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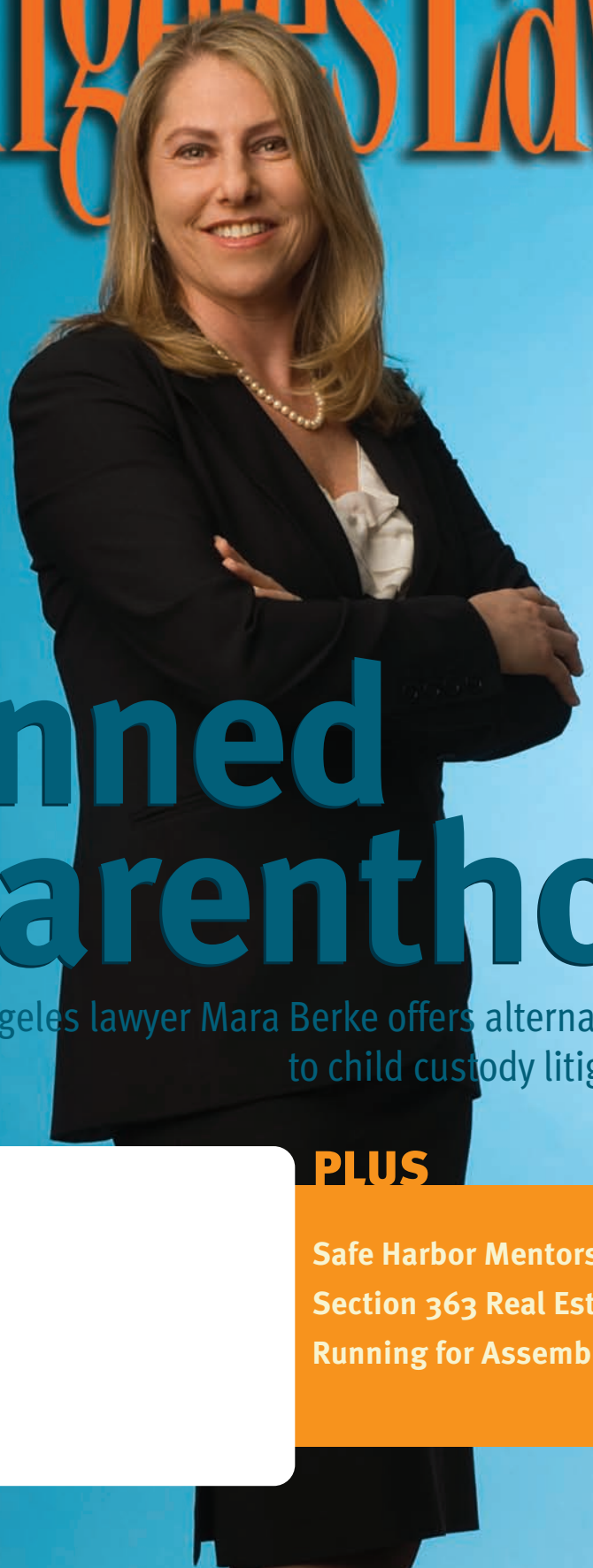

Planned Parenthood

Los Angeles lawyer Mara Berke offers alternatives to child custody litigation **page 16**

PLUS

by Mara Berke

PLANNED PARENTHOOD

The acrimony of continued litigation over child custody arrangements can be alleviated through a parenting plan coordinator

A significant percentage of divorcing parents continue their conflicts over custody well after obtaining a judgment on custody and visitation.[1] While this percentage declines over time, many so-called high-conflict parents remain mired in adversarial litigation for years after divorce.[2] These parents utilize much of the court's resources and entangle their children in a process that makes them more likely to develop emotional and behavioral problems.[3]

In addition to the grave emotional costs, the financial burden on the family can be ruinous, since these ongoing disputes incur extraordinary legal fees as well as the costs of custody evaluations, psychological testing, therapy, supervised visitation, and drug and alcohol monitoring. These conflicts also can result in loss in employment productivity due to emotional stress and the time required to attend and prepare for court hearings.[4]

Custody and visitation can be modified after the judgment as the needs of the children and parents change.[5] Ironically, this ability to modify custody or visitation orders can become a vehicle for additional battles for those parents inclined to prolong the litigation war. As children develop, the parenting plan approved by the court may need to change accordingly. Thus some flexibility is ideal. Indeed, case law allows for the modification of parenting plans. Still, given children's need for stability and the negative impact of parental conflict,[6] parents should not only have a clearly defined parenting plan but also should avoid unnecessary tinkering with their time-sharing arrangements and the myriad other details related to parenting. When changes are necessary, parents may consult with mental health professionals, mediators, and attorneys to work out the details and avoid litigation.

