long periods away from the parent who has been their primary caregiver. If one parent has been providing most of the care while the other parent has been working or has for some other reason been less present in the children's lives, consider carefully how to structure your parenting plan to allow them time to adjust. If you are considering an equal timeshare plan, you may want to do it in stages.

An example of an equal timeshare plan that has gained popularity in recent years is known as the 2-2-5 or 2-2-5-5 schedule. With this schedule each parent has two weekdays (Monday-Tuesday or Wednesday-Thursday) and the weekends (Friday afternoon to Monday morning) are alternated. The longest the children are away from either parent is five days when the other parent has their weekend (either preceded by or followed by their two weekdays).

Alternating week schedules generally work well when children get older and benefit from longer periods of time in each household. When they are older, they do not miss the other parent as much as younger children. They are more independent and secure.

Consider the following overview of the ages and stages of child development and what your children need based on their age and developmental requirements. This is just an overview and there is much more detailed information available from many reliable sources. If this information is new to you, consider taking a parenting class or two to educate yourself about how to best meet your child's needs.

Overview — Ages & Stages of Child Development

Birth to Age 3:

Infants and toddlers have short attention spans and limited memory. Parents of infants and toddlers are often overly concerned about having overnight visits with their infant and toddler aged children. Actually, brief, frequent visits are best. Very young children remember and enjoy seeing and interacting with both parents daily, not going more than two to three days without seeing either parent. Some ways to provide this interaction are: visit your baby at daycare, take your child for a daily walk, and read or look at a story book with your child. In some families, parents can visit the baby in the other parent's home. In some families, it is best to select a more comfortable environment such as the daycare program or a friend or relative's home.

Children Ages 3 – 5:

Preschool aged children can spend a few days away from either parent, but they need time, friends, space, and materials for play, both outdoors and indoors. Some ways to meet these needs are: to have duplicate toys and equipment in both homes, to visit parks, and to attend local events such as nature days designed for preschool children. Transitions are especially difficult for most preschoolers and their parents. They need more time and preparation for each parenting shift change. Calm, relaxed, and cooperative parents can make this lifestyle easier for the child.

Children Ages 6 – 11:

School aged children are involved in little league sports, scouts, lessons, school, and friends. Parents volunteer as coaches, scout leaders, and teachers. Parents also help with recitals, camps, fund raising, and transportation. This is when children value alone time with each parent and can become jealous of step-parents and their children. School-agers can manage longer periods of time away from either parent quite well, especially if they have opportunity to call, email or text the absent parent.

Adolescents Age 12 – 18:

Teenagers tend to have their own lives, especially in the later years. It is part of their normal development to become independent of their parents. Most teenagers do not spend much time with their parents. Actually, parents tend to go where their teenagers are: ball games, band performances, graduation or achievement events, college visits, and work. Parents might: hire their teenager to work in the business or home, visit prospective colleges, and attend their child's ball games and performances.

Your children, especially your adolescent child, may express their desire to be with one parent or another. These requests should be considered, but should not dictate your timeshare decisions. You and the other parent should discuss the child's request and make the decision.

DO NOT discuss your court case, mediation or your discussions/negotiations with the other parent with your children. This only puts them in the middle and adds stress and discomfort to their lives.

After you have developed your proposal for your day-to-day parenting plan, you should consider what schedule you will propose for summer and holidays. If your children are school-age, their summer schedule should take into consideration where they will be during the day — summer school, summer activity camps, etc.

Attached to this document is the Parenting and Timeshare Order worksheet we use in this program. You may wish to use it to prepare your proposal for mediation.

Day of Mediation

On the day of mediation you should arrive with your detailed proposal, ready to discuss it, listen to the other parent's proposal and an open-mind.

What to Bring:

- Your proposal and notes of things you want to discuss;
- A pad of paper and pen to take notes during the mediation;
- Water — you may not bring beverages other than water into the courthouse but you may want to have some water to keep yourself hydrated and focused;
- An open mind;
- Patience;
- A picture of your children to remind you of why you are there, keep you focused and help you maintain your open mind and patience.

What to Do:

- Maintain a businesslike attitude;
- Mind your manners;
- Keep an open mind;
- Mind your language — see the chart of suggested language after this document.

What NOT to Do:

- DO NOT interrupt;
- DO NOT argue;
- DO NOT finger-point and blame;
- DO NOT discuss support or property.

If you have concerns about the other parent. . . .

- Consider if they are reasonable – do you have concrete information to support them?
- If so, raise them carefully, without finger-pointing, accusation or blame;
- Offer some solutions – what can the other parent do to help eliminate your concerns?

After Mediation

If you and the other parent come to a complete agreement, the mediator will write it up and it will be mailed to you for your review. You will have 15 days to review it and if you do nothing, it will become an order of the court automatically.

If the written agreement is not as you recall, you must file a formal objection within 15 days. The letter accompanying the agreement will explain the procedure.

If you and the other parent come to a partial agreement, the mediator may bring you back for further mediation. This may happen because your children are quite young and the first agreement is very temporary or because there are many issues to be worked out and there was not time during the first mediation.

If you and the other parent do not agree, the mediator has the option to bring you back or refer you to the judge for a Judicial Custody Conference (JCC).

