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Respondent Pro Se

**IN THE FIRST JUDICIAL DISTRICT COURT
IN AND FOR CACHE COUNTY, STATE OF UTAH**

In the matter of the child of,

OPPOSING PARTY,

Petitioner,

and,

GOOD CLIENT,

Respondent.

Other interested parties may include **ORS.**

MOTION TO COMPEL MEDIATION

Case Number: 123456789

Judge: Good Judge

Commissioner: Good Commissioner

The above-captioned respondent, Good Client (hereinafter referred to as “**Respondent**”), proceeding in this matter *pro se*, hereby files this “Motion to Compel Mediation” (hereinafter referred to as this “**Motion**”) to move the Court to compel the above-captioned petitioner, Opposing Party (hereinafter referred to as “**Petitioner**”), to attend mediation with Respondent within forty-five days of the entry of an order granting this Motion.

In support and as the substance of this Motion, Respondent states, alleges, and avers as follows:

RELIEF REQUESTED AND GROUNDS THEREOF

1. Respondent seeks an order from the Court requiring the parties, pursuant to Rule 4-510.05 of the Utah Code of Judicial Administration (hereinafter referred to as the “**UCJA**”) and

Utah Code § 78B-6-207, to conduct mediation within forty-five days of the entry of the order granting this Motion, with the parties bearing the cost of mediation equally.

2. Respondent has previously proposed to Petitioner three mediators—including Mediator One, Mediator Two, and Good Mediator—all of whom Petitioner refused adamantly and without stating any reasons for his refusals.

3. Petitioner's unreasonable refusals have significantly delayed mediation in this matter and, as a result, have caused the parties to incur further legal fees due to having an unresolved case.

4. Therefore, under Utah Code § 78B-6-207 and the aforementioned Rule 4-510.05 of the UCJA, this Court may order the parties to attend mediation, which the Court *should* do in consideration of the factors of this case—such as Petitioner's refusal to attend mediation, which forces the Court's hand to compel him to attend mediation with Respondent in good faith—as well as because the parties' need for mediation is evident and ripe in this matter.

STATEMENT OF FACTS

5. The action brought by Petitioner is regarding the parties' minor child and the paternity and permanent custody orders sought with respect to said minor child.

6. On June 13, 2022, Petitioner filed a (i) "Verified Petition for Paternity and Permanent Custody Orders"; a (ii) "Motion for Temporary Orders and Request for Hearing"; and a (iii) "Sworn Declaration in Support of Motion for Temporary Orders."

7. On July 5, 2022, Respondent filed her "Answer and Counterclaim" in response to Petitioner's petition.

8. On July 11, 2022, Petitioner amended his motion for temporary orders.

9. On July 20, 2022, Petitioner submitted his Financial Declaration and Initial Disclosures.

10. On July 21, 2022, Respondent filed an “Amended Answer and Counterclaim,” as well as provided her Initial Disclosures and Financial Declaration.

11. On July 26, 2022, Petitioner filed an “Answer to Respondent’s Amended Counterclaim.”

12. On August 2, 2022, Respondent filed (i) “Respondent’s Verified Response to Petitioner’s Amended Motion for Temporary Orders and Request for Hearing and Sworn Declaration of Opposing Party in Support of Motion for Temporary Order” and a (ii) “Verified Countermotion for Temporary Orders.”

13. On September 8, 2022, Petitioner filed his “Response in Opposition to Lindsey’s Verified Countermotion for Temporary Orders.”

14. On October 18, 2022, the Court entered “Temporary Orders” upon Petitioner’s motion for temporary orders.

15. On November 16, 2022, the Court sent notice that a Pretrial Conference was set in this matter for February 15, 2023.

16. The parties also engaged in some discovery in this matter, which further proves that this matter has progressed to a stage where mediation would be most favorable for each party, considering the legal fees they will each continue to bear if mediation is not held.

17. Therefore, with all the above-referenced processes and procedures that have occurred in this case, this matter is ripe for mediation, and the parties and their case would most likely substantially benefit from mediation.

