

**PREPARING AGREEMENTS:
SETTLEMENT AGREEMENTS, MARITAL AGREEMENTS,
AND MORE**

EMILY MISKEL

KoonsFuller, P.C.

5700 W. Plano Pkwy., Suite 2200

Plano, Texas 75093

(972) 769-2727

emily@koonfuller.com

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PREPARING AGREEMENTS.

I. SCOPE OF ARTICLE.

The purpose of this article is to cover some of the different types of agreements encountered in a family law practice. A paralegal can be enormously helpful in preparing for and drafting agreements. This paper also contains some details from the Texas Family Code that explain *why* it's important to observe the required formalities.

II. ATTACHMENTS.

At the back of this paper are several helpful forms and references that can be used in preparing for and drafting agreements.

- A. Property Division Spreadsheet
- B. Informal Settlement Agreement
- C. IRS Alimony Requirements
- D. Creative Possession Schedules
- E. Parenting Plan Form
- F. Property Division Form
- G. Marital Agreement Waiver of Financial Disclosure

III. DIFFERENT TYPES OF AGREEMENTS.

In a family law practice, there are different types of agreements that accomplish different purposes. For day-to-day tasks, a more informal Rule 11 agreement will be sufficient, while to settle a whole case, an attorney will want to use an informal settlement conference agreement or a mediated settlement agreement. The agreements are enforced in different ways, and selecting the right form of the agreement can be critical.

A. Rule 11 Agreements

The most frequently used agreements are Rule 11 agreements. These agreements can formalize the many day-to-day agreements that arise in a family law practice, for example, extending deadlines, agreeing to dates, or resolving discovery issues. "Rule 11" is actually a very short and simple rule contained in the Texas Rules of Civil Procedure which says:

AGREEMENTS TO BE IN WRITING
Unless otherwise provided
in these rules, no

agreement between attorneys
or parties touching any
suit pending will be
enforced unless it be in
writing, signed and filed
with the papers as part of
the record, or unless it be
made in open court and
entered of record.

All Rule 11 requires is that an agreement be in writing, signed, and filed with the court for it to be enforceable. The purpose of Rule 11 is to acknowledge that verbal agreements can lead to misunderstandings and conflict, so a court will only recognize an agreement that is in writing.

Although it is a common practice to label Rule 11 agreements, the rule itself only requires that the agreement be in writing, "signed," and filed. Caselaw shows that even a series of emails can be an enforceable Rule 11 agreement. *See Padilla*, 907 S.W.2d at 460; *Cunningham v. Zurich Am. Ins. Co.*, 352 S.W.3d 519, 529 (Tex.App.--Fort Worth 2011). Tex. Bus. & Com.Code § 322.007 makes electronic signatures just as valid as normal, handwritten signatures:

LEGAL RECOGNITION OF
ELECTRONIC RECORDS,
ELECTRONIC SIGNATURES, AND
ELECTRONIC CONTRACTS.

(a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, an electronic record satisfies the law.

(d) If a law requires a signature, an electronic signature satisfies the law.

If there is a signed writing (or series of emails) that contains all the relevant terms, it can qualify as a Rule 11 agreement. The requirement that the

agreement contain all material terms means: “there must be a written memorandum which...contains all of the essential elements of the agreement, so that the contract can be ascertained from the writings without resorting to oral testimony.” See *Padilla*, 907 S.W.2d at 460; *Cohen v. McCutchin*, 565 S.W.2d 230, 232 (Tex. 1978).

A Rule 11 is not as final and binding as a mediated settlement agreement. A settlement agreement, unless special rules apply, may be withdrawn by either party up until the time a judgment is rendered by the court. *S&A Rest. Corp. v. Leal*, 892 S.W.2d 855, 857 (Tex. 1995).

A court will not enter a final judgment based only on a Rule 11 agreement – there will need to be further hearings and evidence if a party contests it. A trial court cannot automatically render a judgment on a Rule 11 agreement if a party has repudiated it or withdrawn consent. *Davis v. Wickham*, 917 S.W.2d 414, 417 (Tex. App.—Houston [1st Dist.] 1996, no writ).

However, a Rule 11 agreement is a contract. Therefore if a party revokes consent, that party may be subject to a breach of contract claim to enforce the agreement as a contract:

“Although a court cannot render a valid agreed judgment absent consent at the time it is rendered, this does not preclude the court, after proper notice and hearing, from enforcing a settlement agreement complying with Rule 11 even though one side no longer consents to the settlement. The judgment in the latter case is not an agreed judgment, but rather is a judgment enforcing a binding contract.”

Padilla v. LaFrance, 907 S.W.2d 454, 461 (Tex.1995).

Finally, Rule 11 only applies to pending suits. Therefore, an agreement made before a suit is filed is not covered by Rule 11. See, e.g., *Estate of Pollack v. McMurrey*, 858 S.W.2d 388, 393 (Tex. 1993). However, even if an agreement is not covered by Rule 11, it may well be an independently-enforceable contract, and a party may sue another for a breach of the agreement.

Because it has the potential to be revoked later, causing further litigation, a Rule 11

agreement is not the best way to memorialize a settlement of an entire case. It is better to use an informal settlement conference agreement or mediated settlement agreement, to which special rules apply, allowing a court to enter a final judgment even if a party has withdrawn his or her consent.

B. Informal Settlement Conference Agreements

If the parties have reached an agreement in a divorce outside of mediation, there is still a way to make the settlement agreement binding in the same way as a mediated settlement agreement. Tex. Fam. Code Sec. 6.604 allows the parties to create an agreement that a court can enter judgment upon, even if one party later changes his or her mind. These agreements are called informal settlement conference agreements:

6.604(b) A written settlement agreement reached at an informal settlement conference is binding on the parties if the agreement:

(1) provides, in a prominently displayed statement that is in boldfaced type or in capital letters or underlined, that the agreement is not subject to revocation;

(2) is signed by each party to the agreement; and

(3) is signed by the party's attorney, if any, who is present at the time the agreement is signed.

The statute requires that the agreement contain certain formalities. It must have a prominently displayed statement that the agreement is not subject to revocation. It is best to specifically mention 6.604 and to emphasize at the beginning (and maybe even again at the end, above the signature blocks) that the agreement is not subject to revocation:

Pursuant to Texas Family Code § 6.604, the parties to this agreement represent that this written settlement

agreement was reached at an informal settlement conference and is binding on the parties. The parties to this agreement, by their signatures below, agree that the terms of this agreement are just and right and are in the best interest of the child. This agreement settles all issues between the parties.

The parties agree that **THIS AGREEMENT IS BINDING AND IS NOT SUBJECT TO REVOCATION.**

There is a sample informal settlement conference agreement attached to this paper that demonstrates the requirements.

Section 6.604 applies only to divorce cases – not to SAPCR cases, modification cases, enforcement cases, paternity cases, etc. But, if you have resolved a divorce case outside of mediation, the best way to memorialize the agreement is through a writing that meets the terms of 6.604.

With a Rule 11 agreement, if a party revokes consent before a judgment is entered, a court cannot enter judgment based solely on the Rule 11 agreement. Informal settlement conference agreements are different. If the agreement contains the right formalities, then a party is entitled to a final judgment based on the agreement, even if the other party contests the agreement:

6.604(c) If a written settlement agreement meets the requirements of Subsection (b), a party is entitled to judgment on the settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule of law.

However, the process is not automatic; there is still one way to challenge the agreement:

6.604(e) If the court finds that the terms of the written informal settlement agreement are not just and right, the court may request the parties to

submit a revised agreement or set the case for a contested hearing.

A party can get out of an informal settlement conference agreement if the party can convince the court that the terms are not “just and right.” This is likely to be a rare scenario, but it is important to be aware that a party can still contest an informal settlement conference agreement and set a hearing asking the court to find that the agreement is not just and right.

C. Mediated Settlement Agreements

A mediated settlement agreement is the most binding and hardest-to-challenge type of agreement in family law. The Texas Legislature has implemented laws specifically making it almost impossible to later overturn an MSA.

There are two different parts of the Family Code that authorize mediated settlement agreements. Tex. Fam. Code sec. 6.602 applies to divorce cases, and sec. 153.0071 applies to suits affecting the parent-child relationship. Although informal settlement conference agreements are only binding for divorce cases, MSAs are binding in both divorce and child-related cases.

Like an informal settlement conference agreement, the Family Code requires that an MSA contain certain formalities.

Divorce cases:

6.602(b) A mediated settlement agreement is binding on the parties if the agreement:

- (1) provides, in a prominently displayed statement that is in boldfaced type or capital letters or underlined, that the agreement is not subject to revocation;
- (2) is signed by each party to the agreement; and
- (3) is signed by the party's attorney, if any, who is present at the time the agreement is signed.

Suits affecting the parent-child relationship:

153.0071(d) A mediated settlement agreement is

binding on the parties if the agreement:

(1) provides, in a prominently displayed statement that is in boldfaced type or capital letters or underlined, that the agreement is not subject to revocation;

(2) is signed by each party to the agreement; and

(3) is signed by the party's attorney, if any, who is present at the time the agreement is signed.

Both requirements are the same, and they require the same formalities previously discussed for informal settlement conference agreements. Therefore, if you are asked to draft the form of the MSA that the parties and attorneys will use at mediation, you should be sure to include language similar to this:

Pursuant to Texas Family Code § 6.602 and/or § 153.0071, the parties to this agreement represent that this settlement agreement was reached at mediation and is binding on the parties. The parties to this agreement, by their signatures below, agree that the terms of this agreement are just and right and are in the best interest of the child. This agreement settles all issues between the parties.

The parties agree that **THIS AGREEMENT IS BINDING AND IS NOT SUBJECT TO REVOCATION.**

Unlike Rule 11 agreements, or other contracts, once parties sign an MSA, the court can enter a final order based on the MSA, even if one of the parties has changed his or her mind about the agreement. If a party later backs out of the terms of the MSA, the other party can still obtain a final order based on the terms of the agreement.

Divorce cases:

6.602(c) If a mediated settlement agreement meets the requirements of this

section, a party is entitled to judgment on the mediated settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule of law.