More Information:

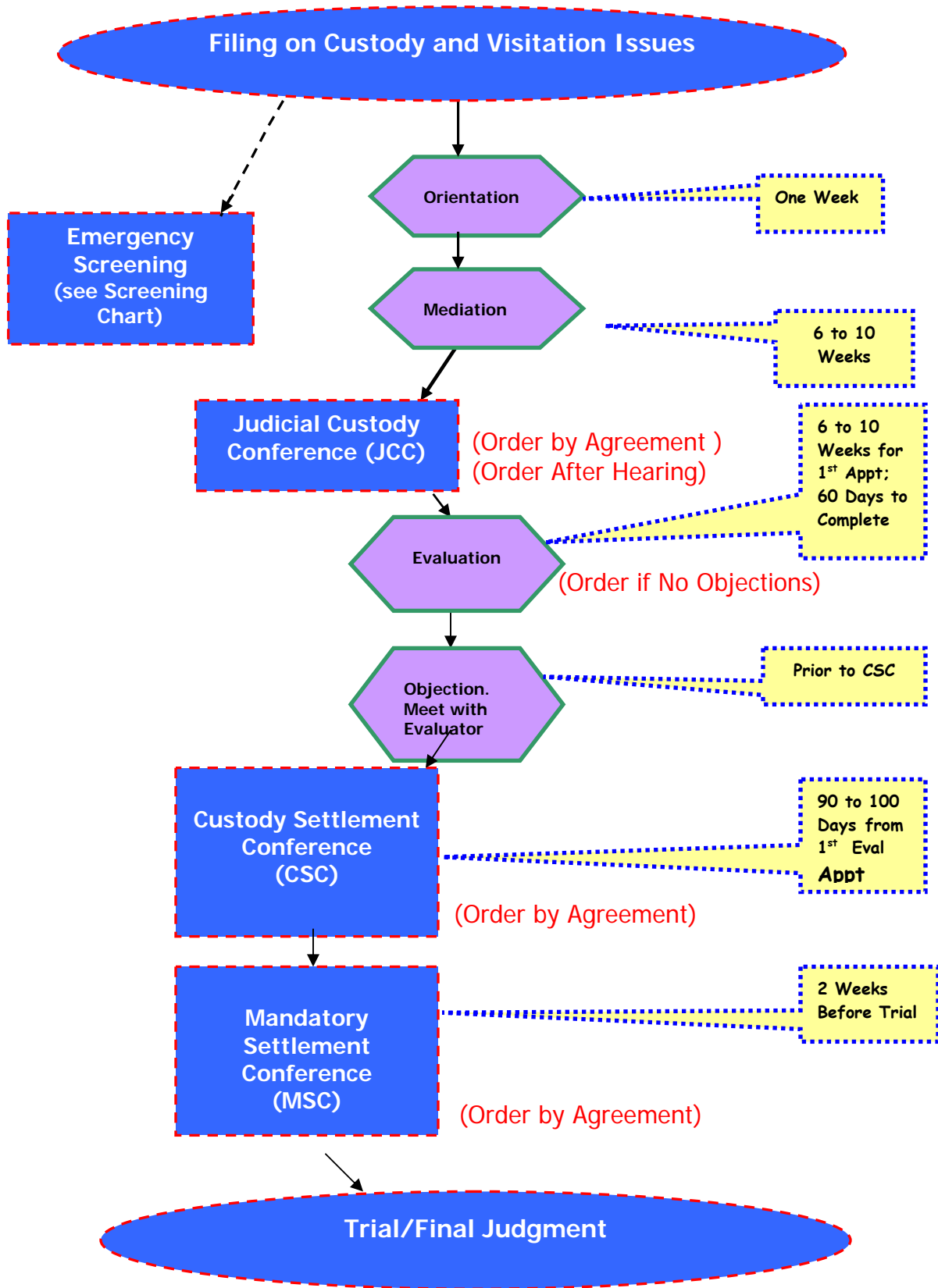
Please refer to the custody flow chart following this document.