However, if a return to court is necessary, parents can still try to avoid a new, protracted struggle for custody. One avenue to explore involves refocusing a request for a change in custody to a change in visitation. Another method is to engage the assistance of a parenting plan coordinator (formerly a special master).

An initial custody determination, which is based upon the child's best interest, mandates the physical and legal custody of a child and allocates custodial time between the parents.[7] Parents may still be able to change this arrangement through modification pro-

Mara Berke is a family law attorney, social worker, and child advocate. She is an associate at the Law Offices of Marshall S. Zolla, APC. Berke has specialized training by the Family Court Services of the Los Angeles Superior Court in child custody mediation.

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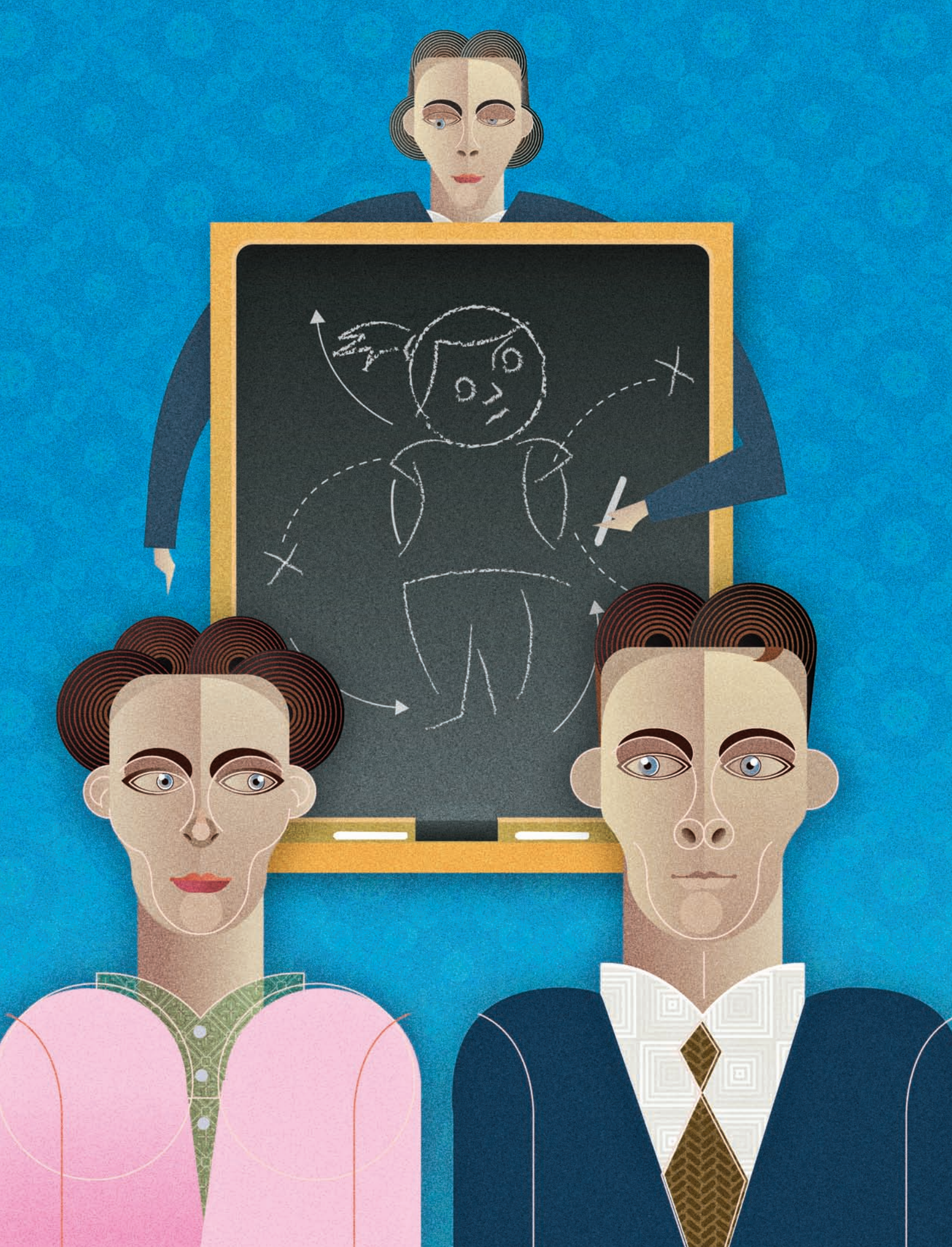