Suits affecting the parent-child relationship:

153.0071(e) If a mediated settlement agreement meets the requirements of Subsection (d), a party is entitled to judgment on the mediated settlement agreement notwithstanding Rule 11, Texas Rules of Civil Procedure, or another rule of law.

This language permits the court to enter a final judgment on the MSA, even if a party has revoked his or her consent to the agreement. It is very difficult to challenge an MSA, so it is the strongest type of agreement to use to settle a case. After an MSA has been signed, there are a few, rare ways to challenge it, but those are beyond the scope of this paper.

D. Agreements Incident to Divorce

Sometimes attorneys will want to use a document called an Agreement Incident to Divorce. This is most often used when the parties do not want the details of their financial settlement filed in a public court record. The rules governing AIDs are found in Tex. Fam. Code sec. 7.006. An agreement incident to divorce is similar to a Rule 11 agreement, or any other agreement that is not an MSA or informal settlement conference agreement: a party can withdraw his or her consent prior to the time the court enters a judgment, and the court may not automatically enter a judgment based on the agreement if a party has withdrawn consent. A second way for a party to prevent a court from entering a final order based on an AID is to attempt to convince the court that the terms of the agreement are not just and right. However, even if a court won't enter judgment based on the AID, an AID can separately be enforceable as a contract.

E. Agreed Parenting Plan or Agreement Concerning Support

The only way to have a binding agreement on child issues, where a party can obtain judgment even after the other party revokes consent, is through a mediated settlement agreement.

The Family Code does contain provisions allowing parents to reach an agreed parenting plan. *See* Tex. Fam. Code sec. 153.007. However, the Court will only enter an order in accordance with the parenting plan if the court finds that the agreed parenting plan is in the child's best interest.

Similarly, parties can enter into an agreement concerning child support, which a court will enter if it finds the agreement to be in the child's best interests. *See* Tex. Fam. Code sec. 154.124.

F. Pre-Marital and Post-Marital Agreements

Chapter 4 of the Family Code contains specific provisions for pre- and post-marital agreements. These are enforceable like contracts, but they also have some special features that make them different from ordinary contracts. In a premarital agreement, the parties can agree to terms regarding:

- (1) rights and obligations in any property;
- (2) the right to buy, sell, use, or otherwise manage and control property;
- (3) the disposition of property on separation, divorce, death, or any other event;
- (4) spousal support;
- (5) the making of a will, trust, or other arrangement;
- (6) ownership rights in a death benefit from a life insurance policy;
- (7) the choice of law governing the construction of the agreement; and
- (8) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

However, parties cannot use these agreements to negatively impact the rights of their children to receive support.

Some attorneys frequently do pre- and post-marital agreements, while others rarely draft them. It is a specialized area, and if your attorney typically drafts these documents, she likely has her own forms.

One form that should be used in almost every case is a waiver of disclosure of financial information. This document is the result of specific language in the Family Code. The waiver should contain the following terms:

- That the waiver was signed before the pre- or post-marital agreement was signed;
- That each party was provided a fair and reasonable disclosure of the property or financial obligations of the other party;
- That each party voluntarily and expressly waives any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
- That each party had, or reasonably could have had, adequate knowledge of the property or financial obligations of the other party.

See Tex. Fam. Code secs. 4.006 and 4.105. These terms strengthen the enforceability of the agreement and make it harder to challenge later. The waiver must be signed by both parties prior to the signing of the pre- or post- marital agreement. A sample Waiver is attached at the end of this paper.

IV. HOW TO PREP YOUR ATTORNEY.

The assistance of a paralegal can be critically helpful in preparing an attorney for a mediation, settlement conference, or other negotiation. Attorneys often do things at the last minute, and your advance preparation can make settlement go a lot more smoothly. Paralegals can provide excellent support by pulling together relevant documents in a notebook for settlement discussions. The following types of documents are especially useful:

Relevant Facts

- Credit reports – pulling the parties' credit reports prior to the settlement discussions

can help uncover debts that the parties may not have listed

- Supporting documents – copies of bank statements and other documents directly from financial institutions showing the current amount of any assets or debts can help resolve disputes. It is best to get these documents as close to the negotiation as possible, but at least by the day before so that the attorney has a chance to review them.
- Relevant appraisals/valuations – if the parties have had appraisals done of any property or businesses, then those need to be included in the notebook. If no formal appraisals have been done on property, including the tax appraisal on any real estate can be helpful.
- Spreadsheet – Once you have bank statements, inventories, credit reports, or other documents showing the value of the parties' property, you can prepare an Excel spreadsheet that can greatly increase the ease and speed of forming and responding to offers. A sample spreadsheet attached to this paper lists the property and shows the total assets to each party, total debts to each party, and percentage division.
- Original deeds and deeds of trust – if real estate is an issue in the case, then a formal property description and information from the original deed will be needed to draft the decree and any deeds or deeds of trust. Our local counties have websites where you can search and pull PDFs of the actual deeds and deeds of trust so that the decree and closing documents can be accurately drafted.

Pleadings and Offers

- Previous offers – if the parties have exchanged written offers, then it is helpful to have these in the notebook
- Inventory & Appraisalment – if the parties have exchanged inventories, then each party's latest inventory needs to be included in the notebook
- Prior orders, including temporary orders – In a modification case, the last order is a

critical piece of information that needs to be in the notebook. Also, if any temporary orders or relevant agreements have been entered in the case, then they should be included.

Proposed Agreement

- Draft agreement – If your attorney is attending a mediation or settlement conference, she may want to start out with a draft agreement already prepared in electronic form. This is helpful so that, at the end of a successful negotiation, the process of producing a final agreement to sign is faster.
- Form language regarding specific terms – if you know certain issues exist and will have to be addressed in the decree, arm your attorney with the form language, so that it can be attached to the agreement. This will make your life easier when it comes time to draft the final order. An example is stock options – when I know that these are an issue in the case, I always want to bring my standard stock option language with me to the negotiation.

V. PROPERTY AGREEMENTS.

In a divorce, the property division is final and cannot be modified later. Therefore, it is important to be detailed, specific, and accurate in drafting the settlement agreement and the decree. In advance of the settlement negotiations, it's helpful if the paralegal can prepare a spreadsheet or other list of the property that contains the financial institution, account number, the name the property is held in, the approximate amount of the account, a description of the property, etc. That way, the agreement can identify each item specifically, and there won't be later disputes over a vague or ambiguous item.

I have included, as an attachment to this paper, a Travis County district court form for a checkbox-style property division order. In a pinch, it can be used to make sure issues are not overlooked.

A. Property and Debts

Clients sometimes don't understand everything that can be divided in a divorce. It can be helpful for a paralegal to sit down with a client

and discuss all the types of property that can be divided – bank accounts, investment accounts, retirement accounts, houses, cars, life insurance, valuable items of personal property, etc. Clients are also often confused about community property. It's common for them to only list "their" property (the property that's in their own name). You need to remind them that all property needs to be addressed in the divorce. Sitting down with a client before a mediation or settlement negotiation often results in the client remembering a few more things that should be included. If it's possible to get the client to come in to the office in person prior to a settlement negotiation, it's very helpful.

Whether you're preparing a spreadsheet for mediation, putting together the first draft of a settlement agreement, or drafting a decree, it's important to include as much information as possible to describe the property. This will avoid problems later. For example, if you look at the spreadsheet attached to this paper, I try to include the financial institution holding the account, the last four digits of the account number, whose name the account is in, and the amount. Sometimes I will include the date the amount was determined, because if it was a few months ago, we might need to get an update at the negotiation. The inventory and appraisal form contained in the Texas Family Law Practice Manual has blanks for the client to provide all of this information to you. Encouraging the client to start early on their inventory and be thorough in describing their property will make your life easier.

Listing details for each item of property, beginning with your earliest draft, will help the parties and attorneys catch mistakes and reach more accurate settlements. Here is an example of a detailed listing for a financial account:

Chase checking account ending 1234, in the name of husband, with an approximate balance of \$5,100.00 as of Aug. 25, 2012.

Sometimes the parties will agree to divide an account. It is important to specify whether a party is getting a percentage of the account or a lump sum out of the account. For example, say the account balance shown on the settlement spreadsheet is \$8,000, with husband taking \$5,000 and wife taking \$3,000. If, by the date of divorce, the account is now at \$10,000, should the wife get

37.5% of the new balance, or should she just get \$3,000? Drafting a specific settlement agreement can avoid these types of disputes.

With debts, it is also important to identify the asset that the debt is associated with. For example, if a certain loan is a car loan, identify the car it is associated with. Generally parties are assumed to take debts associated with property they receive in the divorce, but it's always better to be explicit. Further, get clarification from the client on exactly whose name the debt is in. If wife is taking the car and car loan, but the debt is in joint names, then wife will need to get a power of attorney from husband authorizing her to take actions with the car and loan. Being clear on whose name each asset and debt is in will let you know what closing documents will need to be prepared.

B. Closing Documents

It is always best to get necessary closing documents executed before the court enters the decree. That's when you have the clients' focus, and if it doesn't get done then, it frequently won't get done at all. As you prepare for settlement, start thinking about what documents the clients will need in addition to the decree. These documents can include:

- Special warranty deed – if the house is in joint names, but one party is keeping it
- Deed of trust to secure assumption – if both parties will be remaining on the mortgage even though one party is taking the house
- Power of attorney to transfer motor vehicle – if both spouses are on a car title or car loan that one spouse is keeping
- Child support withholding order

There are many types of closing documents that could be needed, and form documents are found in the Texas Family Law Practice Manual or ProDoc.

The settlement agreement can address what documents will be needed, as well as who is responsible for preparing them. Keep a checklist of the closing documents you will need as you go through the case. That way, nothing will be missed in the rush to get all the documents finalized.

C. QDROs

If the parties are dividing a retirement account, sometimes a document called a QDRO (pronounced “quadro”) is needed. QDRO stands for “Qualified Domestic Relations Order.” QDROs were created by federal law to set up a framework for standard forms to divide retirement accounts anywhere in the United States. The laws governing QDROs are very intricate. I do not try to draft QDROs myself – I send them to a person who specializes in drafting QDROs, and I recommend that approach.

A QDRO is a court order that must be signed by the judge. The QDRO must be signed within 30 days of the day the divorce decree is signed, or the attorney will have to file a Motion to Enter a QDRO and have a separate proceeding.