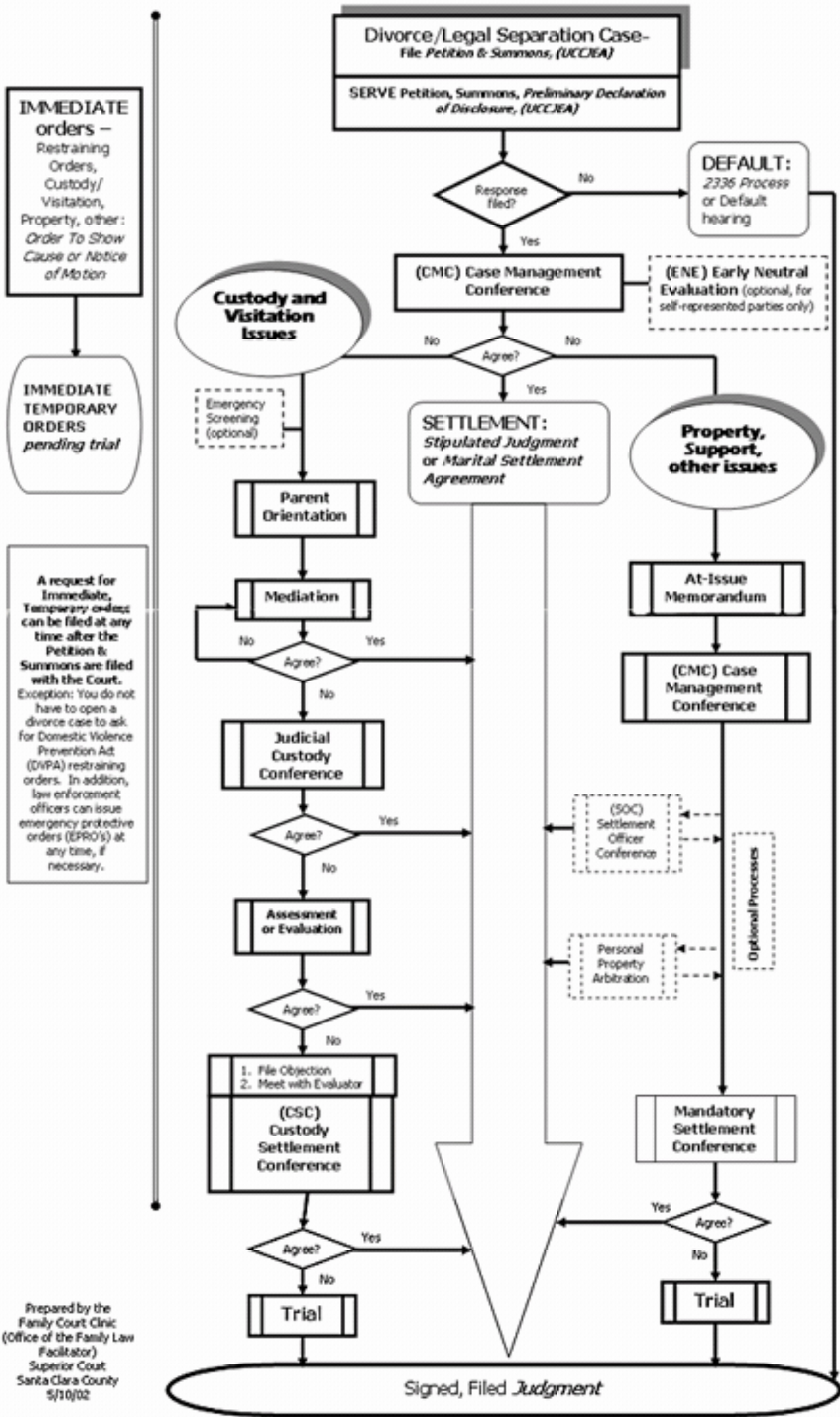
We have included information from the California Courts Self-Help web pages. There is much more information on that website <<http://www.courts.ca.gov/1019.htm>>

The Santa Clara County Superior Court website is a great place to start to get more information on the court process and to find local resources.

We hope you and the other parent can successfully work together now and into the future!

Custody Cases





IMMEDIATE orders –
Restraining Orders, Custody/ Visitation, Property, other: *Order To Show Cause or Notice of Motion*

IMMEDIATE TEMPORARY ORDERS pending trial

A request for Immediate, Temporary orders can be filed at any time after the Petition & Summons are filed with the Court. Exception: You do not have to open a divorce case to ask for Domestic Violence Prevention Act (DVPA) restraining orders. In addition, law enforcement officers can issue emergency protective orders (EPRO's) at any time, if necessary.

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PARENTING AND TIMESHARE ORDERS

1. Custody:

Custody of the minor children of the parties shall be as follows:

Name	Birth date	Legal custody to <input type="checkbox"/> Temporary	Physical custody to <input type="checkbox"/> Temporary
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Child abduction Prevention Order Attachment (form FL-341(B)) is attached and made a part of these orders.

2. Timeshare:

A. WEEKENDS:

Commencing _____, the child(ren) shall be with the parents as follows:

Father Mother will have the child(ren) with him/her on:

Every weekend Alternate weekends, commencing _____,

First weekend Second weekend Third weekend Fourth weekend Fifth weekend of the month

(The first weekend of the month is the weekend that has the first Saturday of the month in it.)

From: after school or ____:____ AM PM

On Friday Saturday Sunday

To: ____:____ AM PM on Saturday Sunday Monday

Return to: school or childcare other parent.

The parents shall alternate the fifth weekends of the month on the same days and times set forth above for other weekends. Father shall have the fifth weekends in odd even numbered months and Mother shall have the fifth weekends in even odd numbered months.

If school is in session for the child(ren), the parent who has the weekend will be responsible for picking up the children from school on Friday after school.

If school is in session for the child(ren), the parent who has the weekend will be responsible for returning the children to school at the start of school on Monday following that parent's weekend with the children.

If Monday is a holiday and not otherwise mentioned in this schedule, the Monday shall be added for the parent who has that weekend with the child(ren) to be returned at the same time on Monday as they would have been on Sunday.

If Monday is a holiday and not otherwise mentioned in this schedule, the Monday shall be added for the parent who has that weekend and the child(ren) to be returned at the same time on Tuesday as they would have been on Monday.

If Friday is a holiday and not otherwise mentioned in this schedule, the Friday shall be added for the parent who has that weekend and the child(ren) are to be picked up at ____:____ AM PM on Thursday Friday to start the weekend.