ceedings.[8] The general and oft-cited rule is that once the trial court has entered a final or permanent custody determination, modification of custody is appropriate only if the parent seeking modification demonstrates a "significant change in circumstances" so that a different custody arrangement would be in the child's best interest.[9] However, this change of circumstances rule does not apply when a parent is seeking to change the time-share arrangement only, not physical custody,[10] and does not apply when parents share joint custody.[11]

Careful reading of the developments in case law regarding modification of child custody arrangements reveals opportunities for avoiding the stringent change of circumstances test. In *In re Marriage of Carney*, the California Supreme Court placed extreme importance on existing custodial arrangements and held that parents seeking to change established parenting plans must establish a "persuasive" and "substantial" change of circumstances to warrant a modification of the existing parenting plan.[12] The *Carney* court held that even with an initial custody determination, a child should not be removed from the de facto and long-term custody of one parent and given to the other unless the material facts and circumstances are of "a kind to render it essential or expedient for the welfare of the child that there be a change."[13] The rationale for this rule was the desire for litigation to cease and the undesirability of changing a child's established mode of living.[14]

In *Burchard v. Garay*, the California Supreme Court narrowed the application of the change-of-circumstances standard of proof, holding that it only applied if there is a prior judicial determination of custody.[15] Under *Burchard*, a stipulated parenting plan—one that is not court imposed—did not qualify as a prior judicial determination, and thus the change-of-circumstances standard of proof did not apply.[16] A decade later, in *Montenegro v. Diaz*, the supreme court revisited the impact of stipulated custody plans and held that a stipulated custody order will be deemed a final adjudication if it expressly states the parties' intention for it to be the final determination of custody.[17] However, if the stipulation does not contain a "clear, affirmative indication" of the parties' intent that it is their final custody agreement, the change-of-circumstances standard of proof does not apply,[18] and the party seeking a change of custody need only show that the change is in the best interests of the child.[19]

The *Birnbaum* Standard

Separate from *Carney* and its progeny addressing a change of custody is a line of cases in which the courts changed only the custodial time allocation, not custody itself. This shift in focus brought a significant alteration in the applicable standard of proof. When a parent seeks a change in the parenting schedule but does not seek to change the physical custody arrangement (sole to joint and joint to sole), only the best interests standard applies. Specifically, the parent need not establish a change of circumstances.

The first in this line of cases was *In re Marriage of Birnbaum*,[20] in which a stipulated judgment awarded the parents joint legal and physical custody of their three minor children, with the children living with the mother on weekdays and with the father on weekends and Wednesday afternoons during the school year.[21] In modification proceedings based on the mother's relocation to a different part of the county, the mother sought sole custody of the children and to limit the father's visitation time to alternate weekends. The father responded by seeking sole custody and reasonable visitation for the mother.[22] The trial court changed the custodial time, awarding the greater time to the father, but denied all requests for a change in custody.[23] The court of appeal affirmed, holding that there had been no change in custody because the parents continued to share joint legal and physical custody.[24]

The appellate court reasoned that the change was only in the "co-parenting residential arrangement," resulting in a rearrangement of the children's residential timetable.[25] The court held that "when parents have joint physical custody of their children, an order modifying the co-parenting residential arrangement does not constitute a change in custody."[26] Absent the change of custody, a showing of a change of circumstances was not required.[27]

In *Enrique M. v. Angelina V.*,[28] a father sought additional time with his children after a final judicial custody determination. Relying on *Birnbaum*, the appellate court reversed the trial court because it had applied the incorrect standard of proof: change of circumstances.[29] The father had requested a modification of visitation, not a change in custody.[30] Following *Birnbaum*, the appellate court held that for a change in the custodial or visitation schedule, the applicable standard of proof is the best interests test, not the change of circumstances test.[31] The court also noted that *Birnbaum* is echoed in *In re Marriage of Burgess*, in which the California Supreme Court observed that even if a parent could not establish a change of circumstances to justify a change in custody, the trial court had broad discretion to modify orders concerning contact and visitation.[32]