Once signed by the judge, a certified copy must be sent to the administrator of the retirement plan. The plan administrator will approve or reject the QDRO. If it is approved, within a couple of months, the plan will create an account for the non-employee spouse and transfer his or her portion into it. The non-employee spouse can leave the money there, cash it out, or roll it over into his or her own retirement account with another financial firm. There are tax consequences to these options, and you should advise clients to get tax advice from a CPA before making any decisions.

QDROs are only required for “qualified” plans which usually means pensions, 401(k) accounts, and 403(b) accounts. You will need a different QDRO for each account. IRA accounts are not “qualified” plans, and no QDRO is needed to divide an IRA. Also, no QDRO is needed if a spouse is keeping his or her own retirement account. A QDRO is only used to give the non-employee spouse a portion of the employee spouse’s retirement account.

Examples:

1. Wife is getting 40% of husband’s pension payments – QDRO needed
2. Wife is keeping her own 401(k) – no QDRO needed
3. Husband and wife are dividing wife’s IRA – no QDRO needed

4. Husband is keeping 100% of wife’s 401(k) – QDRO needed
5. Wife is getting \$25,000 out of husband’s 401(k) – QDRO needed

For the purposes of settlement agreements, the important things to remember about retirement accounts are:

- If a non-employee is getting money from an employee’s pension, 401(k), or 403(b), add to your closing documents checklist that a QDRO will be needed.
- Make sure the client provides the exact names of any plans that require a QDRO.
- In the draft of the settlement agreement, include language specifying whether the non-employee spouse is getting a percentage of the account, or a specific dollar amount out of the account. Helping to remind your attorney to address this within the settlement document will avoid later problems.
- Specify whether the account is to be divided as of the date of the settlement agreement or as of the date the divorce is granted.
- Specify who will be responsible for getting the QDRO prepared.
- Include a date for the QDRO to be completed. This will help the parties and attorneys comply with the requirement that the QDRO be signed by a judge no later than 30 days after the decree is signed.

D. Taxes

Although state courts do not have the power to order the parties to do anything regarding their federal taxes, sometimes parties will agree on federal tax issues, and it is important to include their agreements in a settlement agreement or decree.

Tax issues that can come up are:

- Will both parties remain jointly liable for previously-filed tax returns, or will one spouse take 100% responsibility?
- If there is a refund for a prior year, how will it be divided?

- How will the taxes be handled for the year of divorce?
- Who will get the dependency exemption for each child?
- Will the parties use a certain tax preparer to prepare the return? If so, who will pay?

Including a heading for “taxes” in your draft settlement agreement, and including some of these issues can help remind your attorney to address these specifically. Also, if your client has made you aware of a tax debt that exists or a tax refund that is expected, include that information in the property division spreadsheet so that the money can be addressed in the settlement agreement.

As always, remind your clients that you do not give tax advice and advise them to consult with their CPA.

E. Order to deliver certain property

If one spouse is in possession of property that needs to go to the other spouse, the settlement agreement should contain a description of the property that is as specific as possible and a date for the spouse to deliver the property. If there are many items, just have the client prepare a list or include photos to be attached to the settlement agreement. Disputes often happen when a settlement agreement refers too generally to property or does not provide a timeframe for delivery. Work with the client to obtain a detailed description, and make your agreement or decree as specific as possible.

Good example: Husband will deliver framed family photo currently hanging in entry hall to wife within 14 days of the signing of this agreement.

Good example: Wife will deliver 2005 Honda Accord to husband within 60 days after the signing of the decree.

Bad example: Wife will get her portion of furnishings from the marital residence.

Not being specific enough or not including a specific date for delivery will make these terms harder to enforce later if one party doesn't comply.

F. Undivided property

The Family Code allows parties to go back after the entry of a decree and divide community property that was not addressed by the decree. This can be important in choosing how to draft your agreement or decree. If you award a spouse a Bank of America account and a Chase account, and then later a Wells Fargo account is discovered, then the spouse can go back and seek to divide the Wells Fargo account. If, however, you award wife “all accounts in their own name,” then the decree has addressed the account, and the spouses can't go back later. If your client suspects that not everything has been disclosed, then it is important to list each account specifically and not use language generally awarding each party everything in his or her own name.

Another term that parties can sometimes include in their agreement is an agreement that any undisclosed property worth more than \$500 will be awarded to the party that didn't fail to disclose it. That term encourages parties to be thorough and complete in making sure all assets are disclosed to the other side.

VI. CHILD-RELATED AGREEMENTS.

In any child-related case, there are four general areas that every agreement will include: (1) parenting time; (2) child support and health insurance; (3) rights and duties; (4) geographic restriction. Every settlement agreement should address all of these areas.

A. Parenting Time

Parents most often focus on the possession schedule when making agreements. I have attached a settlement agreement to this paper that includes terms that are typically used relating to children. The agreement should contain specifics about what the schedule is:

- Be clear whether they are going to use an unexpanded standard possession order or an expanded standard possession order.
- If they are doing a 50/50 schedule, or other customized possession order, include specific times for pickup and dropoff on specific days of the week.

- Be clear whether the parents are “alternating” weekends or whether they’re doing 1st, 3rd, and 5th weekends.
- Address what happens on three-day weekends. For example, if a parent has weekend possession before a Monday holiday, does he still have to return the child on Sunday, or does the possession extend through the Monday holiday?
- Set out a detailed procedure for extended summer possession. When must a parent designate his or her period or periods? How many days does each parent get? How many periods can they split their days into?
- If the possession order is intended to have pickups and drop-offs from school, include a specific time for days when a child is not in school. For example, “Mother shall have possession beginning Mondays at school dropoff, or 8:00 a.m. if the child is not in school, and ending Wednesdays at school dropoff, or 8:00 a.m. if the child is not in school.”

The Texas Family Law Practice Manual and ProDoc only contain the standard and expanded standard possession orders. However, there are many samples available to help you draft more creative possession orders. Attached to this paper is the table of contents from a paper from the 2012 Advanced Family Law Course that contains many custom possession orders. The paper itself is available for download at: <http://www.emilymiskel.com/pdfs/creativepossession.pdf>. I have also included a form from the Travis County district courts that provides a checkbox-style parenting plan. This form can be useful in a pinch to make sure that no issues are overlooked.

B. Child Support and Health Insurance

Child support provisions are fairly straightforward to include in settlement agreements. Specify:

- Who pays
- Amount (including amounts for monthly, biweekly, bimonthly, or weekly payments)
- Date payments begin

- Whether the parties will be using a withholding order

Under this section, the agreement should also state who is providing health insurance and how out-of-pocket medical expenses will be paid. The agreement can address optional issues like who will pay for orthodontics.

C. Rights and Duties

The concept of parental rights and duties can be confusing to clients, so it may be something to discuss with them at the pre-mediation meeting.

The rights and duties that parents have at all times are listed in Tex. Fam. Code sec. 153.073. The rights and duties that parents have during their possession times are listed in Tex. Fam. Code sec. 153.074.

The rights and duties that parents sometimes disagree over are broken into a separate section, 153.132. The settlement agreement should specify whether these rights are to be exercised independently by each parent, subject to the agreement of both parents, or exclusively by one parent. Page 4 of the Travis County parenting plan included as an attachment to this paper has a check-box style approach to the rights and duties so that each one can be addressed.

If the parents agree that certain rights will be “subject to agreement,” it can be helpful for the agreement to include a tie-breaker or other process for resolving conflicts. For example, if the parents disagree over invasive medical treatments, they can agree for the child’s pediatrician to be the tie-breaker. This should be included in the settlement agreement.

D. Geographic Restriction

Texas is strongly against letting one parent move away with children. Therefore, most agreements contain a geographic restriction on where the children can live. Commonly, this restriction is to their current county and counties touching that county. It is important for the settlement agreement to contain a provision for a geographic restriction. Parents can agree to specify a county or counties, a particular school district, or even boundaries on a map. If the parents are going with the map approach, the map with marked boundaries should be attached to the settlement agreement.

VII.SUPPORT AGREEMENTS.

A. Contractual Alimony vs. Ch. 8 Spousal Maintenance

One important distinction when discussing payments for future support is whether the support is “contractual alimony” or whether it is “spousal maintenance” as defined by the Texas Family Code. There are pros and cons to each approach, and they are treated very differently.

Spousal maintenance under the Texas Family Code is subject to a fairly rigid set of rules. It is only available to recipients who qualify under the eligibility terms listed. Chapter 8 also limits how long the payments can last, and the maximum amount of the payments. If the payments are intended to be spousal maintenance, then they must comply with all of the requirements of Chapter 8. If the requirements are met, the payments are enforceable by contempt, similar to child support. However, the payments may also be modified later by a court if circumstances change.

Contractual alimony is exactly that – a contract between the parties. The parties can agree to make whatever payments they like, in whatever form, over whatever period of time. The parties can craft the terms as creatively as they wish. It doesn’t matter whether the terms meet the requirements of Chapter 8. A party cannot have a court modify the terms later, but the payments are also not enforceable by contempt. If a party is unable to pay, the other party must sue for breach of contract and try to collect on a judgment.

B. Ch. 8 Spousal Maintenance

1. Eligibility for Ch. 8 Spousal Maintenance

Only certain people are eligible for spousal maintenance under Chapter 8. If you are drafting an agreement or decree that includes spousal maintenance, include the findings listed in sec. 8.051 of the Family Code:

Required in all cases:

- the spouse seeking maintenance will lack sufficient property, including the spouse's separate property, on dissolution of the marriage to provide for the spouse's minimum reasonable needs

Also include at least one of the below:

- the paying spouse was convicted of or received deferred adjudication for a criminal offense that also constitutes an act of family violence, committed during the marriage against the other spouse or the other spouse's child and the offense occurred: within two years before the date on which a suit for dissolution of the marriage is filed or while the suit is pending;
- the spouse receiving payments is unable to earn sufficient income to provide for the spouse's minimum reasonable needs because of an incapacitating physical or mental disability;
- the spouse receiving payments has been married to the other spouse for 10 years or longer and lacks the ability to earn sufficient income to provide for the spouse's minimum reasonable needs; or
- the spouse receiving payments is the custodian of a child of the marriage of any age who requires substantial care and personal supervision because of a physical or mental disability that prevents the spouse from earning sufficient income to provide for the spouse's minimum reasonable needs.