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B. WEEKDAYS:

Father shall have the child(ren) with him on _____(day(s) of the week)

From: after school or ____:____ AM PM

To: ____:____ AM PM Return to: school or childcare other parent

each week alternate weeks

Other: _____

Mother shall have the child(ren) with her on _____(day(s) of the week)

From: after school or ____:____ AM PM

To: ____:____ AM PM Return to: school or childcare other parent

each week alternate weeks

Other: _____

C. TRANSPORTATION/EXCHANGES

- 1. Transportation **to** scheduled time with the children (pick-up) will be provided by:
 - Mother Father Other (*specify*): _____
- 2. Transportation **from** scheduled time with the children (drop-off) will be provided by:
 - Mother Father Other (*specify*): _____
- 3. Drop-off of the children shall occur at:
 - school or childcare other: _____
- 4. Pick-up of the children shall occur at:
 - school or childcare other: _____
- 5. **Receiving Parent** will pick up the children at the start of his/her time with the children.
- 6. **Curbside Exchange:** All exchanges shall be curbside. The parent dropping off the children shall not exit his or her vehicle, other than to unload items or the children and shall not approach the other person's residence. The parent receiving the children shall not exit his or her residence.
- 7. **Supervised Exchange:** The exchanges of the children shall be supervised by:
 - professional supervisor (*specify*): _____
 - non-professional supervisor (*specify*): _____. Any non-professional supervisor shall be provided with the informational handout describing the duties of a non-professional visitation supervisor.

The costs of supervised exchange shall be shared between the parties:

 - equally as follows: _____.
- 8. **License/Child Restraints:** The children will be driven only by a licensed and insured driver. The vehicle must have legal car seats or child restraint systems.

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9. **Phone Notice:** Each parent shall keep his or her cell phone or other phone on for a period of at least one hour prior to any exchanges of the children for the purpose of notification of the other parent should there be any difficulty in arriving on time for the exchanges due to causes beyond the control of a parent.

10. Other: _____

11. Neither parent shall videotape, audiotape, record, or photograph the exchanges of the minor children nor allow a third party to do so as well.

12. **Travel Arrangements:**

a) Father Mother will make the travel arrangements for the children's trips required to carry out the timeshare schedule.

b) The parents will alternate making the travel arrangements for the children's trips required to carry out the timeshare schedule.

Mother Father will make the arrangement for the first trip.

Tickets will be purchased at least _____ days in advance.

The parents will make every reasonable effort to minimize the cost of travel.

Copies of itineraries and ticket information shall be sent to the other parent within _____ days of obtaining the tickets.

The children shall, to the extent possible, travel on the same airline for these trips and a frequent flyer card will be obtained for each child, if available.

Other: _____

13. **Transportation Costs:** The parents will share the costs of transportation for the children:

Equally between them _____ % Father _____ % Mother

Any reimbursements required for transportation costs will be made between the parents within one week of written notice of the costs of the travel involved.

3. Telephone Access:

a. Each parent shall have reasonable telephone access to the minor children when they are with the other parent.

1. Reasonable telephone access is defined as up to telephone call per day between the hours of:

7:30 AM and 7:30 PM Other: _____

b. Mother Father shall have the right to telephone the minor children as follows:

c. The minor children shall have unhindered telephone access to each of their parents.

d. Neither party shall record the telephone calls of the minor children with the other parent.

e. Other: _____

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4. OTHER ORDERS:

See attached additional orders.

ORIENTATION/MEDIATION:

Both parties are ordered to Orientation and Mediation at Family Court Services. Each party is to contact Family Court Services at (408) 534-5760 to schedule any necessary appointments. Both parties are ordered to cooperate in scheduling and attending the appointments. **Failure to attend Orientation and Mediation or to cooperate in the scheduling of required appointments may result in sanctions.**

Prior Orders: All prior orders not in conflict with or amended by these orders shall remain in full force and effect.

5. FAMILY CODE §3048 FINDINGS:

JURISDICTION: This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).

NOTICE AND OPPORTUNITY TO BE HEARD: Each party was given notice and an opportunity to be heard as provided by the laws of the State of California.

COUNTRY OF HABITUAL RESIDENCE: The country of habitual residence of the child or children is

the United States of America other (*specify*):

PENALTIES FOR VIOLATING THIS ORDER: If you violate this order, you may be subject to civil or criminal penalties, or both.

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PARENTING AND TIMESHARE ORDERS – ADDITIONAL ORDERS

A. SUMMER:

1. **Vacations:** During the summer vacation from school or during the summer months:

- Mother Father shall have the children for:
- One week (7 days) Two weeks (14 days) Three weeks (21 days)
 Two one-week blocks of time (non-contiguous weeks)
 Other: _____

This time is uninterrupted time with the children, except as set forth by court order or by written agreement of the parties.

A vacation period shall not be added to a parent's weekend to increase the allotted time.

Vacations shall not be scheduled in such a way that they interfere with the other parent's holiday schedule without written consent of the parent whose holiday is affected.

2. **Summer Schedule (non-vacation time):**

- During the summer vacation from school the parties shall alternate:
- weeks two week blocks with the children.
 Mother Father shall have the first: week two weeks of the vacation.
Commencing on: the day school gets out the Friday after school gets out at ____:____ PM
Exchanges shall occur at ____:____ AM PM on _____ (day)
 each week every two weeks during the summer.

In the event that the summer schedule of alternating weeks or two week blocks does not work out equally between the parties, the parties will adjust the schedule in the last two weeks of the summer in order to approximately equalize the time each parent has with the children during the summer.

- Father will have the following dates with the children during the summer: _____
- Mother will have the following dates with the children during the summer: _____

3. **Exchange of Summer Vacation Date Proposals:**

- The parties shall exchange written or email proposals for the summer vacation schedule by:
- March 1st April 1st May 1st at least 30 days in advance each year
 Other: _____

If they are not able to agree upon a vacation schedule within two weeks of the exchange of the proposals:

Father's proposed schedule shall control in: even odd numbered years; and

Mother's proposed schedule shall control in: odd even numbered years.