In 2008, in *In re Marriage of Lucio*,[33] the appellate court followed the line of reasoning in *Birnbaum*[34] and *Enrique M.*[35] regarding the distinction between a change of custody and a change of parenting schedule. The *Lucio* court held that the change of circumstances rule does not apply to a modification request seeking only a change in the parenting or visitation schedule.[36]

The dissolution judgment awarded the mother sole physical custody of the children and granted the father monitored visits on Sundays.[37] The father requested a change in the parenting and visitation schedule to permit him unmonitored visits from Friday night to Sunday night on alternate weeks.[38] The trial court effectively denied the father's request because the father had not shown a change of circumstances. The appellate court reversed, concluding that the best interests test governed because the father's requested changes to the visitation schedule would not result in either an actual or a de facto change in custody.[39] Furthermore, the requested alteration in the visitation schedule would not have disrupted the established patterns of care and emotional bonds between the children and their mother and would not have destabilized the arrangement for sole physical custody.[40]

Thus, the change of circumstances rule does not apply when a parent requests only a change in the parenting or visitation arrangement that is neither a change in custody nor disrupts the established patterns of care.[41] In such cases, the best interests test applies.[42]

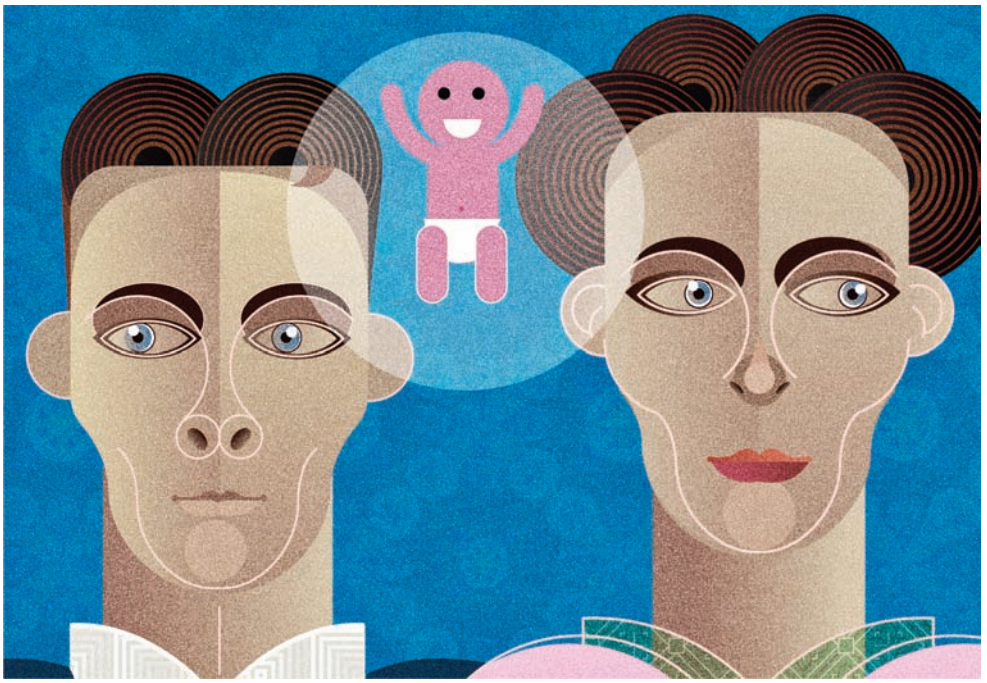
Arguably, most parents have joint physical or joint legal custody orders. Though changes in the parenting plan may occur frequently, as noted in *Burgess* and *Enrique M.*, modifications of time allocation can obviate time-consuming and costly custody litigation, which may itself "be detrimental to the welfare of minor children because of the uncertainty, stress, and even ill will such litigation tends to generate."[43] Thus, parents should carefully consider the focus and intent of their modification requests.

Parenting Plan Coordinators

In addition to more carefully tailoring requested modifications, parents also can reduce conflict by considering a number of alternatives to litigation. These include mediation, which is free through court conciliation services or at a cost with private mediators; collaborative family law;[44] coparent counseling and education courses;[45] and parenting plan coordinators.[46]

The Association of Family and Conciliation Courts (AFCC) Task Force on Parenting Coordination explains that "[p]arenting coordination is a child-focused alternative dispute resolution process in which a mental health or legal professional with mediation training and experience assists high-conflict parents to implement their parenting plan by facilitating the resolution of their disputes in a timely manner, [by]

educating parents about children's needs, and, with prior approval of the parties and/or the court, [by] making decisions within the scope of the court order or appointment contract."[47] A parenting plan coordinator is not the parties' therapist but acts in "an ADR [alternative dispute resolution] activity, a legal-psychological hybrid role." The coordinator establishes "a strong, positive therapeutic and psycho-educational alliance" that focuses on the children's best interests and a reorganized family.[48] Instead of litigating parenting issues and having the courts act as "super-parents,"[49] the parenting plan coordinator—a neutral who specializes in custody and visitation issues—takes the time to get to know the family and makes decisions quickly to resolve conflicts.[50] A wide range of issues can lead to disputes in need of resolution, including psychotherapy, religion, summer camp choice, and even a child's clothes or appearance.



