

# You Can Choose Your Friends, But You Can't Choose Your Family: Probate Dispute Resolution

## Season 1, Episode 1

The Neutrals at ADR Services, Inc. are here to help.

## November 9, 2021

# Meet Today's Speakers



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# Agenda

- § 638/639 References & Private Trials in Probate/Trust Matters
- Preparation for Mediation
- Timing of mediation and who should attend the session & the role of the attorney in mediation
- Court's authority to order mediation in probate matters





# Hon. Mary F. Schulte (Ret.)

§ 638/639  
References & Private  
Trials in  
Probate/Trust  
Matters

# References under CCP §638 and §639

CCP §638 governs appointment of referee by agreement of the parties or upon motion of a party to a written contract or lease

...(a)to hear any or all the issues and to report a statement of decision or  
(b)to ascertain a fact necessary to enable the court to determine an action or proceeding

- Court may adopt or reject referee's statement.

- Referee may be selected either through agreement of parties or by the court directly; or after parties submit a list of names to the court for selection
- All references require disclosures! The referee must sign a disclosure statement
- These assignments may include:
  - Motion work (on all discovery or a specific sub-set of motions)
  - Presiding over depositions
  - Trial by Reference
- Referee will either submit Report & Recommendations to the Court for adoption/rejection, or issue final decisions, based on the type of assignment
- All documentation must be filed with the court, either by counsel or by the Neutral's office

CCP §§ 638-645.1 apply to both § 638 and § 639 references.

- § 638. Appointment of referee; agreement of parties
- § 639. Appointment of referee
- § 640. Selection of referees
- § 640.5. Judicial Council report on the practice and cost of referring discovery disputes to outside referees
- § 641. Objections to referee; grounds
- §642 Objections in Writing
- §643. Written report; time; objections
- § 644. Effect of referee or commissioner's decision
- § 645. Exception and review; decision as special verdict
- §645.1. Payment of referee's fees; court order

For a reference under CCP 638, CRC Rules 3.900-3.907 govern

- Rule 3.901: Application for order appointing referee
- Rule 3.902: Order appointing referee
- Rule 3.903: Selection and qualifications of referee
- Rule 3.904: Certification and disclosure by referee
- Rule 3.905: Objections to referee
- Rule 3.906: Motion to withdraw stipulation
- Rule 3.907: Use of court facilities and personnel




§639 (a) When the parties do not consent, the court may, upon the written motion of any party, or of its own motion, appoint a referee.

- When the trial of an issue of fact requires the examination of a long account on either side, a question of fact.
- Often done when there is a complicated and lengthy discovery dispute.
- How is referee appointed?
  - Judge selects someone
  - Parties submit names for the judge to pick from
  - Parties stipulate to someone

Referee reports findings and makes a recommendation

NOTE: CCP§643 deadlines!!



When a referee is appointed in a discovery matter, the order shall indicate whether the referee is being appointed for all discovery purposes in the action.

§ 639(a)

## § 639(b)

(d) All appointments of referees pursuant to this section shall be by written order and shall include the information found on *Judicial Council Forms ADR 109-110*



# CRC Rules for both CCP §638 and 639 References

CRC 3.930

Documents and  
Exhibits

CRC 3.931

Open  
proceedings,  
notice of  
proceedings,  
order for  
hearing site

CRC 3.392

Motions/  
applications  
that must be  
heard by the  
Court



# Handouts

1. *Judicial Council Forms ADR 109-110*
2. *CCP §638 Order Appointing Special Master*
3. *CCP §638 To Appoint Referee to Make a Recommendation Regarding Trust Accounting*

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   		<b>FOR COURT USE ONLY</b>
TELEPHONE NO.: FAX NO. (Optional):  E-MAIL ADDRESS (Optional):  ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS:  MAILING ADDRESS:  CITY AND ZIP CODE:  BRANCH NAME:		
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:		
<input type="checkbox"/> STIPULATION <input type="checkbox"/> MOTION <b>FOR ORDER APPOINTING REFEREE</b>		CASE NUMBER:

1. **Applicant.** The following parties apply for appointment of a referee (*name each applicant*):
2. **Statutory ground for appointment.**
  - a. ☐ **Section 638.** Appointment of the referee is requested under Code of Civil Procedure section 638 because (*check one*):
    - (1) ☐ all parties to the action have agreed to the appointment of a referee under section 638.
    - (2) ☐ the parties entered into a written contract or lease that provides that any controversy arising from it shall be heard by a referee, as follows (*identify agreement and state provision for appointment of referee below or in Attachment 2a*):
  - b. ☐ **Section 639.** Appointment of the referee is requested under Code of Civil Procedure section 639 because (*check and complete (1) or (2)*):
    - (1) ☐ **Discovery reference.** It is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation thereon. (*Code Civ. Proc., § 639(a)(5). State the exceptional circumstances specific to the particular case that require the discovery reference, below or in Attachment 2b(1).*)
    - (2) ☐ **Other reference.** (*Check one or more of the following statutory grounds and state the reason the appointment is requested, below or in Attachment 2b(2).*)
      - (a) ☐ The trial of an issue of fact requires the examination of a long account. (*Code Civ. Proc., § 639(a)(1).*)
      - (b) ☐ The taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect. (*Code Civ. Proc., § 639(a)(2).*)
      - (c) ☐ A question of fact, other than upon the pleadings, has arisen by motion or otherwise. (*Code Civ. Proc., § 639(a)(3).*)
      - (d) ☐ It is necessary for the information of the court in a special proceeding. (*Code Civ. Proc., § 639(a)(4).*)
3. **Referee.** Applicant requests appointment of the following person as referee:
  - a. Name:
  - b. Business address:
  - c. Telephone number:
  - d. ☐ The proposed referee is an active or inactive member of the State Bar. (*A proposed referee who is a former California judicial officer must also be an active or inactive member of the State Bar.*) The proposed referee's State Bar number is:

PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

**4. Subject matter of reference.**

- a. ☐ **Section 638.** Applicant requests that the reference include *(check and complete one)*:
- (1) ☐ all issues in dispute.
- (2) ☐ the following issues *(describe issues to be covered by reference below or in Attachment 4a)*:
- b. ☐ **Section 639.** Applicant requests that the reference include the following issues *(describe issues below or in Attachment 4b)*:

**5. Referee's compensation. (Check and complete one.)**

- a. ☐ The referee will not be privately compensated by the parties.
- b. ☐ The referee will be privately compensated by the parties as follows:
- (1) ☐ The parties have agreed that the referee's fees shall be paid as follows *(state agreement below or in Attachment 5b)*:
- (2) ☐ The parties have not agreed on payment of the referee's fees and request the matter to be resolved by the court under Code of Civil Procedure section 645.1.

