

October 25, 2022

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To: Mom & Dad
From: Sarah L. Wright
Date: October 25, 2022
Re: Collaborative Meeting (October 24, 2022)
Cc: Peter Axelrod, Priscilla Misner, Janet Baker, Beth Winters

All statements contained in this memo are part of settlement negotiations and are to be considered strictly confidential and to be used in the parents' Collaborative Divorce case only. This memo is to be used for no other purpose than to establish between the parents that they have participated in negotiations as a basis for language to be included in a Consent Decree of Dissolution or Legal Separation and/or Memorandum of Understanding/Settlement Agreement.

*** The homework/action items are in bold below.***

1. Coaching/Parenting Plan Status. We participated via zoom. Priscilla summarized the status of the parenting plan with a draft of the parenting outline of agreements being reviewed by Dad and Mom. She commended both parents for working together collaboratively on solutions that are in the kids' best interests and putting their needs first while also taking each others' concerns into consideration as well. She explained that this bodes well for working collaboratively now on financial issues. **Both parents will continue review of the draft parenting plan outline and email Priscilla any questions or changes. Both will continue to check in with Priscilla for a few minutes each week.**
2. Assets and Debts. Janet Baker then led a general discussion of the updates on the assets and debts using her updated chart, with notes, agreements, additional action items noted below.
 - a. Marital Home. Dad obtained several CMAs from realtors familiar with _____ neighborhood. There was a range of sale values provided to Dad

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and the average is around \$408,000.00. There was discussion again as to whether they want to agree on a value for the home without or with an appraisal. Dad shared the appraisal in his mind would be the last resort. Mom shared that she may feel more comfortable with an appraisal and there was discussion about the appraiser going into the home, taking actual measurements and the like. Team explained if an appraisal is obtained, then that is the value to use and there would not then be more appraisals. Mom said she may be ok using an agreed value and is thinking the range is \$415,000-\$420,000 and she will consider \$417,000 but she will do some more research and decide whether she wants to opt for an appraisal or make a proposal on the value to use for the home. **Mom will let Sarah know by October 31st which approach she prefers.**

- b. Bank Accounts/Miscellaneous Cash Accounts. Janet indicated there is agreement to split the bank and cash accounts 50/50 as of a later date when expenses are no longer being paid together (likely when support begins).
- c. Vehicles. Dad and Mom agreed that they will each keep the vehicle they have been driving (Dad: 2012 ____ and Mom: 2016 ____). Agreed between meetings that the 2019 ____ will be awarded to Dad's mom and title in her name if not already.
- d. Retirement Accounts.
 - i. Dad 401K. Janet explained again this is a known amount so no issue other than needing to decide whether Dad keeps this or the balance is awarded to Mom as an offset (but taking tax into account) against home value or other assets.
 - ii. Janet talked to ____ at ____ (who is new to the position) regarding the ____ and ____ accounts. There are various issues to consider with respect to both accounts as noted herein.
 1. _____. The value on the worksheet of \$169,470 is as of 12/31/22 and there were 4,752 shares as of 12/31/22.
 - a. The shares are only valued once per year and the value may not come out until April of the following year so the 12/31/22 value may not be known until April 2023. The date of service in this case was 1/22

so we will need to determine what value to use and how many shares to agree on. Janet also determined that was awarded 762 shares in 2021. His total shares as of 12/31/20 were 3,949.39. **Janet will ask how many shares were awarded to Dad in 2020 and 2019 for more context.**

- b. Janet also confirmed Dad is 100% vested. However, he is paid out the shares *based on the then current value* over 5 years from date of termination of employment or retirement which is 20% per year. Janet also confirmed _____ CANNOT create a separate fund for Mom.
- c. **Dad believes if he leaves employment versus retirement, then he has to wait 5 years before the 5 year payout begins. Janet said she did not think that was the case but she and Dad will have a joint call with _____ to confirm this as well as others issues/questions.**
- d. Various other related issues were discussed such as risks to each when (i) you use a current stock value/known number of shares versus (ii) share equal risk on waiting to each be paid down the road. The latter option also has the complication of both of you being financially tied together, thereby requiring additional detailed language in the agreement which would need to address Dad's payments to Mom at the applicable future time and continuing disclosure needed of Dad to document the status of their jointly owned shares as well as employment status.
- e. Janet did share that the shares have increased in value each year from \$4 in 2017 to \$38 in 2021. Dad shared he believes the company did have growth but that these increases may be caused by the payback of the loan from the buy-out of the company and he believes the value would level out in the next few years. There was no information shared, other than general market risk, of the

likelihood of share value significantly decreasing. If the company goes through a bankruptcy, as with any other company, there is risk of what, if anything, the company would pay its employees which would depend on many unknowns and lots of speculation.