2. Duration of Ch. 8 Spousal Support

Chapter 8 strictly limits the amount of time that payments can last. If you are drafting an agreement or decree that includes spousal maintenance, make sure the payments comply with the timeframes listed in sec. 8.054 of the Family Code. Payments may last:

- Five years if the marriage was 10-20 years, or if the maintenance is a result of family violence
- Seven years if the marriage was 20-30 years
- Ten years if the marriage was 30 years or more
- If the maintenance is a result of the disability of a spouse or child, the maintenance can last as long as the disability

3. Amount of Ch. 8 Spousal Maintenance

Chapter 8 also limits the maximum amount of the payments. If you are drafting an agreement or decree that includes spousal maintenance, make sure the payments comply with the amounts described by sec. 8.055 of the Family Code. Monthly payments may not exceed \$5,000 or 20% of the paying spouse's average monthly gross income – *whichever is less*.

It is also important to note that income is calculated differently than for child support. While child support looks at after-tax net resources, the limit on spousal maintenance is based on gross income, before taxes.

Chapter 8 spousal maintenance can be paid through a withholding order, so it is important to specify in the agreement or decree whether the spouses agree to use a withholding order.

4. Enforcement and Modification of Ch. 8 Spousal Maintenance

Although it's outside the scope of drafting an agreement or decree, it can be helpful to know how Ch. 8 spousal maintenance can be enforced or modified.

As long as the spousal maintenance complies with all the requirements of Chapter 8, the court may enforce the payments by contempt. This means that the paying spouse can be jailed for failure to make the payments if he or she has the ability to pay. The enforcement process and defenses are similar to the enforcement process for child support.

The paying spouse may also petition the court to reduce the amount of the payments by filing a motion to modify. If there has been a material and substantial change in circumstances, the court can modify the spousal maintenance.

C. Contractual Alimony

If the parties do not qualify for spousal maintenance, or they want to agree to payments that do not meet the requirements of spousal maintenance, then they can agree to contractual alimony. They are free to use whatever payment terms they both agree to.

Contractual alimony is enforceable only as a contract. A party cannot be in contempt for failing to pay, but the other spouse may sue them for

breach of contract. The court also cannot modify the terms of contractual alimony once an agreement has been reached. Finally, spouses are not entitled to use a withholding order for contractual alimony.

Any support payments after a divorce that do not meet the requirements of Chapter 8 are considered contractual alimony.

D. IRS Alimony Rules

The IRS has specific rules for determining when a payment will qualify as "alimony," meaning that the payor can deduct it from his or her taxes, and the payee must declare it as income on his or her taxes. A summary table is attached to the end of this paper. If payments meet all of the following criteria, they can be considered alimony for tax purposes:

- The former spouses do not file a joint tax return with each other
- The payment is paid in cash (including checks, money orders, or other methods of sending payments that are equivalent to cash. It does not include goods, services, or other non-currency types of payments)
- The payment is received by (or on behalf of) your former spouse (this means paying your former spouse's mortgage for him or her can count as alimony)
- The divorce decree does not say that the payments are not alimony
- The former spouses are not members of the same household when the payments are made
- There is no obligation to make payments after the death of the former spouse, and
- The payments are not child support or a property settlement

There can also be negative consequences if the payments are made for less than three years.

If you are drafting the terms of an agreement that is intended to contain alimony payments, try to include information showing that the payments meet IRS requirements. Alternatively, if the agreement contains a series of payments that are not intended to be tax-deductible by the payor and taxable to the payee, include language showing

that the payments do not meet the IRS requirements. For example, explicitly stating that payments are not alimony is enough.

I do not give tax advice (and neither should you!) so I always recommend that clients contact their CPA for tax advice before agreeing to a specific alimony package.

E. Drafting

If you are drafting a document that contains spousal support, you can be helpful by listing the headings or topics that will need to be addressed by the final agreement. The agreement itself will need to be negotiated in detail by the attorney, but you can help by including a list of items that have to be covered.

In drafting alimony language in a settlement agreement, it's important to be precise:

- State whether the payments are spousal maintenance under Chapter 8 or contractual alimony
- If the payments are Ch. 8 spousal maintenance, include the required findings from the Family Code
- State whether the parties agree to have the payments withheld automatically through a withholding order
- Specify the amount of each payment
- Specify the date the payments begin and how frequently they will be made
- Specify when the payments end – on a certain date? after a certain amount has been paid?
- State whether the payments are intended to be alimony (tax deductible to the payor and taxable to the payee)
- If the payments are intended to be alimony, include any necessary IRS language (like that the payments stop upon a spouse's death)

VIII. OTHER PROVISIONS

Certain housekeeping measures, if they can be addressed in the settlement agreement, can make life easier down the road. If you have the opportunity to put together the draft of the

agreement that your attorney will use to negotiate the deal, try to include terms like:

- Which attorney will draft the decree or order?
- Are any closing documents needed? If so, who will draft them? (I use the term “closing documents” to refer to documents like deeds, deeds of trust, withholding orders, etc.)
- If a QDRO is required, will a QDRO specialist prepare it? If so, who will pay for that?
- What date will the drafts be provided to the other side? What date will the documents be finalized? (If there is a DWOP or trial date set, it's important to plan the timing around those dates.)
- Who will attend the prove-up, if one is required? (To share the expense of attorney's fees, sometimes one attorney will draft documents and the other will attend the prove-up.)

IX. FORM OF THE AGREEMENT

There is no right or wrong way to set up the form and formatting of your document. Different attorneys have different preferences for how the agreement should look. Here are some pieces that can be included in your settlement document:

- Style of the case – if you don't have one, because a case has not yet been filed, then this is a reminder that Rule 11 does not apply. However, your agreement can still be enforceable as an ordinary contract.
- Title specifying the type of agreement
- Prominent statement that the agreement is binding and not revocable, if the agreement is an MSA or informal settlement conference agreement
- Statement that the agreement either resolves all issues in the case or is a partial settlement agreement
- Signature lines for parties and attorneys
- Date of the agreement – one date is fine if all parties and attorneys sign at the same time. If different people are faxing in their

signatures at different times, you'll want a date by each signature.

- Page numbering – it is very helpful to insert a footer that includes a page number and number of total pages (like “Page 1 of 4”)
- Lines for parties to initial each page – this is a matter of preference. It's not legally required that parties initial each page of the agreement, but some attorneys like to do this, and it certainly makes it more difficult for a party to claim that they didn't see a particular page.

X. CONCLUSION.

A paralegal is a crucial part of the team when it comes to drafting agreements. Knowing which type of agreement to use is a critical decision. Helping your attorney have the documents she needs gathered together in a form that is easy to access during negotiations can help to timely resolving the case. Finally, if you have the opportunity to prepare the first draft of the agreement, you can be thorough in including helpful terms that may get overlooked in the heat of negotiation. Hopefully the material in this paper will allow you to work with your attorney to craft settlement agreements that more effectively resolve your cases.

1

| COMMUNITY ASSETS | W Value | H Value | To Wife | To Husband |
|--|----------------|----------------|----------------|-------------------|
| Real Property | | | | |
| 123 Main St. (2012 tax app.) | \$110,000.00 | | \$110,000.00 | |
| 456 Elm St. (2012 tax app.) | | \$295,000.00 | | \$295,000.00 |
| Cash and Accounts | | | | |
| First Nat'l Bank (wife) (as of 7-25-12) | \$4,000.00 | | \$4,000.00 | |
| Compass Bank (joint) | | \$11,000.00 | | \$11,000.00 |
| Bank of America (husband) (as of 9-1-12) | | \$4,000.00 | | \$4,000.00 |
| Retirement Benefits | | | | |
| Husband's Pension (50/50 as rec'd) | \$3,000/mo | | | |
| Fidelity IRA xxx1234 (husband) | \$150,000.00 | | | \$150,000.00 |
| Vanguard IRA xxxx5678 (wife) | \$110,000.00 | | \$110,000.00 | |
| Wife's 401k | \$90,000.00 | | \$90,000.00 | |
| Investments | | | | |
| Charles Schwab brokerage acct xxxx9876 (joint) | \$50,000.00 | | \$25,000.00 | \$25,000.00 |
| Motor Vehicles | | | | |
| 2012 Chevy Malibu | \$24,000.00 | | \$24,000.00 | |
| 2006 Toyota Highlander | \$12,573.00 | | | \$12,573.00 |
| 1989 Maxima | \$500.00 | | | \$500.00 |
| 22' sail boat | \$7,500.00 | \$5,000.00 | | \$5,000.00 |
| <i>Subtotal</i> | | | \$363,000.00 | \$503,073.00 |

| COMMUNITY LIABILITIES | W Value | H Value | To Wife | To Husband |
|------------------------------|----------------|----------------|----------------|-------------------|
| Mortgages | | | | |
| 456 Elm St. | | (\$70,102.27) | | (\$70,102.27) |
| Motor Vehicles | | | | |
| 2012 Chevy Malibu | (\$23,823.00) | | (\$23,823.00) | |
| Credit Cards | | | | |
| Citi Mastercard xxxx1234 | (\$5,000.00) | | | (\$5,000.00) |
| Citi Mastercard xxxx5678 | (\$1,500.00) | | | (\$1,500.00) |
| Amex xxxx4567 | | (\$500.00) | | (\$500.00) |
| Macy's card xxxx2345 | | (\$3,500.00) | | (\$3,500.00) |
| <i>Subtotal</i> | | | (\$23,823.00) | (\$80,602.27) |
| NET COMMUNITY ESTATE | | | \$339,177.00 | \$422,470.73 |
| Percentage | | | 44.5% | 55.5% |

| | | |
|------------------------------------|--|--|
| HUSBAND'S SEPARATE PROPERTY | | |
|------------------------------------|--|--|

| | | |
|-------------------------|-------------|--|
| Inheritance from Mother | \$75,000.00 | |
|-------------------------|-------------|--|

| | | |
|---------------------------------|--|--|
| ACCOUNTS HELD FOR OTHERS | | |
|---------------------------------|--|--|

| | | |
|------------------------------------|--|--|
| Daughters's College Account | | |
|------------------------------------|--|--|

| | | |
|----------------------------|--------------|--------------|
| Vanguard 529 Plan xxxx2345 | \$100,000.00 | \$100,000.00 |
|----------------------------|--------------|--------------|

2

No. _____

IN THE MATTER OF
THE MARRIAGE OF

HUSBAND
AND
WIFE

AND IN THE INTEREST OF
CHILDREN

§
§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

_____ JUDICIAL DISTRICT

COLLIN COUNTY, TEXAS

**SETTLEMENT AGREEMENT
AND AGREED PARENTING PLAN**

Pursuant to Texas Family Code § 6.604, the parties to this agreement represent that this written settlement agreement and agreed parenting plan was reached at an informal settlement conference and is binding on the parties. The parties to this agreement, by their signatures below, agree that the terms of this agreement are just and right and are in the best interest of the child. This agreement settles all issues between the parties.