- Other orders regarding the summer schedule: _____

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B. HOLIDAYS:

Except as specifically set forth below, the holiday schedule supercedes the regular timeshare schedule.

1. **Thanksgiving:**

(a) Alternating Thanksgiving Break

- The parties shall alternate the Thanksgiving holiday, beginning:
 - after school at ____:____ AM PM on:
 - the Wednesday before Thanksgiving
 - the last day of school before the start of the Thanksgiving holiday
 - Thanksgiving Day
 - To ____:____ AM PM on:
 - Friday Saturday Sunday Monday
 - the start of school on Monday after Thanksgiving.
- Mother shall have the children with her in: even odd numbered years.
- Father shall have the children with him in: even odd numbered years.

(b) Splitting Thanksgiving Break

- The parties shall split the Thanksgiving holiday from:
 - after school ____:____ AM PM on Wednesday the day before Thanksgiving
 - To ____:____ AM PM on Friday the day after Thanksgiving with one parent; and
 - With the other parent:
 - From Friday at ____:____ AM PM
 - To ____:____ AM PM on Sunday Monday the start of school on Monday.
- Mother shall have the children with her during the first part of the holiday in:
 - even odd numbered years.
- Father shall have the children with him during the first part of the holiday in:
 - even odd numbered years.
- Mother shall have the children with her during the latter part of the holiday in:
 - even odd numbered years.
- Father shall have the children with him during the latter part of the holiday in:
 - even odd numbered years.

(c) Thanksgiving Day Split

- The parties shall split Thanksgiving Day:
 - Mother Father shall have the children with him/her from:
 - ____:____ AM PM to ____:____ AM PM on Thanksgiving Day
 - each year odd numbered years even numbered years.
 - Mother Father shall have the children with him/her from:
 - ____:____ AM PM to ____:____ AM PM on Thanksgiving Day
 - each year odd numbered years even numbered years.

Other: _____

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2. **Winter Break/ Christmas/ New Year's Eve/Day:**

(a) **Winter Break Split**

- The parties shall split the Winter Break with the first part beginning:
- after school ____:____ AM PM on the last day of school other: _____
- To: ____:____ AM PM on December 25 December 26 other: _____
- The second part of Winter Break shall begin:
- ____:____ AM PM on December 25 December 26 other: _____
- To: the start of school ____:____ AM PM on:
- the day before school begins the day school begins.
- Mother shall have the children with her during the first part of the Break in:
- even odd numbered years.
- Father shall have the children with him during the first part of the Break in:
- even odd numbered years.
- Mother shall have the children with her during the latter part of the Break in:
- even odd numbered years.
- Father shall have the children with him during the latter part of the Break in:
- even odd numbered years.

In years in which December 25 or December 26, as applicable, does not fall half way in the holiday, the parties shall equally divide the holiday period and shall confer in September of that year to adjust and allocate the time between them.

In years in which the Christmas holiday does not fall in the first half of the break, the children shall be with the parent who has the first half of the break until:

____:____ AM PM on December 25 December 26

(b) **Christmas Eve/Christmas Day**

- The parties shall share the Christmas holiday as follows:
- The children shall be with: Mother Father
- From ____:____ AM PM on: December 23 Christmas Eve, December 24,
- To ____:____ AM PM on Christmas Day, December 25
- and with: Mother Father
- From ____:____ AM PM on Christmas Day, December 25
- To ____:____ AM PM on: December 26 other: _____
- in even numbered years and the schedule shall be reversed in odd numbered years.

(c) **New Year's Eve/New Year's Day**

- The parties shall share the New Year's holiday as follows:
- The children shall be with: Mother Father
- From ____:____ AM PM on New Year's Eve, December 31
- To ____:____ AM PM on: New Year's Day, January 1 other: _____
- each year odd numbered years even numbered years.
- The other parent shall have the children in: odd numbered years even numbered years.

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- The children shall be with: Mother Father
 From ____:____ AM PM on New Year's Day
 To ____:____ AM PM on: January 2 other: _____
 each year odd numbered years even numbered years.
 The other parent shall have the children in: odd numbered years even numbered years.

(d) Other:

- The Christmas/New Year's holidays shall be divided as follows:
-
-
-

3. Spring Break/ Easter:

(a) Entire Break

- The children shall spend the Spring Break from school with: Mother Father
 From: after school ____:____ AM PM on the last day of school
 To: ____:____ AM PM on: the day before school begins return to school
 each year odd numbered years even numbered years.
 The other parent shall have the children in: odd numbered years even numbered years.

(b) Split Break

- The Spring Break from school shall be equally divided between the parties with the parent who has the first weekend of the vacation having the first half of the vacation and the parent who has the last weekend having the last half of the vacation. The exchange at mid-week shall be at:
 noon ____:____ AM PM on Wednesday.

(c) Split Break, alternating portions

- The Spring Break from school shall be equally divided between the parties with the parties alternating the first and second half of the vacation.

From: after school Friday ____:____ AM PM Friday Saturday
 To: noon ____:____ AM PM on Wednesday.

The other parent shall have the remainder of the vacation until:

____:____ AM PM Sunday ____:____ AM Monday with a return to school/childcare.

Mother shall have the children with her during the first part of the Break in:

even odd numbered years.

Father shall have the children with him during the first part of the Break in:

even odd numbered years.

Mother shall have the children with her during the latter part of the Break in:

even odd numbered years.

Father shall have the children with him during the latter part of the Break in:

even odd numbered years.