**6. Use of court facilities and personnel. (Check and complete one.)**

- a. ☐ Applicant does not request the use of court facilities or court personnel.
- b. ☐ Applicant requests the use of court facilities or court personnel. *(Describe the requested use below or in attachment 6b. If the reference is to be conducted by a privately compensated referee appointed under Code Civ. Proc., § 638, also state why the use of court facilities or court personnel will further the interest of justice. Court facilities and personnel may be used in proceedings before a privately compensated section 638 referee only upon a finding of the presiding judge that the use would further the interest of justice.)*

**7. Hearing location information.** The following person may be contacted to arrange attendance at any proceeding that is open to the public and that is conducted in a private facility *(complete all of the following)*:

- a. Name:
- b. Address:
- c. Telephone:

Date:

_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)
_____	▶ _____
(TYPE OR PRINT NAME)	(SIGNATURE OF APPLICANT OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b>  STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____		
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____		
<b>ORDER APPOINTING REFEREE</b>		CASE NUMBER: _____

**THE COURT FINDS:**

1. ☐ **Section 638 appointment.** A referee is properly appointed under Code of Civil Procedure section 638 because (check one):
  - a. ☐ all parties to the action have agreed to the appointment of a referee under section 638.
  - b. ☐ the parties entered into a written contract or lease that provides that any controversy arising therefrom shall be heard by a referee.
2. ☐ **Section 639 appointment.** A referee is properly appointed under Code of Civil Procedure section 639 because (check and complete a or b):
  - a. ☐ **Discovery reference.** It is necessary for the court to appoint a referee to hear and determine any and all discovery motions and disputes relevant to discovery in the action and to report findings and make a recommendation. (Code Civ. Proc., § 639(a)(5). State the exceptional circumstances specific to the particular case that require the discovery reference, below or in Attachment 2a.)
  - b. ☐ **Other reference.** (Check one or more of the following statutory grounds and state the reason for the appointment below or in Attachment 2b.)
    - (1) ☐ The trial of an issue of fact requires the examination of a long account. (Code Civ. Proc., § 639(a)(1).)
    - (2) ☐ The taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect. (Code Civ. Proc., § 639(a)(2).)
    - (3) ☐ A question of fact, other than on the pleadings, has arisen by motion or otherwise. (Code Civ. Proc., § 639(a)(3).)
    - (4) ☐ It is necessary for the information of the court in a special proceeding. (Code Civ. Proc., § 639(a)(4).)
  - c. **Economic inability to pay.** (Check one.)
    - (1) ☐ No party has established an economic inability to pay a pro rata share of the referee's fees.
    - (2) ☐ One or more parties has established an economic inability to pay a pro rata share of the referee's fees and another party has agreed voluntarily to pay that additional share of the referee's fees. (Complete item 5c(3)(b).)
      - (a) The following party has established an economic inability to pay a pro rata share of the referee's fee (name each): \_\_\_\_\_
      - (b) The following party has agreed voluntarily to pay an additional share of the referee's fee (name each): \_\_\_\_\_
    - (3) ☐ The referee is being appointed at no cost to the parties.



PETITIONER/PLAINTIFF:	CASE NUMBER:
RESPONDENT/DEFENDANT:	

**THE COURT ORDERS:**

3. **Referee.** The following person is appointed as referee. *(The referee's signature indicating consent to serve and certification that he or she is aware of and will comply with the applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court must be included in the proposed order appointing a referee under Code of Civil Procedure section 638 or attached to the order appointing a referee under section 639. See item 9.)*
- Name:
  - Business address:
  - Telephone number:
  - ☐ The referee is a member of the State Bar of California. *(Rules 3.903 and 3.923 of the California Rules of Court provide that a referee who is a former judicial officer must be an active or inactive member of the State Bar.)*
    - ☐ The referee's State Bar number is:
    - ☐ The referee's State Bar membership status is *(check one)*:
      - ☐ Active
      - ☐ Inactive
      - ☐ Other *(specify)*:
4. **Scope and subject matter of reference.** The referee is appointed as follows *(check and complete a or b)*:
- ☐ **Section 638 appointment.** The referee is appointed under Code of Civil Procedure section 638 *(check and complete one)*:
    - ☐ to hear and determine any or all of the issues in the action or proceeding, whether of fact or of law, and to report a statement of decision.
    - ☐ to ascertain the following facts necessary to enable the court to determine the action or proceeding *(state facts to be ascertained by referee below or in Attachment 4a)*:
  - ☐ **Section 639 appointment.**
    - ☐ The following subject matter or matters are included in the reference *(describe the matter or matters the referee is ordered to consider below or in Attachment 4b)*:
    - ☐ **Section 639 discovery reference.**
      - ☐ The discovery referee is appointed for *(check one)*:
        - ☐ The discovery matters identified in (1) above.
        - ☐ All discovery purposes in the action.
      - The referee is authorized to set the date, time, and place for all hearings determined by the referee to be necessary; direct the issuance of subpoenas; preside over hearings; take evidence; and rule on objections, motions, and other requests made during the course of the hearing.
5. **Referee's compensation.** *(Check and complete one of the following.)*
- ☐ **Uncompensated referee.** The referee will not be privately compensated by the parties.
  - ☐ **Compensation of section 638 referee.**
    - ☐ The referee's fees will be paid as agreed by the parties.
    - ☐ The parties have not agreed on the payment of the referee's fees and have requested that the matter be resolved by the court. The court orders that the referee's fees be paid as follows *(state the manner of payment determined by the court to be fair and reasonable below or in Attachment 5b)*:

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	CASE NUMBER:
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5. c. ☐ **Compensation of section 639 referee.**
- (1) ☐ The maximum hourly rate that the referee may charge is *(specify)*:
- (2) ☐ The maximum number of hours for which the referee may charge is *(at the request of any party, state the maximum number of hours for which referee may charge)*:
- (3) ☐ The court orders that the referee's fees be paid or apportioned as follows and reserves jurisdiction to modify this order *(state fair and reasonable apportionment of reference costs below or in Attachment 5c)*:
- (a) ☐ All parties shall pay equal shares of the referee's fees.
- (b) ☐ The parties shall pay equal shares of the referee's fees except that, based on the finding of economic inability set forth in item 2c(2):
- (i) ☐ The following party is not required to pay any portion of the referee's fees *(name of each party excused from paying referee's fees)*:
- (ii) ☐ The following party shall pay the pro rata share of the referee's of the party identified in (i), in addition to his or her own share of the referee's fees *(name of each party who has agreed to pay an additional share of the referee's fees)*:
- (c) ☐ The referee's fees shall be paid as set forth in Attachment 5c.
- (4) ☐ The court will subsequently determine how the referee's fees will be paid, under Code of Civil Procedure section 645.1(b). *(If the issue of economic hardship is raised before the services of a referee appointed under section 639 begin, the court must make a fair and reasonable apportionment of reference costs.)*
6. **Use of court facilities and court personnel.** Court facilities and court personnel *(check and complete one)*:
- a. ☐ may not be used without an order of the presiding judge. *(Court facilities and personnel may be used in proceedings before a privately compensated section 638 referee only upon a finding of the presiding judge that the use would further the interest of justice.)*
- b. ☐ may be used as follows *(describe any authorized use of court facilities or court personnel if referee will not be privately compensated or is appointed under section 639)*:
7. ☐ **The reference will be conducted in a private facility.** The clerk must post notice that the following person may be contacted to arrange attendance at any proceeding that is open to the public *(complete all of the following)*:
- a. Name:
- b. Address:
- c. Telephone:
8. **Referee's report.**
- a. **Time of report.** The referee must report *(check and complete one)*:
- (1) ☐ in writing to the court within 20 days after the hearing, if any, has been concluded and the matter submitted.
- (2) ☐ as follows *(specify other time and manner of reporting directed by the court)*:
- b. **Manner and contents of report.**
- (1) ☐ **Section 638 referees.** The referee must report in the following manner agreed to by the parties and approved by the court *(describe)*:
- (2) ☐ **Section 639 referees.** The referee must file with the court a report that includes a recommendation on the merits of any disputed issue, a statement of the hours spent and the total fees charged by the referee, and the referee's recommended allocation of payment. The referee must serve the report on all parties.
9. **Certification of referee.** The undersigned consents to serve as referee as provided above and certifies that he or she is aware of and will comply with the applicable provisions of canon 6 of the Code of Judicial Ethics and the California Rules of Court.