The parties agree that **THIS AGREEMENT IS BINDING AND IS NOT SUBJECT TO REVOCATION.**

1. The parties will be joint managing conservators.
2. The geographic area for the primary residence of the children will be restricted to Collin County and counties contiguous thereto.
3. Rights and duties listed in Tex. Fam. Code § 153.132 shall be independent, except for the following:
 - a. Invasive medical procedures shall be subject to agreement.
 - b. Educational decisions shall be subject to agreement, and the children shall attend public school based on Father’s residence within Plano ISD.
 - c. Mother shall have the right to designate primary residence and receive child support.
4. Father will pay to Mother child support in the amount of \$1,875.00 per month, beginning October 1, 2012.
5. Father will continue to provide the children’s health insurance and the parties will each pay 50% of the children’s uninsured medical expenses.

6. The parties will have a 2-2-5-5 possession schedule. Mother shall have Mondays 8:00 a.m./school drop-off to Wednesdays 8:00 a.m./school drop-off. Father shall have Wednesdays 8:00 a.m./school drop-off to Fridays 8:00 a.m./school drop-off. Parents will alternate weekends. If there is a Friday or Monday school holiday, the parent in possession for the weekend will either pick up on Thursday, or return the child Tuesday, as applicable.

8. Holidays will alternate per the expanded standard possession order.

9. Extended summer possession:

a. Mother gets first pick in even years, Father gets first pick in odd years.

b. Each parent may designate two periods of extended summer possession, for a total of up to 14 days.

10. Overnight right of first refusal.

11. The property will be divided according to the attached spreadsheet.

12. The parties will split tax liabilities and/or refunds 50/50 for 2011 and prior. The parties will partition as of January 1, 2012, and will file individual returns for 2012. Father shall have the right to claim the dependency exemption for the children.

13. Father's counsel will prepare the Agreed Final Decree of Divorce. Mother's counsel will prove-up the divorce.

MOTHER

ATTORNEY FOR MOTHER

FATHER

ATTORNEY FOR FATHER

3

Internal Revenue Service Alimony Requirements

| Payments ARE alimony if <u>all</u> of the following are true: | Payments are <u>NOT</u> alimony if <u>any</u> of the following is true: |
|--|---|
| Payments are required by a divorce or separation instrument. | Payments are not required by a divorce or separation instrument. |
| Payer and recipient spouse do not file a joint return with each other. | Payer and recipient spouse file a joint return with each other. |
| Payment is in cash (including checks or money orders). | Payment is: <ul style="list-style-type: none"> • Not in cash, • A noncash property settlement, • Spouse's part of community income, or • To keep up the payer's property. |
| Payment is not designated in the instrument as not alimony. | Payment is designated in the instrument as not alimony. |
| Spouses legally separated under a decree of divorce or separate maintenance are not members of the same household. | Spouses legally separated under a decree of divorce or separate maintenance are members of the same household. |
| Payments are not required after death of the recipient spouse. | Payments are required after death of the recipient spouse. |
| Payment is not treated as child support. | Payment is treated as child support. |
| <i>These payments are deductible by the payer and includible in income by the recipient.</i> | <i>These payments are neither deductible by the payer nor includible in income by the recipient.</i> |

4

CREATIVE POSSESSION SCHEDULES

KIMBERLY M. NAYLOR

Loveless & Naylor
2900 Airport Freeway
Fort Worth, Texas 76111
(817) 831-6800
kim@atsweb.net
www.loveless-law.com

State Bar of Texas
38TH ANNUAL ADVANCED FAMILY LAW COURSE
August 6-9, 2012
Houston

CHAPTER 15

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5

CAUSE NO. D-1-FM-_____

| | | |
|------------------------|---|-------------------------|
| IN THE MATTER OF | § | IN THE DISTRICT COURT |
| THE MARRIAGE OF | § | |
| _____ | § | |
| PETITIONER | § | |
| AND | § | |
| _____ | § | |
| RESPONDENT | § | _____ JUDICIAL DISTRICT |
| AND IN THE INTEREST OF | § | |
| _____ | § | |
| _____ | § | |
| CHILD/REN | § | TRAVIS COUNTY, TEXAS |

PARENTING PLAN

Sections 153.602 and 153.603, Texas Family Code

(Check One)

- Agreed by Both Parents for Temporary Orders
- Proposed by Mother for Temporary Orders
- Proposed by Father for Temporary Orders
- Agreed by Both Parents for Final Judgment
- Proposed by Mother for Final Judgment
- Proposed by Father for Final Judgment

PARENTS

(Fill in all lines)

Mother's name:

Mother's address:

Mother's phone number:

Mother's e-mail address:

Father's name:

Father's address:

Father's phone number:

Father's e-mail address:

ATTORNEYS

(Fill in all lines)

Mother's attorney's name:

Mother's attorney's address:

Mother's attorney's phone number:

Mother's attorney's fax number:

Mother's attorney's bar card number

Father's attorney's name:

Father's attorney's address:

Father's attorney's phone number:

Father's attorney's fax number:

Father's attorney's bar card number

Amicus attorney's name:

Amicus attorney's address:

Amicus attorney's phone number:

Amicus attorney's fax number:

Amicus attorney's bar card number

CHILDREN

(List starting with oldest child and ending with youngest child)

| | Name | Date of Birth | Home State |
|---|--|---------------|------------|
| 1 | | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| | <i>(Attach another page for additional children)</i> | | |

CONSERVATORSHIP

(Check one)

Mother and Father are appointed Joint Managing Conservators

OR

_____ *(Specify Mother or Father)* is appointed Sole Managing Conservator and
_____ *(Specify Mother or Father)* is appointed Possessory Conservator.

AT ALL TIMES, Mother and Father shall each have the following rights (Sections 153.073, Texas Family Code):

1. The right to receive information from any other conservator of the child/ren concerning the health, education, and welfare of the child/ren.
2. The right to confer with the other parent to the extent possible before making a decision concerning the health, education and welfare of the child/ren.
3. The right of access to medical, dental, psychological, and educational records of the child/ren.
4. The right to consult with a physician, dentist, or psychologist of the child/ren.

5. The right to consult with school officials concerning the child/ren's welfare and educational status, including school activities.
6. The right to attend school activities.
7. The right to be designated on the child/ren's records as a person to be notified in case of an emergency.
8. The right to consent to medical, dental, and surgical treatment during an emergency involving an immediate danger to the health and safety of the child/ren.
9. The right to manage the estates of the child/ren to the extent the estates have been created by the parent or the parent's family.

AT ALL TIMES, Mother and Father shall each have the following duties (Section 153.076, Texas Family Code)

1. The duty to inform the other conservator of the child/ren in a timely manner of significant information concerning the health, education, and welfare of the child/ren.
2. The duty to inform the other conservator of the child/ren if the conservator resides with for at least 30 days, marries, or intends to marry a person who the conservator knows (1) is registered as a sex offender under Chapter 62, Code of Criminal Procedure, or (2) is currently charged with an offense for which on conviction the person would be required to register under that chapter. The notice required to be made must be made as soon as practicable but not later than the 40th day after the date the conservator of the child/ren begins to reside with the person or the 10th day after the date the marriage occurs, as appropriate. The notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. A conservator commits an offense if the conservator fails to provide notice in the manner required.

DURING THEIR RESPECTIVE PARENTING TIMES Mother and Father shall have the following rights and duties (Section 153.074, Texas Family Code):

1. The duty of care, control, protection, and reasonable discipline of the child/ren
2. The duty to support the child/ren, including providing the child/ren with clothing, food, shelter, and medical and dental care not involving an invasive procedure.
3. The right to consent for the child to medical and dental care not involving an invasive procedure.
4. The right to direct the moral and religious training of the child.

The parent who has the right to designate the primary residence of the children shall (*Check one*)

- maintain the child/ren's primary residence within Travis County
- maintain the child/ren's primary residence within Travis County or any county contiguous to it
- maintain the child/ren's primary residence within the following geographic area _____
- maintain the child/ren's primary residence within _____ miles of _____
- have the right to designate the child/ren's primary residence without regard or restriction to geographic location

MOTHER AND FATHER SHALL SHARE THE FOLLOWING RIGHTS AND DUTIES, enumerated in Section 153.132, Texas Family Code, in the manner indicated below *(Check as applicable for each right)*

| Mother Exclusively | Father Exclusively | By Joint Agreement Of Both Parents | Independently Exercised By Each Parent | |
|--------------------|--------------------|------------------------------------|--|---|
| | | No | No | The right to designate the primary residence of the child/ren |
| | | No | No | The right to receive and give receipt for periodic payments for the support of the child/ren and to hold or disburse these funds for the benefit of the child/ren |
| | | | | The right to consent to medical, dental and surgical treatment of the child/ren involving invasive procedures |
| | | | | The right to consent to psychiatric and psychological treatment of the child/ren |
| | | | | The right to represent the child/ren in legal action and to make other decisions of substantial legal significance concerning the child/ren |
| | | | | The right to consent to marriage and to enlistment in the armed forces of the United States |
| | | | | The right to make decisions concerning the child/ren's education |
| | | | | The right to the services and earnings of the child/ren |
| | | | | Except when a guardian of the child/ren's estate or a guardian or attorney ad litem has been appointed for the child/ren, the right to act as an agent of the child/ren in relation to the child/ren's estate if the child/ren's action is required by a state, the United States or a foreign government |
| | | | | The duty to manage the estates of the child/ren to the extent the estates have been created by community property or the joint property of the parents |

CHILD SUPPORT

_____ (Specify Mother or Father) shall pay child support to _____
(Specify Mother or Father)

(Check one below)

- Monthly \$ _____ each month beginning _____
and continuing on the _____ day of each month thereafter
- Semi-monthly \$ _____ two times each month beginning _____
and continuing on the _____ and _____ days of each month thereafter
- Every two weeks \$ _____ every two weeks beginning _____
and continuing on the alternate _____ thereafter
- Weekly \$ _____ every week beginning _____
and continuing each _____ thereafter

All child support payments shall be paid through the Texas Child Support State Disbursement Unit, P. O. Box 659791, San Antonio, Texas 78265-9791.