2. _____. Janet confirmed there are two awards per year based on i) retention/continuing employment and ii) performance.
 - a. There is a current known amount 2,825 again as of 12/31/21. So we have the same issue as _____ where 12/31/21 is eight months before date of service but the next statement for 12/31/22 won't be provided until potentially April, 2023.
 - b. Janet shared that the retention award has consistently been 375 each year since 2017. The performance award has fluctuated but was 375 in 2017, 2018, and is slated to be 372 for 2021.
 - c. **Janet and Dad will discuss with _____ the issue of when these can be sold. They vest after 5 years so Janet said she was told the 2017 balance can be sold now. Dad believes it is different. This will be confirmed to the team once more information is obtained.**
- iii. Mom Retirement. Janet again reiterated how she calculated the community portion of the account and how there is risk to both if you don't just use a QDRO and each receive your 50/50 as of date of service down the road. If Mom does not continue employment her total award of course changes as well as if there are market issues with _____ investments. The other option is to not obtain a QDRO and award 100% of the ___ to Mom, placing the entire risk of fluctuating value of the _____ account on Mom alone. That would then allow Dad's 50% value of the community interest in it (after taking taxes into account) to be offset against Dad's buy-out of Mom's 50% interest in the marital home value.

- iv. After obtaining all needed information on the retirement accounts, it will be shared with the team. Janet has planned meetings with Dad and Peter for November 3rd and with Mom and Sarah for November 8th to go through the options for asset awards, possibilities for how property equalization payment can be made, as well as support issues (addressed herein).**
- e. Family Support (Child Support/Spousal Support):

 - i. General discussion on hopes/goals/fears relating to finances. Mom shared she hopes to be able to provide for the kids including having a safe place for them to live with her with a home that is close to them when she is not with them, to have a similar lifestyle to what they are used to. She fears not being able to provide for them in these ways. She said she does not need a lot but wants the financial comfort and stability to know she has enough money to buy a birthday present without worrying. She wants to continue teaching which she enjoys. Dad shared that it is important to him to keep things where they are with him in the home and keep things the same financially. He shared he feels he has worked hard and is happy how things are and wants it to stay the same for him and the kids. He fears not being able to keep things the same including not being able to keep the home and living in an unsafe neighborhood and in financial crisis.
 - ii. General discussion on approaches to support and separating out child support and spousal maintenance or looking at them together. Explanation as to factors that are considered for support including lifestyle, incomes for each, necessary living expenses, length of marriage. We also discussed trying to not focus/nit pick budgets other than both of you looking for areas to make changes because the prior income is now being asked to cover two households and not just one so adjustments will need to be made by both. Janet pointed out a couple of areas to consider on finances such as mandatory or voluntary retirement, changes to make on a temporary basis as well as considering whether one or both own homes and that could change down the road which increases expenses.

- iii. General discussion that there is no spousal support formula and the issues to decide are the amount, time that amount is paid, and whether it is modifiable or non-modifiable.
 - iv. Both will ultimately need to find an amount and duration that works for the family as it is not in the kids' best interests to have two significantly different lifestyles or one parent in a financially challenging situation. The team acknowledged the challenges in looking at support for both of you but that it will greatly help to see Janet's spreadsheets of various support amounts and how that impacts each of your financial bottom lines one year or several years or many years from now which can help in being creative. Priscilla shared hearing both of them wanting to be financially secure. The group had general discussion about being creative and open to different scenarios that support the family keeping the kids' interests at the forefront.
- f. Tax Issues.
- i. Janet shared that likely they are able to both claim as head of household and claim a child each which helps financially.
 - ii. 2022 Taxes. Janet shared that because they can both file as HOH the financial benefit of filing jointly for 2022 is not as great. **It will need to be decided later whether you want to be able to file the 2022 tax return jointly or not and if so, that will impact when we file your final agreement because tax status is determined as of the last day of the year.** If you are married on 12/31/22 you can but don't have to file jointly. If you are divorced on 12/31/22 you cannot file jointly. Janet noted that if Dad and Mom agree to sell any SARS in 2022 as part of the settlement, it will be a taxable event to address.
- g. Logistics. Next meetings are separate with Janet before we will schedule another group meeting.