\_\_\_\_\_  
(TYPE OR PRINT NAME OF PROPOSED REFEREE)

\_\_\_\_\_  
(SIGNATURE OF PROPOSED REFEREE)

Date:

\_\_\_\_\_  
JUDICIAL OFFICER

42

1638808

CCP §638  
"Special Master"

D  
CALIFORNIA  
JUDGE

2021

rk of the Court

DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

In the matter of

CASE NO. [REDACTED]

Assigned For All Purposes To:

Judge: [REDACTED]  
Dept.: [REDACTED]

ORDER APPOINTING HON. MARY F.  
SCHULTE (RET.) AS SPECIAL MASTER

TO THE SPECIAL MASTER, ALL PARTIES, AND THEIR COUNSEL OF  
RECORD:

IT IS HEREBY ORDERED that the Hon. Mary F. Schulte (Ret.) is appointed to act as  
Special Master pursuant to *Code of Civil Procedure* section 638 to assist the parties in all matters  
related to dispute over the trusteeship and ongoing administration of the [REDACTED] and  
[REDACTED] Family Trust, dated June 28, 2012. The hourly rate for the Hon. Mary F.  
Schulte (Ret.) is [REDACTED] per hour. The [REDACTED] Family Trust, dated  
[REDACTED] shall pay all costs related to the appointment of the Special Master, including all  
applicable administrative fees and hourly fees.

IT IS SO ORDERED.

Dated: [REDACTED]

[REDACTED]  
JUDGE OF THE SUPERIOR COURT

CCP §638 Reference

SUPERIOR COURT OF CALIFORNIA

COUNTY OF [REDACTED]

IN THE MATTER OF:

CASE NO. [REDACTED]  
CJC

STIPULATION TO APPOINT JUDGE  
MARY FINGAL SCHULTE AS  
REFEREE TO MAKE A  
RECOMMENDATION REGARDING  
TRUST ACCOUNTING; ORDER  
THEREON

IT IS HEREBY STIPULATED by and between Petitioner [REDACTED] (hereinafter  
"Petitioner"), and Respondent [REDACTED], TRUSTEE OF THE [REDACTED] AND  
[REDACTED] TRUST (hereinafter "Respondent") (collectively the "Parties"), that:

1. The Parties consent to the appointment of a referee to review the accounting provided by  
Respondent Trustee and the objections thereto filed by Petitioner, and make a recommendation to the  
trial court.

1  
STIPULATION TO APPOINT REFEREE; ORDER THEREON



#4

(Probate  
Trial)

Article VI  
Appointment

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

MAR 27 2018

DAVID H. YAMASAKI, Clerk of the Court

By: J. Bustos, Deputy Clerk

Attorneys for PETITIONER N [REDACTED]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY OF ORANGE**  
**CENTRAL JUSTICE CENTER, PROBATE DIVISION**

*In the Matter of:*

[REDACTED] FAMILY TRUST

) CASE NO.: 38 [REDACTED]

) **STIPULATION FOR APPOINTMENT**  
) **OF TEMPORARY JUDGE**  
) **(PRIVATELY COMPENSATED);**  
) **JOINER BY ATTORNEYS;**  
) **APPROVAL AND ORDER OF**  
) **APPOINTMENT; CONSENT; AND**  
) **OATH OF OFFICE (PROCEEDINGS**  
) **PRIOR TO AND THROUGH**  
) **JUDGMENT, INCLUDING POST-**  
) **TRIAL MOTIONS AND**  
) **PROCEEDINGS)**

**STIPULATION FOR APPOINTMENT OF TEMPORARY JUDGE**

I.

**STIPULATION FOR APPOINTMENT**

Petitioner, N. [REDACTED], with the consent and advice of his attorney, RICHARD MASSON, and Respondent, MARY FINGAL SCHULTE, with the consent and advice of his attorneys, ERIC BECKER and SAMANTHA MORRIS, (collectively, the "Parties"), and pursuant to the provisions of Article VI, Section of the California Constitution and California Rule of Court §2.830, et seq., hereby stipulate as follows:

1. The Honorable MARY FINGAL SCHULTE, (RET), shall be appointed as Temporary Judge to hear and determine the above-entitled matter until its final determination. The address of Judge Schulte, is 19000 MacArthur Boulevard, Suite 550, Irvine, California 92612 and her telephone number is (949)863-9800.

2. The said Judge shall be appointed as temporary judge for all purposes to hear and conduct all hearings/proceedings through judgment on all issues relating to this probate proceeding which may be determined within the jurisdiction of the Superior Court on matters prior to trial, the trial of this matter, post-trial motions and proceedings (e.g., proceedings re statement of decision, motion for new trial, motion pursuant to §663 to vacate and enter different judgment). This temporary judge appointment is not inclusive of post-judgment modification requests.

a. The compensation of the Temporary Judge shall be at the rate of \$225 per hour for all time spent on this case, including preparation time, actual hearing and trial time, reasonable time spent on necessary research, and preparation of written rulings and statements of decision. This shall include any and all time expended for all post-trial/judgment proceedings allowed by law and pursued by the parties. The compensation of the Temporary Judge shall be part of the taxable cost incurred herein.

b. Unless waived by the other part, a certified shorthand reporter shall be present at all proceedings before the Temporary Judge and shall make a record thereof. The reporter's fees shall be part of the costs incurred herein.

1 c. Each party shall equally advance the Temporary Judge's fees and the  
2 certified shorthand reporter's costs subject to allocation at time of trial. Jurisdiction is  
3 reserved to the court to allocate such fees and costs between the parties.

4 d. Any sums owing and unpaid to the Temporary Judge by any party to this action  
5 shall be included in and ordered paid in the final judgment and shall be part of taxable costs  
6 incurred herein.

7 e. In the event Temporary Judge becomes unavailable and the parties are unable to  
8 agree on a replacement, the Court shall have the power to appoint a successor temporary judge.

9 3. The parties desire to have the matter determined as soon as practicably possible.  
10 The hearing dates shall be determined by agreement of the parties and the Temporary Judge or,  
11 if the parties cannot agree, then by the Temporary Judge alone. At this time, the parties have  
12 agreed, and the Temporary Judge has reserved, April 10, 11 and 12 for trial on this matter.

13 4. Notice of the resolution of this matter, whether by settlement of hearing, shall be  
14 communicated by or at the direction of Judge Schulte, to the Supervising Judge of the Probate  
15 Law Panel of the Orange County Superior Court within twenty (20) days after conclusion of all  
16 matters which are the subject of this stipulation which are within the jurisdiction of the Superior  
17 Court.

18 5. Petitioner, with the consent and advice of his attorney, and Respondent, with the  
19 consent and advice of his attorneys, hereby stipulate that, in the event of a reversal on appeal of  
20 the decision of Judge Schulte, either party may unilaterally withdraw from this Stipulation for  
21 Judge Schulte's appointment. In the event a party elects to unilaterally withdraw from this  
22 stipulation under those circumstances, they shall give written notice to Judge Schulte, and to  
23 counsel for the other party within ten days of any decision of reversal of any reviewing court  
24 becoming final.

25 It is the intent of the parties and their counsel by this Stipulation in the specific  
26 circumstances to which it applies following reversal on appeal to waive the requirement to make  
27 an application to withdraw from the Stipulation upon a showing of good cause as required by

1 California Rule of Court §2.831(f) and to provide to each party a right analogous to right of a  
2 litigant to file a peremptory challenge following reversal on appeal pursuant to Code of Civil  
3 Procedure §170.6(a)(2).