The party entitled to receive the support shall establish an account at the Travis County Domestic Relations Office, P. O. Box 1495, Austin, Texas 78767 (Location: 1010 Lavaca St, Austin, Texas).

Income withholding order
(check one)

- will be signed by court and served on employer
- will be signed by court but will not be served on employer unless child support payments are delinquent

To be reduced as follows: (Complete as applicable)

- \$ _____ when any one child is no longer eligible to receive child support
- \$ _____ when any two children are no longer eligible to receive child support
- \$ _____ when any three children are no longer eligible to receive child support
- \$ _____ when any four children are no longer eligible to receive child support
- \$ _____ when any five children are no longer eligible to receive child support
- \$ _____ when any six children are no longer eligible to receive child support

(Attach another page for additional reductions)

HEALTH INSURANCE AND EXPENSES

_____ (Specify Mother or Father) shall provide health insurance for the child/ren
(Check one)

- by carrying health insurance on the child/ren through his/her own employment; if health insurance is not available through his/her own employment, then by reimbursing the other party for health insurance available through the other party's employment; if health insurance is not available through either party's employment, then by obtaining private health insurance; if he/she fails to meet this obligation, then the other party may obtain health insurance for the child/ren and shall have the right to be reimbursed by the party responsible for providing medical insurance
OR
- by reimbursing the other party for carrying health insurance on the child/ren

Uninsured medical expenses to be paid as follows:

If the health-care expenses are incurred by using a HMO or PPO plan, or in an emergency, or with the written agreement of the other party,
_____ % by the party providing the insurance
_____ % by the other party

Except in an emergency or if the other party agreed in writing, if a party incurs health-care expenses for the child by using the services of health-care providers not employed by the HMO or approved by the PPO:
_____ % by the party incurring the services
_____ % by the other party

If a party provides health insurance for the child through an HMO or a PPO that does not provide coverage for the child where the child resides or have network providers in the area where the child resides:
_____ % by the party providing the insurance
_____ % by the other party

If the child is enrolled in a health-care plan that is not an HMO or a PPO:
_____ % by the party providing the insurance
_____ % by the other party

PARENTING TIME WITH CHILDREN (INCORPORATING STANDARD POSSESSION ORDER IN SECTIONS 153.311 – 153.317, TEXAS FAMILY CODE, AND ALLOWING FOR VARIATIONS)

“Party A” is the parent who has the exclusive right to designate the child/ren’s residence, in this case the
(*Check one*)
 Mother
 Father.

“Party B” is the other parent.

“School” means the primary or secondary school in which the child is enrolled, or, if the child is not enrolled in a primary or secondary school, the public school district in which the child primarily resides.

Party A is ordered to surrender the children to Party B at the beginning of each period of Party B's possession. Party B shall pick up the child/ren (*Check one*)
 at the residence of Party A
 at the residence of Party B
 at the following location: _____

If a period of possession begins at the time the child/ren's school is regularly dismissed, Party B shall pick up the child/ren (*Check one*)
 at the child/ren’s school
 at the location where the school bus takes the child/ren
 at the following after-school care location: _____

Or, if school is not in session on that day, at the following location:

at the following time: _____

If the child/ren will not be in school on that day, Party A shall notify Party B in advance.

Party B is ordered to return the children to Party A at the end of each period of Party B's possession. Party B shall return the child/ren to Party A (*Check one*)
 at the residence of Party A
 at the residence of Party B

- at the following location: _____
If Party A and Party B live in the same county at the time a decree is entered and party B remains in the county but Party A moves out of the county, then beginning on the date Party A moves, Party B shall return the child/ren
- at the residence of Party A
 - at the residence of Party B
 - at the following location _____

If a period of possession ends at the time the child/ren's school resumes, Party B shall deliver the child/ren (*Check one*)

- to school in time for the beginning of the child/ren's school day
- to Party A's residence at following time:

Or, if school is not in session on that day, to the following location:

at the following time: _____

If the child/ren will not be delivered to school on that day, Party B shall inform Party A that the child/ren will not be delivered to school and the reason.

If a child brings personal effects from one party's residence to another, the party where the personal effects were brought (*Check one*)

- is ordered to ensure that the child returns to the other party's residence with the personal effects that were brought,
- need not ensure that the child returns to the other party's residence with the personal effects that were brought.

Either party may designate any competent adult to pick up and return the child/ren, as applicable. A party or a designated competent adult shall be present when the child/ren is/are picked up or returned. A party

- may
- may not

designate (*specify person*) _____ to pick up or return the child/ren.

A party shall give notice to the other party in possession of the child/ren on each occasion that the party will be unable to exercise the right of possession for any specified period. Repeated failure of a party to give notice of an inability to exercise possessory rights may be considered as a factor in a modification of those possessory rights.

Written notice shall be deemed to have been timely made if received or postmarked before or at the time that notice is due.

PARTY A AND PARTY B SHALL HAVE POSSESSION OF THE CHILD/REN AT ANY AND ALL TIMES MUTUALLY AGREED TO IN ADVANCE BY THE PARTIES AND, IN THE ABSENCE OF MUTUAL AGREEMENT, SHALL HAVE POSSESSION OF THE CHILD/REN AS SET OUT HEREIN.

PARTY A SHALL HAVE THE RIGHT OF POSSESSION OF THE CHILD AT ALL OTHER TIMES NOT SPECIFICALLY DESIGNATED FOR PARTY B.

**IF PARTY A AND PARTY B RESIDE 100 MILES OR LESS APART,
POSSESSION SHALL BE AS FOLLOWS:**

- WEEKENDS** Party B shall have the right to possession of the child/ren on weekends throughout the year beginning at
 - 6 p.m.

- the time the child/ren's school is regularly dismissed
 - _____ p.m.
- on the first, third, and fifth Fridays of each month and ending at
 - 6 p.m. on the following Sunday
 - _____ p.m. on the following Sunday
 - the time that school resumes on the following Monday

- WEEKEND EXTENDED BY HOLIDAY** If a weekend period of possession of Party B coincides with a school holiday during the regular school term or with a federal, state, or local holiday during the summer months when school is not in session, the weekend period of possession shall begin, if applicable, at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.
- on the Thursday immediately preceding the Friday holiday or school holiday and shall end, if applicable, at
 - 6 p.m. on the Monday holiday or school holiday
 - _____ p.m. on the Monday holiday or school holiday
 - the time the child/ren's school resumes after the Monday holiday or school holiday.

- THURSDAYS** Party B shall have the right to possession of the child/ren on Thursdays of each week during the regular school term beginning at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.
- and ending at
 - 8 p.m. on Thursday
 - _____ p.m. on Thursday
 - the time the child/ren's school resumes on the following Friday

The following provisions govern possession of the child/ren for vacations and specific holidays, and supercede conflicting weekend and Thursday or regular weekday periods of possession.

- FIRST PART OF CHRISTMAS HOLIDAY AND CHRISTMAS DAY** Party B shall have possession of the child/ren in even-numbered years beginning at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.
- on the day the child/ren is/are dismissed from school for the Christmas school vacation and ending at noon on December **28**, and Party A shall have possession for the same period in odd-numbered years.

- SECOND PART OF CHRISTMAS HOLIDAY** Party B shall have possession of the child/ren in odd-numbered years beginning at noon on December **28** and ending at
 - 6 p.m. on the day before school resumes
 - _____ p.m. on the day before school resumes
 - the time that school resumes
- after that vacation, and Party A shall have possession for the same period in even-numbered years.

- THANKSGIVING** Party B shall have possession of the child/ren in odd-numbered years beginning at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.
- on the day the child/ren is/are dismissed from school before Thanksgiving and ending at
 - 6 p.m. on the following Sunday
 - _____ p.m. on the following Sunday
 - the time that school resumes
- after that vacation, and Party A shall have possession for the same period in even-numbered years.

SPRING VACATION Party B shall have possession of the child/ren in even-numbered years beginning at

- 6 p.m.
- the time the child/ren's school is regularly dismissed
- _____ p.m.

on the day the child/ren is/are dismissed from school for the school's spring vacation and ending at

- 6 p.m. on the day before school resumes
- _____ p.m. on the day before school resumes
- the time that school resumes

after that vacation, and Party A shall have possession for the same period in odd-numbered years.

SUMMER FOR PARTY B If Party B gives Party A written notice by April 1 of each year specifying an extended period or periods of summer possession, Party B shall have possession of the child/ren for 30 days beginning not earlier than the day after the child/ren's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each. If Party B does not give Party A written notice by April 1 of each year specifying an extended period or periods of summer possession, Party B shall have possession of the child/ren for 30 consecutive days beginning at 6 p.m. on July 1 and ending at 6 p.m. on July 31.

PARTY A'S VISIT DURING PARTY B'S SUMMER If Party A gives Party B written notice by April 15 of each year, Party A shall have possession of the child/ren on one weekend beginning Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one extended period of summer possession by Party B; provided, however, that Party A picks up the child/ren from Party B and returns the child/ren to that same place.

SUMMER FOR PARTY A If Party A gives Party B written notice by April 15 of each year or gives Party B 14 days' written notice on or after April 16 of each year, Party A may designate one weekend beginning not earlier than the day after the child/ren's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, during which an otherwise scheduled weekend period of possession by Party B will not take place; provided that the weekend designated does not interfere with Party B's period or periods of extended summer possession or with Father's Day if Party B is the father of the child/ren.

