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*Respondent Pro Se*

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

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In the matter of the child of,

**OPPOSING PARTY,**

Petitioner,

*and,*

**GOOD CLIENT,**

Respondent.

Other interested parties may include **ORS.**

**ORDER ON MOTION TO COMPEL  
MEDIATION**

Case Number: 123456789

Judge: Good Judge

Commissioner: Good Commissioner

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The COURT, upon the “Motion to Compel Mediation” (hereinafter referred to as the “**Motion**”) of the above-captioned respondent, Good Client (hereinafter referred to as “**Respondent**”), having reviewed said motion as well as the Court’s casefile herewith, and being otherwise fully apprised as to the facts of this matter, hereby provides the following **FINDINGS OF FACT, CONCLUSIONS OF LAW, and ORDER** (hereinafter referred to as this “**Order**”), as follows:

**FINDINGS OF FACT**

1. The Court finds that 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 this Order granting the Motion, with the parties bearing the cost of mediation equally.

2. The Court finds that 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. The Court finds that 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. The Court finds that, 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.

5. The Court finds that 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. The Court finds that 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. The Court finds that on July 5, 2022, Respondent filed her “Answer and Counterclaim” in response to Petitioner’s petition.

8. The Court finds that on July 11, 2022, Petitioner amended his motion for temporary orders.

9. The Court finds that on July 20, 2022, Petitioner submitted his Financial Declaration and Initial Disclosures.

10. The Court finds that on July 21, 2022, Respondent filed an “Amended Answer and Counterclaim,” as well as provided her Initial Disclosures and Financial Declaration.

11. The Court finds that on July 26, 2022, Petitioner filed an “Answer to Respondent’s Amended Counterclaim.”

12. The Court finds that 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. The Court finds that on September 8, 2022, Petitioner filed his “Response in Opposition to Lindsey’s Verified Countermotion for Temporary Orders.”

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

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

16. The Court finds that 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. The Court finds that, 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.

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

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

20. The Court finds that 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. The Court finds that, 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. The Court finds that 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. The Court finds that, furthermore, the UCJA suggests that all civil actions should proceed through mediation.

24. The Court finds that each of the outstanding claims in this case is subject to Rule 4-510 of the UCJA.

25. The Court finds that, 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 was refused all attempts at mediation on the part of Respondent—to attend mediation within forty-five days of the entry of this Order upon the Motion.

26. The Court finds that 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.

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

29. The Court finds that 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.<sup>1</sup>

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<sup>1</sup> Utah Code § 78B-6-203(1).

30. The Court finds that 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.”<sup>2</sup>

31. The Court finds that, 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.”<sup>3</sup>

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

33. The Court finds that 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.

34. The Court finds that, 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. The Court finds that 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 finds that 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 this Order granting the Motion.

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at (2)(c).

37. The Court finds that, 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.

#### **CONCLUSIONS OF LAW**

38. The Court hereby concludes that Petitioner had no reasonable basis to refuse mediation with the three different mediators proposed by Respondent.

39. Therefore, the Court hereby concludes that Respondent's Motion should be fully granted as is written, and that the parties (more specifically, Petitioner) should be compelled via this Order to attend mediation, as they have been unable to agree to mediation or schedule mediation through their own efforts with each other.

40. The Court further concludes that the parties should be ordered to schedule mediation within forty-five days of the entry of this Order.

41. Finally, the Court concludes that the parties should use mediator Good Mediator for the reasons stated herein and in the Motion.

#### **ORDER**

42. WHEREFORE, upon the foregoing established Findings of Fact and Conclusions of Law, as well as the considerations of the Court with regard to this matter, the Court hereby issues the following orders:

- A. The parties are hereby ordered—pursuant to (i) Rule 4-510.05 of the UCJA, (ii) Utah Code § 78B-6-207, and (iii) the existing public policy favoring the use of alternative dispute resolution—to conduct mediation within **forty-five** days of the entry of this Order.
- B. The parties are hereby ordered to bear the cost of mediation equally.
- C. The parties are hereby ordered to hire mediator Good Mediator to mediate their case.
- D. The parties are hereby ordered to contact Good Mediator as soon as possible to schedule mediation—with all due haste and no delay—after the entry of this Order.

**THIS IS THE END OF THE ORDER OF THE COURT**

**If not present below, the signature of the judge or of the commissioner, and the seal of the Court, may instead appear at the top of the first page of this document.**

_____	_____
<i>Name of Judge or Commissioner</i>	<i>Signature of Judge or Commissioner</i>
_____	_____
<i>Date Signed</i>	<i>Seal of the Court</i>

**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](mailto:opposingparty@email.com)

/s/ Good Client