4 6. All original documents shall be filed with the Clerk of this Court and retained by  
5 the Clerk. The parties shall fully comply with any and all executed confidentiality agreements or  
6 executed non-disclosure agreements in relation to filing documents with the Temporary Judge.  
7 The Temporary Judge shall be furnished conformed copies of all appropriate pleadings and shall  
8 use those copies. The Temporary Judge will take charge of the Exhibits offered in this case and,  
9 upon conclusion of this case, will deliver said Exhibits and an Exhibit List to the clerk of the  
10 Court unless the parties, through their counsel, agree in writing that the Exhibits may be  
11 returned.

12 The foregoing Stipulation is approved as to form and content and counsel of record and  
13 the respective parties to hereby stipulate.

14  
15 Dated: 3/27  
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20 Dated: 3/27  
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II.

**CONSENT**

I, MARY FINGAL SCHULTE, a member of the State Bar of California, hereby consent to act as Temporary Judge until final determination of this matter as set forth in the above Stipulation.

Dated: \_\_\_\_\_

\_\_\_\_\_  
MARY FINGAL SCHULTE

III.

**OATH OF OFFICE**

I, MARY FINGAL SCHULTE, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties upon which I am about to enter.

Dated: \_\_\_\_\_

\_\_\_\_\_  
MARY FINGAL SCHULTE

IV.

**CERTIFICATE BY TEMPORARY JUDGE**

I am aware of, and will comply with applicable provisions of Schulte 6 of the Code Of Judicial Ethics and the California Rules of Court.

Executed on \_\_\_\_\_, 2018 in Orange, California.

\_\_\_\_\_  
MARY FINGAL SCHULTE, Temporary Judge

V.

**APPROVAL AND ORDER DESIGNATING TEMPORARY JUDGE**

Good cause appearing from stipulation of the parties joined by their respective counsel,  
IT IS SO ORDERED.

1. The Stipulation of the parties that the Honorable MARY FINGAL SCHULTE act  
as Temporary Judge in this case be and hereby approved.

2. The Stipulation of the parties allowing a party to withdraw from this Stipulation  
following a reversal on appeal and waiving, in part, the requirements of California Rule of Court  
§2.831(f) in such event is hereby approved.

3. The Honorable MARY FINGAL SCHULTE, having consented to so act, is  
hereby appointed and designated as Temporary Judge to hear and determine this matter until a  
Judgment resolving all issues in this matter becomes final upon her taking and subscribing the  
oath of office.

4. This case is assigned to said Temporary Judge.

Dated: 3/21/18

Jacki C. Brown  
JUDGE OF THE SUPERIOR COURT  
JACKI C. BROWN

Pursuant to California Rules of Court, Rule 2.833(a), as this matter is pending before a  
privately compensated temporary judge, The Hon. Mary Fingal Schulte, Ret., anyone seeking to  
arrange for attendance at any proceeding therein, may contact either of the counsel for the parties  
listed above, as follows:

JUDGE

#5

Electronically Received by Superior Court of California, County of Orange, 09/09/2020 07:22:41 PM.

Case # 89 - DAVID H. YAMASAKI, Clerk of the Court By ocuser ocuser, Deputy Clerk.

2938469

PROBATE CODE  
§ 2405

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

SEP 15 2020

DAVID H. YAMASAKI, Clerk of the Court

BY: C. VADRE, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

In the Matter of the Conservatorship of the  
Person and Estate of

CASE NO. [REDACTED]

AGREEMENT TO REFER DISPUTE  
INVOLVING ESTATE TO TEMPORARY  
JUDGE AND ORDER THEREON

Conservatee.

IT IS HEREBY AGREED by and between [REDACTED] and [REDACTED],  
as co-conservators of the estate of [REDACTED] on the one hand, and [REDACTED] as  
successor trustee of the [REDACTED] Trust (the "Trust") on the other hand, as follows:

1. There is a potential dispute relating to the conservatorship estate between the  
co-conservators of the estate and a third person, [REDACTED], involving the final accounting by [REDACTED]  
as successor trustee and distribution of the balance of the Trust principal to the conservatorship  
estate.

2. The parties agree to refer the dispute to a temporary judge, who shall be Mary  
Fingal Schulte, a retired Judge of the Superior Court who is affiliated with ADR Services, Inc.,  
pursuant to Probate Code §2405(a). The temporary judge shall promptly hear and determine  
the matter by summary procedure, without any pleadings, discovery or trial.

///

MOORE, GUTHRIE & ASSOCIATES  
SANTA ANA, CALIFORNIA

2009940

- 1 -

AGREEMENT TO REFER DISPUTE INVOLVING ESTATE TO TEMPORARY JUDGE

1           3.     The decision of the temporary judge shall be returned to the court and judgment  
2 shall be rendered thereon.  
3  
4  
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10  
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15                                   ORDER

16           1.     Mary Pingal Schulte, a retired Judge of the Superior Court, is appointed as  
17 Temporary Judge pursuant to *Private Code* §2405(a) to hear and determine the dispute  
18 between James [REDACTED] and [REDACTED] as co-conservators of the estate, and [REDACTED]  
19 [REDACTED] as successor trustee of the [REDACTED] Trust.

20           2.     The Temporary Judge shall promptly hear and determine the matter by  
21 summary procedure, without any pleadings, discovery or trial. The decision of the Temporary  
22 Judge shall be returned to the court and judgment shall be rendered thereon.  
23  
24

25 DATED: [REDACTED]

26                                   [REDACTED]  
JUDGE OF THE SUPERIOR COURT  
27                                   [REDACTED]  
28

#6

## PROVISIONS COMMON TO

### Research References

Witkin, California Summary 10th Wills and Probate § 998, Summary Determination Of Disputes.

### § 2406. Submission of dispute to arbitration

If there is a dispute relating to the estate between the guardian or conservator and a third person, the guardian or conservator may enter into an agreement in writing with the third person to submit the dispute to arbitration under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure. The agreement is not effective unless it has first been approved by the court and a copy of the approved agreement is filed with the court. (*Stats.1990, c. 79 (A.B. 759), § 14, operative July 1, 1991.*)

### Law Revision Commission Comments

#### 1990 Enactment

Section 2406 continues Section 2406 of the repealed Probate Code without change. This section makes clear that the guardian or conservator may use arbitration to resolve a dispute. Because of the binding effect of a decision under Section 2406, an agreement to submit a controversy to arbitration under the section requires approval of the court in which the guardianship or conservatorship proceeding is pending. See Section 1418 (defining "court").

Section 2406 has the same scope as the rule applicable to decedents' estates. See Section 9621 and the Comment thereto. For background on the provisions of this part, see the Comment to this part under the part heading. [20 Cal.L.Rev.Comm. Reports 1001 (1990)].

## THE PROCEEDINGS

Witkin, California Summary 10th Wills and Probate § 1011, Wage Claims.

§ 2405. Summary determination of disputes

If there is a dispute relating to the estate between the guardian or conservator and a third person, the guardian or conservator, or the limited conservator to the extent specifically and expressly provided in the order appointing the limited conservator, may do either of the following:

(a) Enter into an agreement in writing with the third person to refer the dispute to a temporary judge designated in the agreement. The agreement shall be filed with the clerk, who shall thereupon, with the approval of the court, enter an order referring the matter to the designated person. The temporary judge shall proceed promptly to hear and determine the matter in controversy by summary procedure, without any pleadings, discovery, or jury trial. The decision of the temporary judge is subject to Section 632 of the Code of Civil Procedure. Judgment shall be entered on the decision and is as valid and effective as if rendered by a judge of the court in an action against the guardian or conservator or the third person commenced by ordinary process.