CHILD/REN'S BIRTHDAY The party not otherwise entitled under this order to present possession of a child on the child's birthday shall have possession of the child

- (*check if desired*) and the child's minor siblings

beginning

- at 6 p.m. on that day
- at _____ .m. on that day

and ending at

- 8 p.m. on that day,
- at _____ .m. on that day

provided that that party picks up the child/ren from the residence of the party entitled to possession and returns the child/ren to that same place.

FATHER'S DAY The father shall have possession of the child/ren beginning at

- 6 p.m. on the Friday preceding Father's Day
- (*time*) _____ .m. and (*day*) _____

and ending at

- 6 p.m. on Father's Day
- (*time*) _____ .m. and (*day*) _____

provided that, if he is not otherwise entitled under this order to present possession of the child/ren, he picks up the child/ren from the residence of the party entitled to possession and returns the child/ren to that same place.

MOTHER'S DAY The mother shall have possession of the child/ren beginning at

FORM PARENTING PLAN Revised 1-2008

6 p.m. on the Friday preceding Mother's Day
 (time) _____ .m. and (day) _____
and ending at

6 p.m. on Mother's Day
 (time) _____ .m. and (day) _____

provided that, if she is not otherwise entitled under this order to present possession of the child/ren, she picks up the child/ren from the residence of the party entitled to possession and returns the child/ren to that same place.

**IF PARTY A AND PARTY B RESIDE OVER 100 MILES APART,
POSSESSION SHALL BE AS FOLLOWS:**

WEEKENDS Party B shall have the right to possession of the child/ren on weekends throughout the year beginning at

6 p.m.
 the time the child/ren's school is regularly dismissed
 _____ p.m.

on the first, third, and fifth Fridays of each month and ending at

6 p.m. on the following Sunday
 _____ p.m. on the following Sunday
 the time that school resumes on the following Monday

Party B may elect this alternative option: If Party B gives written notice to Party A within 90 days after the conservators begin to reside more than 100 miles apart, Party B shall have possession of the child/ren for one weekend per month of Party B's choice, beginning at 6 p.m. or the time the child/ren's school is regularly dismissed on the day school recesses for the weekend and ending at 6 p.m. on the day before school resumes or at the time that school resumes after the weekend. Party B must give Party A fourteen days' written or telephonic notice preceding a designated weekend.

WEEKEND EXTENDED BY HOLIDAY If a weekend period of possession of Party B coincides with a school holiday during the regular school term or with a federal, state, or local holiday during the summer months when school is not in session, the weekend period of possession shall begin, if applicable, at

6 p.m.
 the time the child/ren's school is regularly dismissed
 _____ p.m.

on the Thursday immediately preceding the Friday holiday or school holiday and shall end, if applicable, at

6 p.m. on the Monday holiday or school holiday
 _____ p.m. on the Monday holiday or school holiday
 the time the child/ren's school resumes after the Monday holiday or school holiday

The following provisions govern possession of the child/ren for vacations and specific holidays, and supercede conflicting weekend and Thursday or regular weekday periods of possession.

FIRST PART OF CHRISTMAS HOLIDAY AND CHRISTMAS DAY Party B shall have possession of the child/ren in even-numbered years beginning at

6 p.m.
 the time the child/ren's school is regularly dismissed
 _____ p.m.

on the day the child/ren is/are dismissed from school for the Christmas school vacation and ending at noon on December **28**, and Party A shall have possession for the same period in odd-numbered years.

SECOND PART OF CHRISTMAS HOLIDAY Party B shall have possession of the child/ren in odd-numbered years beginning at noon on December **28** and ending at

6 p.m. on the day before school resumes
 _____ p.m. on the day before school resumes
 the time that school resumes

after that vacation, and Party A shall have possession for the same period in even-numbered years.

- THANKSGIVING** Party B shall have possession of the child/ren in odd-numbered years beginning at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.

on the day the child/ren is/are dismissed from school before Thanksgiving and ending at

- 6 p.m. on the following Sunday
- _____ p.m. on the following Sunday
- the time that school resumes

after that vacation, and Party A shall have possession for the same period in even-numbered years.

- SPRING VACATION** Party B shall have possession of the child/ren each year beginning at
 - 6 p.m.
 - the time the child/ren's school is regularly dismissed
 - _____ p.m.

on the day the child/ren is/are dismissed from school for the school's spring vacation and ending at

- 6 p.m. on the day before school resumes
- _____ p.m. on the day before school resumes
- the time that school resumes

after that vacation.

- SUMMER FOR PARTY B** If Party B gives Party A written notice by April 1 of each year specifying an extended period or periods of summer possession, Party B shall have possession of the child/ren for 42 days beginning not earlier than the day after the child/ren's school is dismissed for the summer vacation and ending not later than seven days before school resumes at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each. If Party B does not give Party A written notice by April 1 of each year specifying an extended period or periods of summer possession, Party B shall have possession of the child/ren for 42 consecutive days beginning at 6 p.m. on June 15 and ending at 6 p.m. on July 27.

- PARTY A'S VISIT DURING PARTY B'S SUMMER** If Party A gives Party B written notice by April 15 of each year, Party A shall have possession of the child/ren on one weekend beginning on Friday at 6 p.m. and ending at 6 p.m. on the following Sunday during one extended period of summer possession by Party B; if an extended period of summer possession by Party B exceeds 30 days, Party A may have possession of the child/ren on two nonconsecutive weekends during that time period; further provided that Party A picks up the child/ren from Party B and returns the child/ren to that same place.

- SUMMER FOR PARTY A** If Party A gives Party B written notice by April 15 of each year, Party A may designate 21 days beginning not earlier than the day after the child/ren's school is dismissed for the summer vacation and ending not later than seven days prior to school resuming at the end of the summer vacation, to be exercised in not more than two separate periods of at least seven consecutive days each, during which Party B shall not have possession of the child/ren; provided that the period or periods so designated do not interfere with Party B's period or periods of extended summer possession or with Father's Day if Party B is the father of the child/ren.

- CHILD/REN'S BIRTHDAY** The party not otherwise entitled under this order to present possession of a child on the child's birthday shall have possession of the child
 - (*check if desired*) and the child's minor siblingsbeginning

- at 6 p.m. on that day
- at _____ .m. on that day

and ending at

- 8 p.m. on that day,
- at _____ .m. on that day

provided that that party picks up the child/ren from the residence of the party entitled to possession and returns the child/ren to that same place.

AGREEMENT OF PARTIES
(All parties and attorneys sign below)

We have agreed to the foregoing parenting plan and request the court to make the plan an order of the court.

Signature of Mother

Signature of Mother's Attorney

Signature of Father

Signature of Father's Attorney

Signature of Amicus Attorney

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IDENTITY THEFT WARNING

UPON FILING, THESE DOCUMENTS ARE SCANNED AND RECORDED ELECTRONICALLY. THEY ARE AVAILABLE FOR VIEWING BY THE GENERAL PUBLIC. DO NOT INCLUDE COMPLETE BANK ACCOUNT NUMBERS, CREDIT CARD ACCOUNT NUMBERS, SOCIAL SECURITY NUMBERS, OR OTHER INFORMATION WHICH COULD RESULT IN HARM TO THE PARTIES IF MISAPPROPRIATED.

OPPOSING ATTY. _____

PHONE NO. _____

CAUSE NO. _____

IN THE MATTER OF
THE MARRIAGE OF

§
§
§
§
§
§
§

IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

AND

_____ JUDICIAL DISTRICT

PROPOSED DISPOSITION OF ISSUES

TO THE HONORABLE JUDGE OF SAID COURT:

_____, _____, would ask the Court to make the following disposition of all issues incident to this Divorce and would testify in court under oath that the attached information is true and correct.

Respectfully submitted,

ATTORNEY FOR _____

PHONE NO. _____

| Property | Fair Secured Market Value | Debt Balance | To Wife Net Value | To Husband Net Value |
|-----------------------------|---------------------------------|-----------------|----------------------|-------------------------|
| 26. | \$ | \$ | \$ | \$ |
| 27. | \$ | \$ | \$ | \$ |
| 28. | \$ | \$ | \$ | \$ |
| 29. | \$ | \$ | \$ | \$ |
| 30. | \$ | \$ | \$ | \$ |
| 31. | \$ | \$ | \$ | \$ |
| 32. | \$ | \$ | \$ | \$ |
| 33. | \$ | \$ | \$ | \$ |
| 34. | \$ | \$ | \$ | \$ |
| 35. | \$ | \$ | \$ | \$ |
| 36. | \$ | \$ | \$ | \$ |
| 37. | \$ | \$ | \$ | \$ |
| 38. | \$ | \$ | \$ | \$ |
| 39. | \$ | \$ | \$ | \$ |
| 40. | \$ | \$ | \$ | \$ |
| 41. | \$ | \$ | \$ | \$ |
| 42. | \$ | \$ | \$ | \$ |
| 43. | \$ | \$ | \$ | \$ |
| 44. | \$ | \$ | \$ | \$ |
| 45. | \$ | \$ | \$ | \$ |
| 46. | \$ | \$ | \$ | \$ |
| 47. | \$ | \$ | \$ | \$ |
| 48. | \$ | \$ | \$ | \$ |
| 49. | \$ | \$ | \$ | \$ |
| 50. | \$ | \$ | \$ | \$ |
| 51. | \$ | \$ | \$ | \$ |
| 52. | \$ | \$ | \$ | \$ |
| 53. | \$ | \$ | \$ | \$ |
| 54. | \$ | \$ | \$ | \$ |
| 55. | \$ | \$ | \$ | \$ |
| 56. | \$ | \$ | \$ | \$ |
| 57. | \$ | \$ | \$ | \$ |
| 58. | \$ | \$ | \$ | \$ |
| 59. | \$ | \$ | \$ | \$ |
| 60. | \$ | \$ | \$ | \$ |
| 61. | \$ | \$ | \$ | \$ |
| 62. | \$ | \$ | \$ | \$ |
| 63. | \$ | \$ | \$ | \$ |
| 64. | \$ | \$ | \$ | \$ |
| 65. | \$ | \$ | \$ | \$ |
| TOTAL COMMUNITY PROPERTY | \$ | \$ | \$ | \$ |