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(d) Easter Sunday

The parties shall alternate having the children on Easter Sunday according to the following schedule:

Easter Sunday From ____:____ AM PM To: ____:____ AM PM
 Mother shall have the children with her in even odd numbered years
 Father shall have the children with him even odd numbered years

(e) Other:

The Spring Break/Easter holiday shall be divided as follows:

4. **Ski Week:**

In the event that there is a week-long break in the Winter, in addition to Spring Break, which is often referred to as Ski Week, the parties shall share the time as follows:

(a) Alternating Ski Week:

The children shall spend the "Ski Week" Break from school with: Mother Father

From: after school ____:____ AM PM on the last day of school
 To: ____:____ AM PM on: the day before school begins return to school
 each year odd numbered years even numbered years.

The other parent shall have the children in: odd numbered years even numbered years.

(b) Split Break:

The "Ski Week" Break from school shall be equally divided between the parties with the parent who has the first weekend of the vacation having the first half of the vacation and the parent who has the last weekend having the last half of the vacation. The exchange at mid-week shall be at:

noon ____:____ AM PM on Wednesday.

(c) Split Break, alternating portions

The "Ski Week" Break from school shall be equally divided between the parties with the parties alternating the first and second half of the vacation.

From: after school Friday ____:____ AM PM Friday Saturday

To: noon ____:____ AM PM on Wednesday.

The other parent shall have the remainder of the vacation until:

____:____ AM PM Sunday ____:____ AM Monday with a return to school/childcare.

Mother shall have the children with her during the first part of the Break in:

even odd numbered years.

Father shall have the children with him during the first part of the Break in:

even odd numbered years.

Mother shall have the children with her during the latter part of the Break in:

even odd numbered years.

Father shall have the children with him during the latter part of the Break in:

even odd numbered years.

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5. **Mother's Day/Father's Day:**

(a) **Mother's Day**

The children shall be with Mother on Mother's Day:
From: _____ AM to ____:____ AM

(b) **Mother's Day Weekend**

The children shall be with Mother on Mother's Day Weekend:

From: after school ____:____ AM PM Friday Saturday

To: ____:____ AM PM Sunday Monday (return to school/childcare/other parent).

(c) **Father's Day**

The children shall be with Father on Father's Day:

From: _____ AM to ____:____ AM

(d) **Father's Day Weekend**

The children shall be with Father on Father's Day Weekend:

From: after school ____:____ AM PM Friday Saturday

To: ____:____ AM PM Sunday Monday (return to school/childcare/other parent).

6. **Birthdays:**

(a) **Child's Birthdays**

The parties shall alternate having the children on each child's birthday according to the following schedule:

From ____:____ AM PM To: ____:____ AM PM

Mother shall have the children with her in even odd numbered years

Father shall have the children with him even odd numbered years

(b) **Parent's Birthdays**

Each parent shall have the children with him or her on that parent's birthday:

From ____:____ AM PM on the birthday on the day before the birthday.

To: ____:____ AM PM on the birthday on the day following the birthday.

7. **Other Holidays:**

(a) **Martin Luther King Weekend**

The parties shall alternate Martin Luther King weekend:

From: after school ____:____ AM PM Friday Saturday

To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).

Mother shall have the children with her in even odd numbered years

Father shall have the children with him even odd numbered years

Mother Father shall have Martin Luther King weekend with the children in each year:

From: after school ____:____ AM PM Friday Saturday

To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).

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(b) President's Day Weekend

- The parties shall alternate President's Day weekend:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).
 - Mother shall have the children with her in even odd numbered years
 - Father shall have the children with him even odd numbered years
- Mother Father shall have President's Day weekend with the children in each year:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).

(c) Memorial Day:

- The parties shall alternate Memorial Day weekend:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).
 - Mother shall have the children with her in even odd numbered years
 - Father shall have the children with him even odd numbered years
- Mother Father shall have Memorial Day weekend with the children in each year:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).

(d) Fourth of July:

- The parties shall alternate the Fourth of July holiday
 - From: ____:____ AM PM July 3 July 4
 - To: ____:____ AM PM July 4 July 5
 - Mother shall have the children with her in even odd numbered years
 - Father shall have the children with him even odd numbered years
- Mother Father shall have Memorial Day weekend with the children in each year:
 - From: ____:____ AM PM July 3 July 4
 - To: ____:____ AM PM July 4 July 5

(e) Labor Day:

- The parties shall alternate Labor Day weekend:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).
 - Mother shall have the children with her in even odd numbered years
 - Father shall have the children with him even odd numbered years
- Mother Father shall have Labor Day weekend with the children in each year:
 - From: after school ____:____ AM PM Friday Saturday
 - To: ____:____ AM PM Monday Tuesday (return to school/childcare/other parent).

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(f) **Halloween:**

The parties shall alternate having the children on Halloween:

From: after school ____:____ AM PM day before Halloween Halloween day

To: ____:____ AM PM Halloween day day after Halloween

Mother shall have the children with her in even odd numbered years

Father shall have the children with him even odd numbered years

Mother Father shall have Halloween with the children in each year:

From: after school ____:____ AM PM day before Halloween Halloween day

To: ____:____ AM PM Halloween day day after Halloween

(g) **Adjustment of Weekends:**

In the event that the holiday schedule causes a parent to have more than two weekends in a row, the schedule shall be adjusted as follows:

(h) **Other:**

Any holidays that are not specifically identified in this document, shall be spent with the parent who would ordinarily have that day with the child.