(b) Enter into an agreement in writing with the third person that a judge of the court, pursuant to the agreement and with the written consent of the judge, both filed with the clerk within the time for bringing an independent action on the matter in dispute, may hear and determine the dispute pursuant to the procedure provided in subdivision (a). (Stats.1990, c. 79 (A.B.759), § 14, operative July 1, 1991.)

Law Revision Commission Comments

1990 Enactment



## Law Revision Commission Comments

### 1990 Enactment

Section 2405 continues Section 2405 of the repealed Probate Code with nonsubstantive revisions. See also Section 2750 (appealable orders). For a comparable provision applicable to decedents' estates, see Section 9620.

Section 2405 is designed to reduce the cost of administration of estates and to ease the court's workload by encouraging settlement of disputes relating to the estate by summary proceedings rather than by litigation. See Review of Selected 1968 Code Legislation 226-27 (Cal.Cont.Ed.Bar 1968). Because of the binding effect of a decision under Section 2405, an agreement to submit a dispute for summary determination under the section requires approval of the court in which the guardianship or conservatorship proceeding is pending. See Section 1418 (defining "court").

Under Section 2405, any member of the State Bar (including a court commissioner or referee) may be appointed as a temporary judge. See also Code Civ.Proc. § 259(5) (power of court commissioner to act as temporary judge). Section 2405 does not require that the temporary judge try the matter in a regular courtroom; the temporary judge may try the matter at his or her office or other place.

Nothing in Section 2405 limits the alternative of reference and trial by a referee under Code of Civil Procedure Sections 638-645.1, and those provisions remain applicable to guardianship and conservatorship proceedings.

For background on the provisions of this part, see the Comment to this part under the part heading. [20 Cal.L.Rev.Comm. Reports 1001 (1990)].

# California Constitution, Article VI: §21

On stipulation of the parties ....the court may order a cause to be tried by a temporary judge who is a member of the State Bar, sworn and empowered to act until final determination of the cause.

This type of proceeding is similar to the CCP 638 general reference, but there are some key differences:

- In an Article VI proceeding, the TJ sits as if she or he is in Superior Court hearing the matter, and signs the judgment. In a CCP 638 proceeding, the judgment is referred back to the judge to sign.

In both type of trials, whether under CCP 638 or Article VI, parties retain right to appeal (unlike arbitration). *City of Shasta Lake v County of Shasta* (1999) 75 Cal. App. 4th 1.



Rules 2.830-2.834 apply to Article VI proceedings

- CRC 2.830: Temporary judges requested by the parties
- CRC 2.831: Stipulation, order, oath, assignment, disclosure, and disqualification
- CRC 2.832: Compensation
- CRC 2.833: Documents and Exhibits
- CRC 2.834: Open proceedings, notices of proceedings, use of court facilities, and order for hearing site

CRC Rules for  
Article VI  
proceedings

### Rule 2.831(f) Motion to withdraw stipulation

A motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge.

**NOTE:** Make sure to include that your stipulation & appointment order has a clause allowing Pro Tem to recuse him or herself, otherwise the judicial canons do not allow recusal unless there are very specific circumstances. (non-payment is *not* one of these circumstances!).

### Rule 2.832. Compensation

- A temporary judge selected by the parties may not be compensated by the parties unless the parties agree in writing on a rate of compensation that they will pay.

# RULE 2.400 (Court records)

CRC 2.400 applies to all cases pending before a temporary judge or referee

~Rule 2.400(b): Filing of original documents (also referenced in Rul 2.833)

*(b) Original documents filed with the clerk; duplicate documents for temporary judge or referee*

(1) All original documents in a case pending before a temporary judge or referee must be filed with the clerk in the same manner as would be required if the case were being heard by a judge, including filing within any time limits specified by law and paying any required fees. The filing party must provide a filed-stamped copy to the temporary judge or referee of each document relevant to the issues before the temporary judge or referee.

(2) If a document must be filed with the court before it is considered by a judge, the temporary judge or referee must not accept or consider any copy of that document unless the document has the clerk's file stamp or is accompanied by a declaration stating that the original document has been submitted to the court for filing.

(3) If a document would ordinarily be filed with the court after it is submitted to a judge or if a party submits an ex parte application, the party that submits the document or application to a temporary judge or referee must file the original with the court no later than the next court day after the document or application was submitted to the temporary judge or referee and must promptly provide a filed-stamped copy of the document or application to the temporary judge or referee.

(4) A party that has submitted a document to a temporary judge or referee must immediately notify the temporary judge or referee if the document is not accepted for filing by the court or if the filing is subsequently canceled.

### Rule 2.831(f) Motion to withdraw stipulation

A motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation, and must be heard by the presiding judge or a judge designated by the presiding judge.

**NOTE:** Make sure to include that your stipulation & appointment order has a clause allowing Pro Tem to recuse him or herself, otherwise the judicial canons do not allow recusal unless there are very specific circumstances. (non-payment is *not* one of these circumstances!).

### Rule 2.832. Compensation

- A temporary judge selected by the parties may not be compensated by the parties unless the parties agree in writing on a rate of compensation that they will pay.



This is a little used Probate Code section which provides as follows:

Where there is a dispute related to the estate between the conservator and a third person, the conservator may enter into an agreement to refer the dispute to a temporary judge, who “shall proceed promptly to hear and determine the matter by summary procedure.”