LESS UNSECURED COMMUNITY DEBTS:

| <u>CREDITOR</u> | Debt Balance | To Wife Net Value | To Husband Net Value |
|--------------------------|-----------------|----------------------|-------------------------|
| 1. _____ | \$ _____ | \$ _____ | \$ _____ |
| 2. _____ | \$ _____ | \$ _____ | \$ _____ |
| 3. _____ | \$ _____ | \$ _____ | \$ _____ |
| 4. _____ | \$ _____ | \$ _____ | \$ _____ |
| 5. _____ | \$ _____ | \$ _____ | \$ _____ |
| 6. _____ | \$ _____ | \$ _____ | \$ _____ |
| 7. _____ | \$ _____ | \$ _____ | \$ _____ |
| 8. _____ | \$ _____ | \$ _____ | \$ _____ |
| 9. _____ | \$ _____ | \$ _____ | \$ _____ |
| 10. _____ | \$ _____ | \$ _____ | \$ _____ |
| 11. _____ | \$ _____ | \$ _____ | \$ _____ |
| 12. _____ | \$ _____ | \$ _____ | \$ _____ |
| 13. _____ | \$ _____ | \$ _____ | \$ _____ |
| 14. _____ | \$ _____ | \$ _____ | \$ _____ |
| 15. _____ | \$ _____ | \$ _____ | \$ _____ |
| 16. _____ | \$ _____ | \$ _____ | \$ _____ |
| 17. _____ | \$ _____ | \$ _____ | \$ _____ |
| 18. _____ | \$ _____ | \$ _____ | \$ _____ |
| 19. _____ | \$ _____ | \$ _____ | \$ _____ |
| 20. _____ | \$ _____ | \$ _____ | \$ _____ |
| 21. _____ | \$ _____ | \$ _____ | \$ _____ |
| 22. _____ | \$ _____ | \$ _____ | \$ _____ |
| 23. _____ | \$ _____ | \$ _____ | \$ _____ |
| 24. _____ | \$ _____ | \$ _____ | \$ _____ |
| 25. _____ | \$ _____ | \$ _____ | \$ _____ |
| 26. _____ | \$ _____ | \$ _____ | \$ _____ |
| 27. _____ | \$ _____ | \$ _____ | \$ _____ |
| 28. _____ | \$ _____ | \$ _____ | \$ _____ |
| 29. _____ | \$ _____ | \$ _____ | \$ _____ |
| 30. _____ | \$ _____ | \$ _____ | \$ _____ |
| 31. _____ | \$ _____ | \$ _____ | \$ _____ |
| 32. _____ | \$ _____ | \$ _____ | \$ _____ |
| 33. _____ | \$ _____ | \$ _____ | \$ _____ |
| 34. _____ | \$ _____ | \$ _____ | \$ _____ |
| 35. _____ | \$ _____ | \$ _____ | \$ _____ |
| TOTAL COMMUNITY DEBTS | \$ _____ | \$ _____ | \$ _____ |
| NET COMMUNITY | \$ _____ | \$ _____ | \$ _____ |

SEPARATE PROPERTY OF WIFE

SEPARATE PROPERTY OF HUSBAND

CAUSE NO. _____
IN THE MATTER OF § IN THE DISTRICT COURT OF
THE MARRIAGE OF §
§
_____ § _____ COUNTY, TEXAS
AND §
§
_____ § _____ JUDICIAL DISTRICT

PROPOSED DISPOSITION OF OTHER ISSUES

CAUSE NO. _____

IN THE MATTER OF § IN THE DISTRICT COURT OF
 THE MARRIAGE OF §
 §
 _____ § _____ COUNTY, TEXAS
 §
 AND §
 §
 _____ § _____ JUDICIAL DISTRICT

PROPOSED SUPPORT DECISION AND INFORMATION OF _____

(A) GROSS MONEY EARNED PER MONTH:

- (1) Gross wages and salary income \$ _____

- (2) Commissions, tips and bonuses \$ _____

- (3) Self-employment income (net of expenses other than depreciation and tax credits) \$ _____
- (4) Rental income (net of expenses other than depreciation) \$ _____

- (5) All other income actually received (specify):
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

GROSS MONEY EARNED PER MONTH \$ _____ (A)

(B) ACTUAL DEDUCTIONS PER MONTH - Attach most recent pay stub from each employer.

- (1) Income tax withholding \$ _____
- (2) FICA (Social Security) \$ _____
- (3) Health insurance \$ _____
- (4) Union dues \$ _____
- (5) Other (specify) :
 _____ \$ _____
 _____ \$ _____
 _____ \$ _____

TOTAL ACTUAL DEDUCTIONS PER MONTH \$ _____ (B)

(C) NET MONEY ACTUALLY RECEIVED PER MONTH. SUBTRACT (B)

\$ _____ (C) FROM (A).

(D) STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH:

- (1) Income tax withholding for a single person claiming one personal exemption and standard deduction \$ _____
- (2) FICA (Social Security) \$ _____
- (3) Health insurance attributable to child(ren) \$ _____
- (4) Union dues \$ _____

STATUTORY NET RESOURCES DEDUCTIONS ALLOWED PER MONTH

\$ _____ (D)

(E) STATUTORY NET RESOURCES PER MONTH. SUBTRACT (D) FROM

\$ _____ (E)

(A).

(F) TOTAL MONEY NEEDED PER MONTH BY ME AND MINOR CHILD(REN) LIVING WITH ME. For items which are not paid monthly, express the amount as a monthly average.

- (1) Rent or house payment \$ _____
- (2) real property taxes (omit if part of house payment) \$ _____
- (3) Residence maint. (repairs, yard) \$ _____
- (4) Insurance - home or renters (omit if part of house payment) \$ _____
- (5) Utilities - Gas \$ _____
- (6) Utilities - Electric and water \$ _____
- (7) Telephone (incl. avg. long dist.) \$ _____
- (8) Utilities - Garbage service \$ _____
- (9) Groceries and household items \$ _____
- (10) Meals away from home \$ _____
- (11) School lunches \$ _____
- (12) Dental and orthodontia \$ _____
- (13) Medical and prescriptions \$ _____
- (14) Laundry and dry cleaning \$ _____
- (15) Car payment \$ _____
- (16) Gas and vehicle maintenance \$ _____
- (17) Clothing and Shoes \$ _____
- (18) Insurance - Car \$ _____
- (19) Insurance - Life \$ _____
- (20) Insurance - Health (omit if payroll deduction) \$ _____
- (21) Child care \$ _____
- (22) Children's activities \$ _____
- (23) Entertainment \$ _____
- (24) Haircuts \$ _____
- (25) Cable TV and newspaper \$ _____
- (26) Total monthly payments on debts (list below at G and only show total here) \$ _____
- (27) Support or alimony payments to other persons \$ _____
- (28) Other (specify): \$ _____

TOTAL MONEY NEEDED PER MONTH

\$ _____

(G) TOTAL MONTHLY PAYMENTS ON DEBTS:

| Description Of Debt | Balance Now Owed | Date of Final Payment | Amount of Monthly Payment |
|------------------------|---------------------|--------------------------|------------------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

TOTAL MONTHLY PAYMENTS ON DEBTS \$_____ (G)

(H) DIFFERENCE BETWEEN MONEY RECEIVED AND MONEY NEEDED
SUBSTRACT (F) FROM (C) \$_____ (H)

(I) STATUTORY PRESUMED CHILD SUPPORT - MULTIPLY (E) BY THE
GUIDELINE PERCENTAGE _____% \$_____ (I)

I, _____, would testify under oath in open court that the foregoing information is true and correct. I understand that at such a court hearing I may be required to prove these amounts by testimony and by records such as pay vouchers, cancelled checks, receipts, and bills.

SIGNED this _____ day of _____, 20____.

Signature of Party

I intend to ask the court to set support at \$_____ per month.

SIGNED this _____ day of _____, 20____.

Signature of Party or Attorney

7

WAIVER OF DISCLOSURE OF FINANCIAL INFORMATION

This *Waiver of Disclosure of Financial Information* is made by **[future husband]** (“**[future husband’s first name]**”), Future Husband, and **[future wife]** (“**[future wife’s first name]**”), Future Wife. We are not married, and we are executing this waiver in accordance with Section 4.006 of the Texas Family Code prior to signing a *Premarital Agreement*. Our Waiver is as follows:

1. Waiver

[future husband] is a resident of _____ County, Texas. **[future husband]** has been provided with a copy of the proposed *Premarital Agreement*, and he has read it and fully understood it. **[future husband]** was provided a fair and reasonable disclosure of the property and financial obligations of **[future wife]**. **[future husband]** voluntarily and expressly waives any right to disclosure of the property or financial obligations of **[future wife]**. **[future husband]** has adequate knowledge of the property or financial obligations of **[future wife]**. **[future husband]** has been offered an opportunity for further investigation of the property and financial obligations of **[future wife]**. **[future husband]** waives the opportunity for further investigation.

[future wife] is a resident of _____ County, Texas. **[future wife]** has been provided with a copy of the proposed *Premarital Agreement*, and she has read it and fully understood it. **[future wife]** was provided a fair and reasonable disclosure of the property and financial obligations of **[future husband]**. **[future wife]** voluntarily and expressly waives any right to disclosure of the property or financial obligations of **[future husband]**. **[future wife]** has adequate knowledge of the property or financial obligations of **[future husband]**. **[future wife]** has been offered an opportunity for further investigation of the property and financial obligations of **[future husband]**. **[future wife]** waives the opportunity for further investigation.

2. Execution

We sign this *Waiver of Disclosure of Financial Information*, in multiple originals of equal dignity, on the date and at the time indicated in our acknowledgments. This *Waiver of Disclosure of Financial Information* is signed before the execution of the *Premarital Agreement*.

[future wife]

[future husband]

ACKNOWLEDGMENTS

STATE OF TEXAS §
COUNTY OF _____ §

This Waiver of Disclosure of Financial Information was acknowledged before me at _____ o'clock _____m., by [**future husband**] on _____, 2012.

Notary Public, State of Texas

STATE OF TEXAS §
COUNTY OF _____ §

This Waiver of Disclosure of Financial Information was acknowledged before me at _____ o'clock ____m., by [**future wife**] on _____, 2012.

Notary Public, State of Texas