The AFCC provides the Model Standards and Guidelines for the parenting plan coordinator's role, practice, and training as well as the Model Standards for Divorce Mediation.[51] California has no statutory authority for appointing parenting plan coordinators or for their training. Absent an agreement by the parties, the court cannot appoint a coordinator. When the parties agree, California mandates that the appointment be by a written stipulation and order.[52] Contractual arbitration law may be the most applicable legal authority for appointment of a coordinator.[53]

A sample Stipulation and Order Appointing Parenting Plan Coordinator has been developed by the Family Law Section of the Los Angeles County Bar Association.[54] The types of decisions set forth in the stipulation include:

1) The clarification of ambiguous or uncertain provisions in the court-ordered parenting plan.
2) Establishing times, places, and conditions for exchanges of a child under a court-ordered parenting plan.
3) Occasional changes to the visitation or parenting time schedule for holidays, vacations, or special days.
4) Permanent changes, minor or significant, to the parenting schedule.
5) Determining the child's participation in school or extracurricular activities or programs.
6) Information exchanges between households.
7) Travel orders.
8) Childcare decisions.
9) Medical decisions, including services for special needs children.
10) Choice of schools.[55]

Parents must agree on the scope and authority of the appointment of a parenting plan coordinator. The agreement is set forth in the stipulation. The coordinator makes parenting decisions after consulting with the parents (and others, if needed) and gives the parents notice of his or her decisions. The coordinator typically sends a written decision briefly explaining his or her recommendations and findings. This decision will then be formally submitted on a Judicial Council form—a Notice of Decision—and submitted to the court for adoption as an order of the court. A party may contest the Notice of Decision within 30 days after the court's entry of the Notice of Decision.[56] A party begins this process by filing an order to show cause.[57]

In addition to setting forth the issues that will be within the scope of the coordinator's decision-making authority, the stipulation designates each issue as a Level 1, 2, or 3 decision.[58] Level 1 decisions involve short-term practical matters and are typically time-sensitive, such as holiday schedule changes or the interpretation or clarification of the parenting plan.[59] Level 1 decisions are reviewed by the court only if a parent files for a hearing within 30 days after entry of the Notice of Decision.[60] If a parent does not timely file for review, the right to challenge the coordinator's decision is waived.[61] If contested, the court may reverse or modify a Level 1 decision if the challenging parent shows that the decision exceeds the authority of the coordinator, exceeds the jurisdiction of the court, or is erroneous as a matter of law, or proves by a preponderance of the evidence that the decision is not in the best interests of the child.[62]

Level 2 decisions typically have a long-term effect but do not make major changes to the roles of parents as decision makers or significantly change the percentage of time that the child is in each parent's home.[63] Parents may designate Level 2 decisions as Level 1 decisions.[64] The same review process for Level 1 decisions applies to Level 2 decisions.[65]

Level 3 decisions involve major changes to the parenting plan. Only certain types of decisions are customarily designated as Level 3 decisions. These are decisions based upon a stipulation of the parents, or a court order made at a trial, or after a hearing on an order to show cause, or a motion. If the parties do not stipulate to a resolution, the parenting plan coordinator may make recommendations concerning Level 3 issues, but the coordinator cannot make any decisions or file and serve a Notice of Decision for Level 3 issues.[66] The coordinator may make written recommendations to the court about a Level 3 decision after giving the parents a reasonable opportunity to state their views.[67] As set forth in the Association's stipulation, a court must admit the findings and recommendations of the coordinator into evidence as an expert opinion, subject to cross-examination. Hearsay objections are waived in the stipulation.[68]