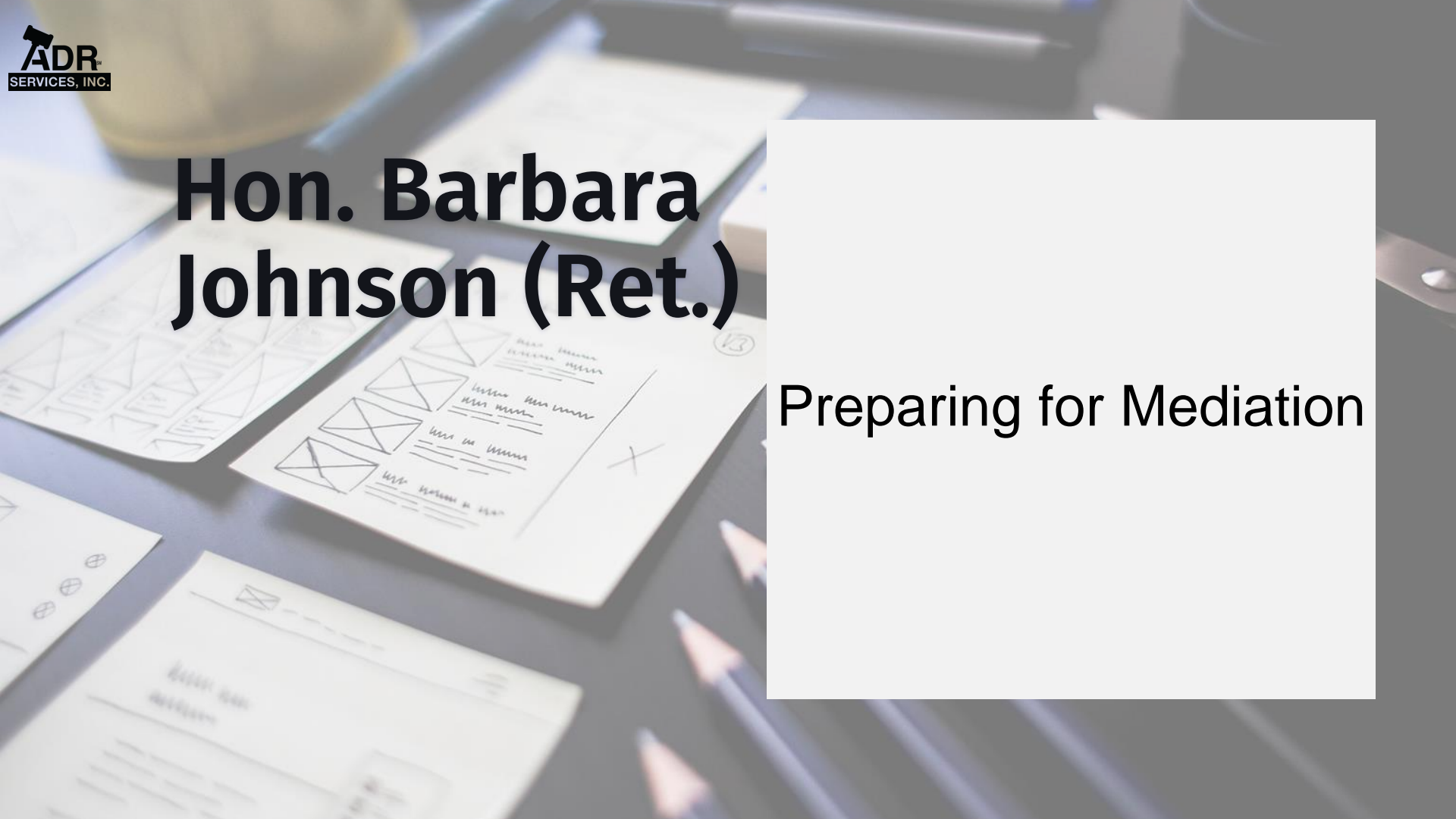
- Decision of TJ is subject to CCP Section 632 (statements of decision).
- Decision of TJ is “as valid and effective as if rendered by a judge of the court” and “judgment shall be entered on the decision”.
- The neutral is acting as a Temporary Judge and thus should sign an oath of office, though the Statute doesn’t mention it.

HANDOUT #5: Agreement to Refer Dispute Involving Estate to Temporary Judge and Order Thereon

## Probate Code §2405 Proceeding

# Probate Code §2406

Another little used section of the Probate Code: Conservator may enter into an agreement in writing with the third person with whom there is a dispute, to submit the dispute to arbitration under CCP 1280 et. seq.



# Hon. Barbara Johnson (Ret.)

Preparing for Mediation



# Decide WHY you want Mediation

- Because of undue burden on finances.
- You are more likely to feel satisfied with mediation if you prepare carefully ahead of time. The issues, parties and mediators are different in each case.
- Confidentiality



Discuss the mediation process and specific issues that will be thrashed out ahead of time with your client.



# Discuss the issues ahead of time with opposing side's lawyer & Prepare a short list of reasonable demands

## Discuss

- Are there objective standards you can agree on that might help resolve dispute?
- Does each side have all the information they need to proceed with mediation or should the mediation be delayed to gather more information?

## Demands

- Emphasis on word REASONABLE. This should include a range of what you think your opening offer will be and what will be a “dealbreaker”.
- Keep in mind that things are likely to change as the mediation goes on but at least you and your client have a ballpark figure.



## Pre-mediation Conference with Mediator

- Most but not all mediators have a short confidential conference call with each party's attorney.
- The question of whether the parties should be separated or face to face may also be discussed.
- It helps if the brief has already been forwarded. Counsel should be prepared to reveal any possible client control issues or lingering ill feelings between the parties.
- The idea is for the attorneys to say what the mediator can do that would be helpful to the process. Also an opportunity to get acquainted.

## Prepare Mediation brief

- Preparation is key and briefs are a part of that preparation. Briefs should be succinct and include disputed facts, undisputed facts, case law and legal arguments, necessary exhibits and declarations, settlement range and prior court orders.
- The brief should outline the position of the party and the reasons for that position. In this way the other party can have a good understanding of the other's viewpoint which in turn leads to productive resolutions of key contentions.
- No need to be too secretive about how strong your case is because you will likely be asked to share your brief with other side.

# Prepare for Settlement Alternatives

- Think about offers that don't necessarily involve finite dollars. For example, payment plan terms, apologies, timetables, property exchanges, attorney fees and/or waivers thereof, control of business, upcoming trial motions, time expended, etc.
- Think creatively. Keep an open mind. Think of ways to make your solutions look attractive to the opposing party. Discuss what your must haves are and interest you would be willing to give up on.

## Consider Business and Family Relationships.

Are the relationships likely to continue? Are some of the problems caused by misunderstandings, hurt feelings, and sense of entitlement because of promises made by third parties?



## The Mindset

Enter the mediation process confident enough in one's own understanding of the situation to be open to other participants' points of view and to options that may arise in the course of the mediation process Don't come to mediation process with predetermined "bottom lines". Identifying absolute boundaries in advance may limit one's ability to profit from the mediation. (US Court of Appeals for the 4th Circuit). Everyone should participate honestly and courteously. (Ibid.)

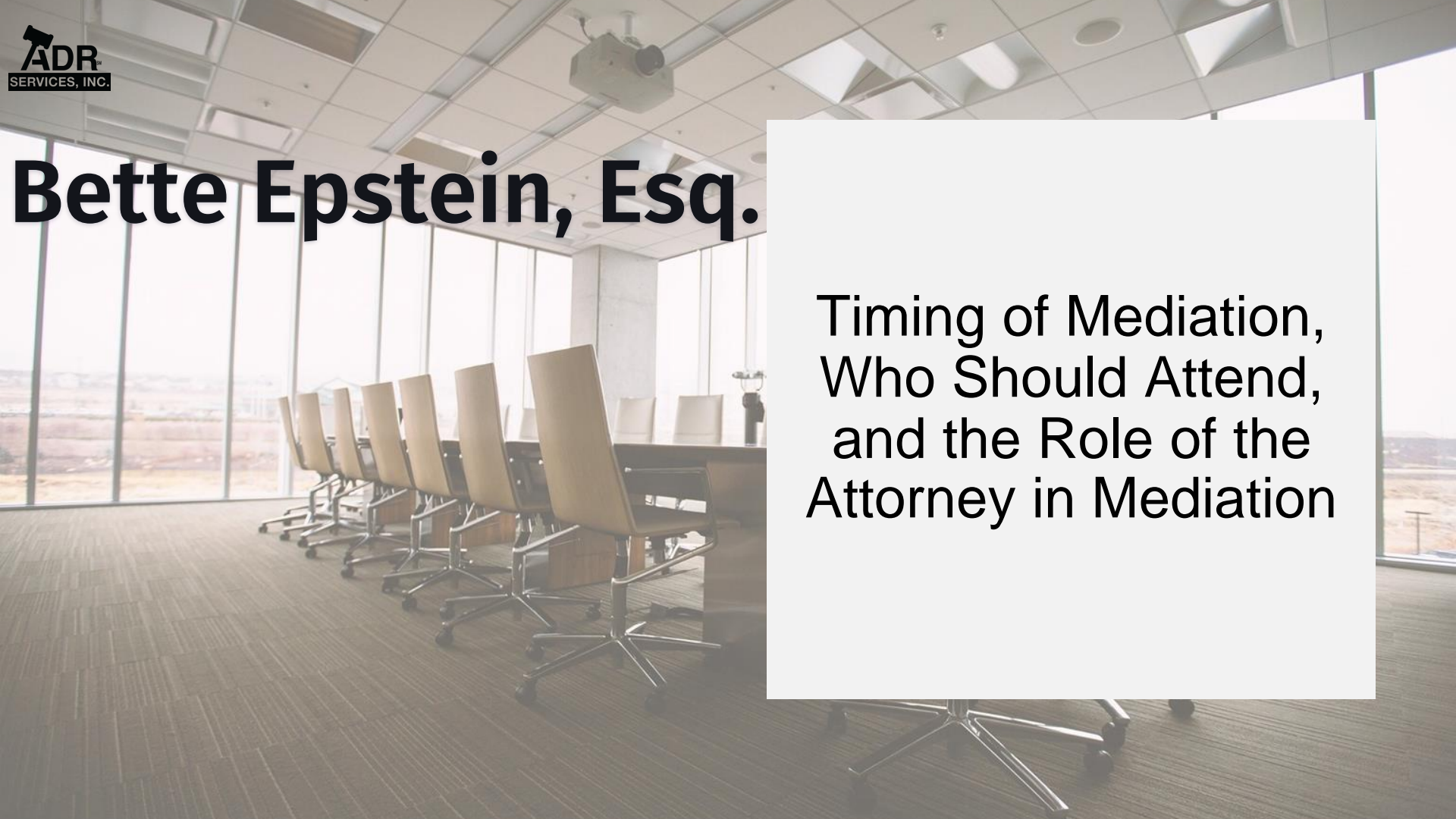
Avoiding hostility allows for better solutions.