ARGUMENT

18. In this Motion, Respondent argues that the Court should require the parties to participate in non-binding mediation.

The Court Has the Authority to Order Mediation in this Matter

19. The Court has the authority to order the parties to mediate this matter.

20. Utah Code § 78B-6-207(1) provides that “[a] judge or court commissioner may refer to mediation any case for which the Judicial Council and Supreme Court have established a program or procedures.”

21. Upon the foregoing, it is true that “the Judicial Council and Supreme Court have established a program or procedures” regarding mediation for cases such as the present case, as the present case is a domestic action involving the custody of the parties’ minor child.

22. Rule 4-510.05(1)(C) of the UCJA provides that “[u]pon its own motion or the motion of a party, the court may refer an action or any issues in the action to the ADR program.”

23. Furthermore, the UCJA suggests that all civil actions should proceed through mediation.

24. Each of the outstanding claims in this case is subject to Rule 4-510 of the UCJA.

25. Therefore, as the Utah Code and the UCJA both support the notion that this Court has authority to order the parties herein to attend mediation—and, importantly, because this matter is ripe for mediation and the parties would greatly benefit from attending mediation—the Court should use this power to compel the parties—specifically, Petitioner, as he is the only party who has refused all attempts at mediation on the part of Respondent—to attend mediation within forty-five days of the entry of an order upon this Motion.

26. Since many of the issues in this matter are factual, the parties will benefit from conducting mediation before incurring the cost to complete this case through trial.

Public Policy Supports the Use of Mediation in This Matter

27. This Court should order the parties to mediate this matter in furtherance of the public policy favoring the use of alternative dispute resolution.

28. The Alternative Dispute Resolution Act (hereinafter referred to as the “Act”), passed in 1994, shows the legislature’s commitment to mediation.

29. The legislature stated that,

The purpose of this [Act] is to offer an alternative or supplement to the formal processes associated with a court trial and to promote the efficient and effective operation of the courts of this state by authorizing and encouraging the use of alternative methods of dispute resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the courts of this state.¹

30. The legislature expressly found that alternative dispute resolution, such as mediation, facilitates the provisions of the Utah Constitution by providing for the “just, speedy, and inexpensive determination of civil actions.”²

31. Moreover, the legislature found that ADR procedures, such as mediation, “will reduce the need for judicial resources and the time and expense of the parties.”³

32. The above-referenced public policy considerations that promote ADR are applicable to this matter.

¹ Utah Code § 78B-6-203(1).

² *Id.*

³ *Id.* at (2)(c).

33. Respondent believes and asserts that it is in the best interest of the parties to attempt mediation prior to proceeding with depositions in this matter.

The Parties Should Use Mediator Good Mediator

34. Specifically, the Court should order that the parties hire mediator Good Mediator to mediate their case, as Mr. Mediator's costs are reasonable and non-prohibitive, he is available to mediate during the parties' timeframes, and he is experienced and well-equipped to mediate all the matters and issues involving the parties to this case.

35. Retaining Mr. Mediator's mediation services would promote the best interests of justice and equity with respect to the matters disputed in the present case, such as the matters involving the custody of the parties' minor child.

36. The Court should order the parties to contact Mr. Mediator as soon as possible to schedule mediation—with all due haste and no delay—after the entry of an order granting this Motion.

CONCLUSION

37. Upon the foregoing reasons and arguments established, Respondent respectfully requests that the Court order the parties herein to participate, in good faith, in non-binding mediation with mediator Good Mediator regarding the above-captioned matter, within forty-five days of the entry of the Court's order granting this Motion, with the parties bearing the cost of mediation equally and each party bearing the cost of their own attorney's fees in relation thereto.

DATED January 26, 2023.

/s/ Good Client
Good Client,
Respondent Pro Se

CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2023, I caused to be served, via email to the following address, a true and correct copy of the foregoing upon the following person:

Opposing Party
opposingparty@email.com

/s/ Good Client

SAMPLE
Altioorem Legal Services