In determining what level of decisions to submit to the parenting plan coordinator in the stipulation, the parents should weigh the value of reduced conflict against the cost of continued litigation. To reduce conflict, parents may choose to carefully confine the scope of the coordinator's authority to specific issues, make all of those issues Level 1

decisions, and not contest the decisions even if they disagree. If the coordinator assists the high-conflict parents with disengaging from their ongoing battle, the parents have a "greater likelihood of succeeding and having a positive impact on the children's adjustment in these [reformulated] families."[69] The goal of the parenting plan coordinator is to move parents away from adversarial litigation into a relationship or process that establishes new rules for coparenting, enables parallel parenting,[70] creates more stability for the parenting plan, allows greater exchange of information between the parents,[71] and moves quickly toward decisions in the child's best interests.[72]

Given the decision-making power of the parenting plan coordinator, careful consideration must be given to the choice of the coordinator. A coordinator should have experience in drafting clear orders, resolving problems, and understanding the needs of children.

The effects of sustained conflict on children and on parents are demonstrably negative. A decision by a parenting plan coordinator may be the best outcome for everyone, even if the decision contains some disappointing elements for both parents. Parents in conflict can act in the best interests of their children and themselves by avoiding custody litigation and stipulating to a parenting plan coordinator. Alternatively, parents can narrowly focus their requests for additional time with their children as a modification for visitation and not seek a modification for custody. ■

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[1] JANET R. JOHNSTON & LINDA CAMPBELL, IMPASSES OF DIVORCE: THE DYNAMICS AND RESOLUTION OF FAMILY CONFLICT (1999). *See also* JANET R. JOHNSTON & VIVIENNE ROSEBY, IN THE NAME OF THE CHILD (1997); Matthew J. Sullivan, *Coparenting and the Parenting Coordination Process*, 5.5 J. CHILD CUSTODY 4, 5 (2008).

[2] ELEANOR E. MACCOBY & ROBERT H. MNOOKIN, DIVIDING THE CHILD: SOCIAL AND LEGAL DILEMMAS OF CUSTODY 270 (1992). *See also* Mary A. Duryee, *Expected Controversies of Divorce*, J. CENTER FOR FAM., CHILD. & CTS. 149, 153 (2003).

[3] JOHNSTON & ROSEBY, *supra* note 1, at 22; Lynn R. Greenberg et al., *Effective Intervention with High-Conflict Families*, J. CENTER FOR FAM., CHILD. & CTS. 49, 50 (2003); Melissa J. Schoffer, *Bringing Children to the Mediation Table: Defining Child's Best Interest in Divorce Mediation*, 43(2) FAM. CT. REV. 323, 325-27 (2005).

[4] *Id*.

[5] FAM. CODE §3022.

[6] Burchard v. Garay, 42 Cal. 3d 531, 534 (1986). *See also* Mary A. Duryee, *supra* note 2; Mara Q. Berke, *In re Marriage of Birnbaum: Modifying Child Custody Arrangements by Ignoring the Rules of the Game*, 24 LOY. L. REV. 2 (1991) (discussing case law and psychological literature).

[7] FAM. CODE §§3011, 3020, 3022, 3040.

[8] FAM. CODE §§3022, 3027. *See also* Berke, *supra* note 6.

[9] In re Marriage of Brown & Yana, 37 Cal. 4th 947, 956 (2006); In re Marriage of Lucio, 161 Cal. App. 4th 1068, 1073 (2008).

[10] Enrique M. v. Angelina V., 121 Cal. App. 4th 1371, 1376 (2004); Lucio, 161 Cal. App. 4th at 1073.

[11] *See* FAM. CODE §3087, which directs: "An order for joint custody may be modified or terminated upon the petition of one or both parents or on the court's own motion if it is shown that the best interest of the child requires modification or termination of the order. If either parent opposes the modification or termination order, the court shall state in its decision the reasons for modification or termination of the joint custody order." *See also* In re Marriage of Burgess, 13 Cal. 4th 25, 40, n.12 (1996) (The California Supreme Court "suggested that the change in circumstance rule does not apply when the parents have joint custody."). *Accord* In re Marriage of LaMusga, 32 Cal. 4th 1072, 1089, nn.3, 12 (2004).

[12] In re Marriage of Carney, 24 Cal. 3d 725, 730 (1979) (Appellate court reversed the trial court order changing physical custody from the father, who had had sole de facto custody of his children for five years, to the mother, who had had little contact with the children during those years. The trial court made its order after the father had suffered a severe injury, leaving him paraplegic.).

[13] *Id*.

[14] *Id*. at 730-31.