# The Costs

Have a fair estimate ready about the costs of litigation if the mediation does not settle.

- Does your client have deep pockets?
- What are the risks of going to trial?
- Have a budget in mind before you enter the mediation process. For example, treble damages, loss of physical and mental well-being, loss of income or inheritance, loss of business relationships.
- Do time constraints affect the negotiations? Will settlement end the dispute?





# Bette Epstein, Esq.

Timing of Mediation,  
Who Should Attend,  
and the Role of the  
Attorney in Mediation

# When to Mediate?

- Prior to initiating legal proceedings? Just prior to the trial date?
- Budget considerations relative to the cost of litigation
- Ability to obtain necessary information
- Readiness to generate and evaluate settlement options
- Relationships of the parties - motivation to avoid further conflict?

# Who Should Attend?

Anyone who will be helpful to the process and assist in a party making decisions

- Family (even if not parties to the dispute)
- Friends
- Accountants
- Real estate professionals
- Medical professionals
- Fiduciaries
- GAL

In Person?



By Phone?



By Zoom?



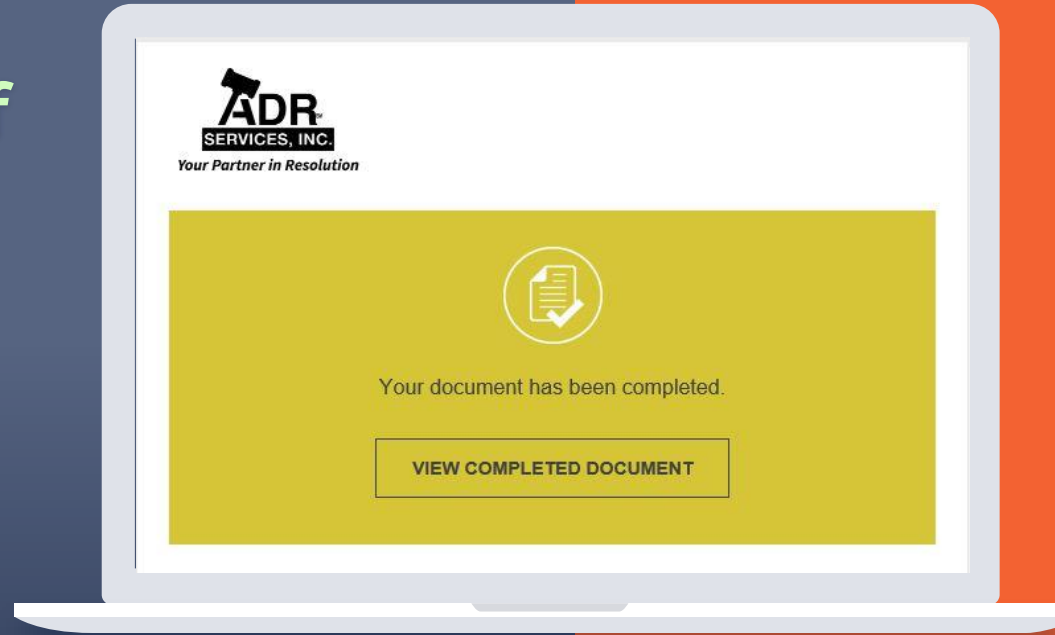
# Role of the Attorney in Mediation

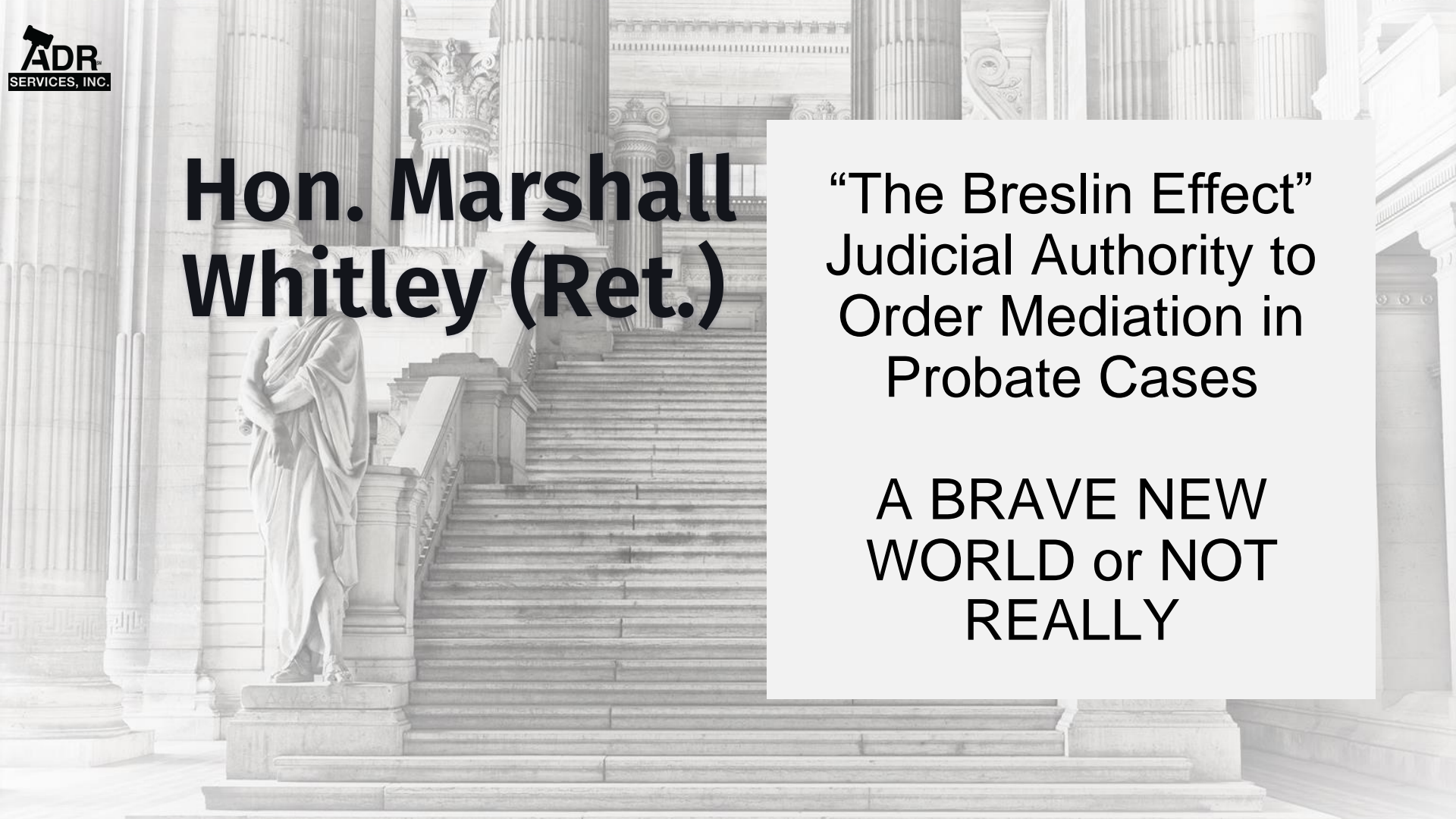
## Mediation Statement

- Educate the mediator
- Tell clients' perspective and story - use separate confidential statement if you don't want to share with the other side
- Avoid inflammatory statements about opposing parties and counsel

Be creative - think of  
yourself as the  
problem-solver

Think positive - draft a  
pro forma settlement  
agreement prior to the  
mediation session





# Hon. Marshall Whitley (Ret.)

“The Breslin Effect”  
Judicial Authority to  
Order Mediation in  
Probate Cases

A BRAVE NEW  
WORLD or NOT  
REALLY

## A BRAVE NEW WORLD or NOT REALLY?

To what extent can we rely on *Breslin v. Breslin* (2021) 62 Cal.App.5<sup>th</sup> 801 regarding the Court's authority to order probate disputes to mediation?  
First, let's get some background...



## Pre-2007

- No Specific Statute or Case Whether Court has Authority to Order Mediation
- Some judges looked to CCP Sections 128 and 1775 as some support, albeit in general terms.
- Interestingly, PC 17206 (relied on in *Breslin*) was neither cited or discussed as providing authorization to order a matter to mediation

June 2006

| No Specific Authorization – TEXCOM to the Rescue!

## TEXCOM Proposes “Enabling Legislation Authorizing the Court to Order Probate Cases into Mediation

Proposal to add new section to Probate Code:

- *“Sec. 1051. The court may order mediation in any proceeding under this code upon motion of a party, by written stipulation of all parties, or upon the court’s own motion. The court’s order may include provisions for payment of mediation costs and fees.”*

# January 2007 | Timing is Everything

In January 2007 the Court of Appeal in *Jeld-Wen v Superior Court* 146 Cal.App.4th 536 (setting aside a trial court's order to mediate a construction defect case) held that forcing a party to attend and pay for private mediation over objection was "antithetical to the entire concept of mediation" being voluntary.

## Jeld Wen versus TEXCOM Proposal | A Perfect Storm of Controversy!

Early 2007 TEXCOM reached out to California Judges Association Probate and Mental Health Committee (“CJA Committee”) to test judicial waters about the proposal.

- CJA Committee met and took a poll. Members were split with strong opinions on both sides. Result: The CJA Committee declined to provide its support or recommendation.

Other strong opposition came from “true believers” that the mediation process would be harmed if forced on parties.

Granting specific statutory authority for Probate Judicial Officers to force parties *to attend and pay for mediation*, in light of the *Jeld Wen* case, was viewed as too controversial (politically and otherwise).



RESULT: the TEXCOM proposal was tabled.

Probate Judicial Officers began “referring” rather than ordering cases to mediation. These referrals were only after obtaining the “consent” of counsel/parties who were present at the hearing.