C. CANCELED PARENTING TIME:

Late Arrival: If a parent fails to arrive at the appointed time for his or her scheduled time with the children and fails to notify the other parent that he or she will be late, then the other parent need wait for only _____ minutes before considering the scheduled timeshare canceled.

Notice of Inability to Exercise Parental Timeshare: In the event that a parent is unable to exercise parental timeshare on a given occasion, he or she must notify the other parent at the earliest possible opportunity.

Illness of child: The parent who has the children with him or her must give the other parent as much notice as possible if the children are ill and unable to participate in scheduled time with the other parent.

A doctor's excuse is required to cancel scheduled parenting time.

D. OTHER:

E. SUPERVISED VISITATION/EXCHANGE:

Pending further order of Court:

Mother Father shall have supervised visitation with the minor children for up to _____ hours per week.

The supervision shall be provided by:

Professional agency: (Name): _____

(Telephone): _____

Non-Professional Supervisor (Name): _____

(Telephone): _____

Costs for supervision shall be paid as follows:

equally by the parties Mother: _____% Father: _____%.

Both parties shall cooperate in arranging for supervised visitation.

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Visitation exchanges shall be supervised by:

Professional agency: (Name): _____

(Telephone): _____

Non-Professional Supervisor (Name): _____

(Telephone): _____

Costs for supervision shall be paid as follows:

equally by the parties Mother: _____% Father: _____%.

Both parties shall cooperate in arranging for supervised exchanges.

F. Miscellaneous Orders

1. **Restriction on Disparaging or Negative Remarks:** Neither parent shall make or allow others to make any disparaging or negative remarks about the other parent or the other parent's past or present relationships, family, or friends in the presence or hearing of the minor children.

2. **Non-Removal of Children:**

(a) **Travel:**

(i). Mother Father shall not remove the minor children from:

the state of California

the San Francisco/South Bay Area counties: Alameda, Contra Costa, Santa Clara, San Mateo, San Francisco, Marin, Sonoma, Napa, Solano, Monterey, San Benito, Merced, San Joaquin, Stanislaus, and Santa Cruz.

other: _____

without the prior written consent of the other party or an order of Court, except for periods of vacation not to exceed ____ weeks.

A vacation with the children outside of: California Nevada the United States requires the prior written consent of the other parent or a court order.

(b) **Residence:**

(i). Neither party shall remove the permanent residence of the minor children of the parties from:

the State of California

the San Francisco/South Bay Area counties as set forth above

other: _____

without the prior written consent of the other party or an order of Court.

(ii) **Notification of Proposed Move of Child:** Each parent must notify the other parent in writing at least 45 days prior to any planned change in the residence of the children which would affect the custody/visitation schedule for the children. The notification must state, to the extent known, the planned address of the children, including the county and state of the new residence. The notification must be sent by certified mail, return receipt requested.

(c) **Notice of Change of Address or Telephone number:**

Each parent shall notify the other parent in writing within _____ days of any change of address or telephone number during the minority of the children. Neither parent may use such information for the purpose of harassing, annoying, or disturbing the peace of the other parent or invading the other's privacy.

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3. **Travel Itinerary:**

- a. In the event that a parent will be traveling with the minor children:
 - outside of the San Francisco/South Bay Area counties
 - outside of the State of California

he or she shall provide the other party, at least 30 days in advance, with an itinerary in writing, including flight information, if applicable, and a telephone contact number, if available.

4. **Healthcare Issues:**

- a. **Emergency Cards:** Both parties shall be listed on all emergency cards relating to the children for school, child care, extra-curricular activities, or any other purpose where such cards are required.
- b. **Notice of Emergency/Serious Illness:** Both parties are to be notified as soon as possible in the event of any emergency or serious illness relating to the minor children.
- c. **Medical Consent:** Each parent is authorized to take any and all actions necessary to protect the health and welfare of the children, including, but not limited to, consent to emergency surgical procedures or treatment. The parent authorizing such emergency treatment must notify the other parent as soon as possible of the emergency situation and of all procedures or treatment administered to the children.
- d. **Doctor/Dentist:** Except in the event of an emergency, the minor children shall be taken to their primary care doctor or dentist as follows:

e. **Healthcare Appointments:** Except in the event of an emergency, each parent shall notify the other parent of any healthcare appointments in advance of the appointments. Further, in the event of an emergency appointment, both parties shall be notified as soon as possible.

f. **Medication Notice:** If the children are prescribed any medication or are taking any non-prescription drugs, both parties are to keep each other informed in writing of such drugs.

g. **Medications:** Both parties are required to administer any prescribed medications for the children.

5. **Right of First Refusal:** In the event that a parent is going to be unavailable to care for the children overnight, the other parent shall have the right of first refusal to care for the children during this time.

6. **Scheduling of Children's Activities:** Neither parent shall schedule extra-curricular or other activities for the minor children which impact on the other parent's time with the children without the express written approval of the other party or an order of Court.

7. **Court Documents:** Neither parent will show or read any court documents to the minor children. In addition, neither parent shall leave court documents where the children may read or see them.

8. **Corporal Punishment:** Neither parent shall use any form of corporal punishment on the minor children. This shall include, but is not limited to, spanking, hitting, striking, paddling, slapping, or otherwise physically punishing the children.

9. **Child Care:**

- a. The children must not be left alone without age-appropriate supervision.
- b. The parties must keep each other informed of the name, address, and telephone number of any regular child care provider for the children.