[15] Burchard v. Garay, 42 Cal. 3d 531, 534 (1986). The court explained that the change of circumstances rule cannot apply:

> It requires that one identify a prior custody decision based upon circumstances then existing which rendered that decision in the best interest of the child. The court can then inquire whether alleged new circumstances represent a significant change from preexisting circumstances, requiring a reevaluation of the child's custody. Here there is no prior determination; no preexisting circumstances to be compared to new circumstances. The trial court has no alternative but to look at all the circumstances bearing upon the best interests of the child.

[16] *Id*. at. 534-35.

[17] Montenegro v. Diaz, 26 Cal. 4th 249, 258 (2001).

[18] *Id*.

[19] *Id*. *See also* FAM. CODE §3111, which defines children's "best interests."

[20] In re Marriage of Birnbaum, 211 Cal. App. 3d 1508, 1510-11 (1989).

[21] *Id*.

[22] *Id*. at 1511, 1513.

[23] *Id*. at 1512.

[24] *Id*. at 1510, 1513.

[25] *Id*. at 1513.

[26] *Id*. at 1510.

[27] *Id*. at 1513.

[28] Enrique M. v. Angelina V., 121 Cal. App. 4th 1371, 1376 (2004).

[29] *Id*. at 1379-80.

[30] *Id*. at 1376, 1382.

[31] *Id*. at 1382.

[32] *Id*. at 1380-81 (citing In re Marriage of Burgess, 13 Cal. 4th 25, 40, n.12 (1996)).

[33] In re Marriage of Lucio, 161 Cal. App. 4th 1068 (2008).

[34] In re Marriage of Birnbaum, 211 Cal. App. 3d 1508, 1510-11 (1989).

[35] Enrique M., 121 Cal. App. 4th at 1376.

[36] Lucio, 161 Cal. App. 4th at 1077.

[37] *Id*. at 1073.

[38] *Id*. at 1073-74, 1080.

[39] *Id*. at 1080.

[40] *Id*.

[41] *Id*. at 1072, 1077, 1080.

[42] *Id*.

[43] In re Marriage of Burgess, 13 Cal. 4th 25, 40 (1996);

Enrique M. v. Angelina A., 121 Cal. App. 4th 1371, 1380-81 (2004).

[44] For more information, *see* Los Angeles Collaborative Law Association: http://www.lacfla.org. *See also* International Academy of Collaborative Professionals, http://www.collaborativepractice.com. A collaborative practice or collaborative divorce (also called no-court divorce) offers divorcing couples the support, protection, and guidance of lawyers working with child and financial specialists, divorce coaches, and other professionals with the expectation that the case will not go to court.

[45] *See* Los Angeles Superior Court, http://www.lasuperiorcourt.org/familylaw/pdfs/referrallistforparents.pdf, for a list of parent education courses.

[46] Sullivan, *supra* note 1.

[47] Foreword, *Guidelines for Parenting Coordination Developed by the AFCC Task Force on Parenting Coordination*, 44(1) FAM. CT. REV. 164, 165 (2006).

[48] Karl Kirkland & Matthew Sullivan, *Parenting Coordination (PC) Practice: A Survey of Experienced Professionals*, 46(4) FAM. CT. REV. 622, 633 (2008).

[49] In re Marriage of Birnbaum, 211 Cal. App. 3d 1508, 1518 (1989).

[50] The parenting plan coordinator is useful for 1) "parents with severe personality disorders who become locked in immutable impasses and are chronically litigating"; 2) parents "where there is less character pathology but great difficulty making important mutual and timely decisions" (regarding, for example, infants and young children who require reworking of the parenting plan due to their "rapidly changing developmental needs" or special needs); and 3) abusive parents or intermittently mentally ill parents who require monitoring. JOHNSTON & ROSEBY, *supra* note 1, at 246.

[51] *See* Association of Family and Conciliation Courts, http:// www.afccnet.org.

[52] *See* CAL. CONST. art VI, §1; In re Marriage of Olson, 14 Cal. App. 4th 1, 3 (1993); Ruisi v. Thieriot, 53 Cal. App. 4th 1197 (1997) (court cannot be divested of its judicial power); FAM. CODE §3160; EVID. CODE §730; CODE CIV. PROC. §§1280 *et seq*. (authority for parties' agreement). *See also* Christine A. Coates, *Parenting Coordination for High-Conflict Families*, 41 FAM. CT. REV. 1, 3 , 6 (2004).