10. **Parental Communication:**

a. **No communication through the Children:** The parties will communicate directly with each other and shall not use the children as messengers to communicate information between them.

b. **E-mail/Text Communication:** Except in the event of an emergency, the parties will communicate with

CASE NAME:	CASE NUMBER
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each other by e-mail or text messages, if available to both parties. Each parent shall keep the other informed of his or her e-mail address and, if available, number where text messages may be sent..

c. **Written Communication:** Except in the event of an emergency, the parties will communicate with each other in writing. Each parent will keep the other informed of his or her address.

d. **Log Book:** The parties will maintain a "log book" for communication of non-emergency information about the children. The log book will be sent with the children between the parent's homes. Using businesslike notes (no personal comments), parties will record information related to the health, education, and welfare issues that arise during the time the children have with them.

11. **Parenting/Other Classes:** Mother Father shall sign up for a:

Parenting Class Parenting Without Violence Class within 30 days from the date of this order.

Proof of attendance and completion of the class shall be provided in writing to the other parent, Family Court Services, and the Court.

Mother Father shall sign up for: _____

within 30 days from the date of this order.

Proof of attendance and completion of the class shall be provided in writing to the other parent, Family Court Services, and the Court.

12. **Counseling:**

a. **Co-Parent Counseling:** The parties shall participate in Co-Parenting counseling with a mutually agreed upon mental health provider for a period of at least six months one year. The parties shall be equally responsible for any costs of this counseling which are not covered by insurance.

b. **Counseling for the Children:** The parties will locate a counselor for the minor children. The counselor will determine the frequency of the sessions and the duration of the counseling, with input from the parties. In the event that the parties are not able to agree upon a counselor for the children within two (2) weeks, the Court reserves jurisdiction to select the counselor. The parties will be equally responsible for the costs of the counseling which are not covered by insurance.

13. **Alcohol or Substance Abuse:** Mother Father may not consume alcoholic beverages, narcotics, or restricted dangerous drugs (except by prescription) within _____ hours prior to or during periods of time with the children.

14. **No Exposure to Cigarette Smoke:** The children will not be exposed to second hand cigarette smoke while in the home or car of either parent.

15. **No Exposure to Domestic Violence/ Conflict:** The minor children shall not be exposed to domestic violence or conflict in either parent's household.

16. **Children's Clothes and Personal Effects:** The children's clothes and personal effects are the property of the children and will be allowed to move between the parent's households without interference from either parent.

17. **Children's Names:** Neither parent will change the last name of the children or have a different name used on the children's medical, school, or other records without the written consent of the other parent or an order of Court.

18. **Changes to these orders:** The terms and conditions of this order may be added to or changed as the needs of the children and parties change. **Any such changes shall be in writing, dated and signed by both parties.** Each parent will keep a copy of the agreement. If the parties want a change to be a court order, it must be filed with the court in the form of a court document.

19. **Other:**

G. FINAL ORDERS:

The parties agree that these orders are final orders. A substantial change of circumstances will be required to modify the terms of these orders.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	TELEPHONE NO.: _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PETITIONER: RESPONDENT: OTHER:		
STIPULATION AND ORDER FOR CUSTODY AND/OR VISITATION OF CHILDREN		CASE NUMBER: _____
<input type="checkbox"/> MODIFICATION		

The parties signing this stipulation agree that:

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.
3. **The parties acknowledge they were advised that any violation of this order may result in civil or criminal penalties, or both.**
4. a. The parties stipulate that the attached document, dated (specify) : _____ and consisting of (number) : _____ pages is their custody and visitation agreement and request that it be made an order of the court, or
 - b. The parties stipulate that the attached forms
 FL-341 FL-341(A) FL-341(B) FL-341(C) FL-341(D) FL-341(E)
 are their agreement regarding custody and/or visitation of their children and request that they be made an order of the court.

Each party declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____	▶	_____ (SIGNATURE OF PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF OTHER)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR OTHER)

FINDINGS AND ORDER

THE COURT FINDS:

1. This court has jurisdiction over the minor children because California is the children's home state.
2. The habitual residence of the children is the United States of America.
3. Both parties have been advised that any violation of this order may result in civil or criminal penalties, or both.

THE COURT ORDERS:

1. The agreement of the parties regarding custody and visitation as set forth in the attached document dated (specify): _____ and consisting of (number) : _____ pages or set forth in the attached forms:
 FL-341 FL-341(A) FL-341(B) FL-341(C) FL-341(D) FL-341(E)
 is adopted as the order of the court and fully incorporated by reference herein.

Date: _____ _____ JUDICIAL OFFICER Page 1 of 1



**Pro Bono Project Silicon Valley
Family Law Settlement Project
Attorney Report**

CASE #: _____ CASE NAME: _____

Attorney Name: _____

Represented: _____ Moving Party _____ Responding Party

Eligibility: IFP

Case issues

- Custody _____
- Visitation _____
- Other _____ Specify: _____

Results

- Settled Issues:
 - Custody _____
 - Visitation _____
 - Other _____ Specify: _____
- Not settled
 - Custody _____
 - Visitation _____
 - Other _____ Specify: _____
- Partial settlement
 - Custody _____
 - Visitation _____
 - Other _____ Specify: _____

If not settled, give reasons:

- Unreasonable expectations _____
- Client mental health issues _____
- Other _____ Explain: _____

Did attorneys appear on record? Y N

Time Spent: _____