[53] Leslie Ellen Shear, *In Search of Statutory Authority for Parenting Coordinator Orders in California: Using a Grass-roots, Hybrid Model Without an Enabling Statute*, 5 J. CHILD CUSTODY 88, 94-95 (2008); *see* CODE CIV. PROC. §§1280 *et seq*. Shear notes that contractual arbitration has the advantage of offering statutory civil immunity under Code of Civil Procedure §1280.1 and common law civil immunity. Although Evidence Code §703.5 bars testimony by the arbitrator, the Los Angeles County Bar Association's parenting plan coordinator stipulation (*see* text and notes, *infra*) expressly allows the admissibility into evidence of the written findings and recommendations of the coordinator as expert opinion testimony subject to the right of cross-examination. In the stipulation, the parents waive both the right to object to the coordinator's report as being hearsay and the right to object to the hearsay statements contained therein, but they retain the right to attack the weight, sufficiency, and reliability of the evidence. The stipulation preserves the jurisdiction of the family court to review and reverse decisions of the coordinator, which may help insulate the orders adopting the coordinator's decisions against reversal. Shear at 96.

[54] Sample stipulation, Los Angeles County Bar Association, http://www.lacba.org/Files/Main%20Folder/Sections/Family%20law/Files/PPC-1Stipulation2007.pdf. *See also* PHILLIP STAHL, PARENTING AFTER DIVORCE: A GUIDE TO RESOLVING CONFLICTS AND MEETING YOUR CHILDREN'S NEEDS (2003).

[55] Other issues for inclusion in the stipulation for a par-

enting plan coordinator include: special education services, parent education and counseling, psychological testing of parents and children, appointment of minor's counsel, permanent modification of legal custody or decision-making authority, supervised visitation, and parent participation in alcohol or drug testing or monitoring.

[56] *See* Parenting Plan Coordination Stipulation, Special Needs Coordinator, *available at* http://www.specialneedscoordinator.com/docs/PPC1Stipulation2007.pdf; *see also* the Los Angeles County Bar Association's sample stipulation, *supra* note 54. Since parents are stipulating to the appointment of the parenting plan coordinator, the coordinator does not violate the mandate that judicial officers cannot delegate decision-making authority on child custody issues. The Association's stipulation includes language that the court retains jurisdiction to review decisions of the coordinator and all other issues related to the parenting plan.

[57] The Los Angeles County Bar Association's sample stipulation, *supra* note 54. It is important that a parenting plan coordinator submit the Notice of Decision and provide the parents' with a conformed copy of the Notice. In practice, some coordinators do not follow these rules, so parents should carefully choose a coordinator who knows the rules and follows the Association of Family and Conciliation Court guidelines.

[58] The Los Angeles County Bar Association's sample stipulation, *supra* note 54.

[59] *Id.*

[60] *Id.* The stipulation refers to the time in which a parent may contest the Notice of Decision as commencing from the date of "entry of the order." Parties may seek to clarify this as the date when the order is filed by the court. They may even wish to change the time period so that it begins when they are given notice by facsimile, mail, or whatever method the parties specifically and clearly identify.

[61] The Los Angeles County Bar Association's sample stipulation, *supra* note 54.

[62] *Id.*

[63] *Id.*

[64] *Id.* Level 1 decisions involve rapid communication between the coordinator and the parents. In Level 2 decisions, the coordinator must provide the parents with opportunities to state their views and provide information before the coordinator makes a decision.

[65] The Los Angeles County Bar Association's sample stipulation, *supra* note 54.

[66] *Id.* Level 3 decisions include: relocation of the child, travel to countries that are not signatories to the Hague Convention on the Civil Aspects of International Child Abduction, major medical decisions, school selection, counseling, participation in custody evaluations for modification of the custody plan, or permanent modification of legal custody.

[67] *Id.*

[68] *Id.*

[69] Sullivan, *supra* note 1, at 4, 11.

[70] "Parallel parenting" is a term for parenting in which the parents have little or no interaction with each other. In this circumstance, the parenting plan should be written in detail, with no loopholes subject to interpretation. The parents do not engage in flexible scheduling and work independently for their child's best interests. Both households function independently. *Id. See also* STAHL, *supra* note 54.

[71] "E-mail communication can be monitored by the Parenting Plan Coordinator, either by copying the Coordinator on the e-mail or by e-mailing the Coordinator for editing before the e-mail is sent to the other parent, or by using the Coordinator as an intermediary for forwarding the e-mail to the other parent." Sullivan, *supra* note 1, at 4-24, 18.

[72] *Id.* at 12.