- *Notably, there were no consequences to a party for failing to appear at the mediation*

Local rules were amended and courts throughout the State developed and strengthened existing court connected mediation panels with education, experience, and pro bono requirements for mediators.

## Then came *Breslin*!

- The successor trustee of a decedent's trust petitioned the probate court to determine who are the beneficiaries. All potential beneficiaries received notice of the petition.
- At the hearing on the petition where only some of the potential beneficiaries appeared the probate court ordered the matter to mediation and none of the potential beneficiaries present objected.



## BRESLIN NOTICE

One of the potential beneficiaries present at the hearing sent notices of the mediation to all potential beneficiaries.

Essential components of the notice:

- Mediation may result in settlement of the interests of all persons regarding the pending issues;
- Settlement may include an agreement for distribution of the assets of decedent and an award of attorney fees;
- Interested persons may participate in the mediation with or without counsel;
- Interested persons who receive notice of date, time, and place of the mediation who do not attend may be bound by the agreement reached at the mediation; and
- A nonparticipant's right to challenge the result may be lost by failure to participate

## Settlement at Mediation and No Shows Out of Luck!

The potential beneficiaries, including the trustee, who showed up at the mediation reached a settlement dividing the entirety of the millions of dollars of estate residue among themselves and excluding the no show potential beneficiaries.

The trustee petitioned the court to approve the settlement and sent notice to all potential beneficiaries

The no show potential beneficiaries filed an objection to the petition to approve

The Court approved the settlement over their objection, and they appealed.

Court of Appeal in a 2-1 decision (after rehearing) affirmed trial court finding that:

- Sec. 17206 gives Probate court power to establish the procedure;
- The court made participating in mediation a prerequisite to an evidentiary hearing; and
- By failing to appear the no-shows waived their right to an evidentiary hearing or to a determination of factual issues.

## Some Confusion and Reason for Caution?

On 1/26/21 the *Breslin* Opinion that was issued and certified for publication was unanimous among the 3 Justices on the Second District's Division Six panel

However, after a rehearing, on 4/5/21 they issued a modified and superseding opinion with one Justice now dissenting that the majority opinion imposes “a terminating sanction” against the no-shows and thereby creates an improper “forfeiture.”

- “The majority’s newfound requirement that a party participate in mediation before it can inherit ignores this command” [that a trust be administered according to the testator’s intent]

## Some Confusion and Reason for Caution?

Further, the majority's 4/5/21 opinion added language that appears intended to limit its application to the specific facts in *Breslin*.

- The 1/26/21/opinion stated without qualification: “a party receiving notice who fails to participate in court-ordered mediation, is bound by the result.”
- That sentence was changed in the 4/5/21 opinion to state: “a party receiving notice **under the circumstances here**, who fails to participate in court-ordered mediation, is bound by the result.”

## Reason for Caution

Also, the 4/5/21 opinion includes a new paragraph (not in the 1/26/21 opinion) which states in pertinent part:

- “Had the Pacific parties [no show potential beneficiaries] appeared at the initial probate hearing, for which they received notice, they would have had the opportunity to object to mediation. Instead, they waited until after the mediation, for which they also received notice, ... to finally object to the result...”

**This sounds like an objection before the court orders mediation could prevent such an order.**

- **If that is the case the court’s authority to order mediation is not changed by Breslin, i.e., it’s only if all parties at the hearing agree.**

## To What Do We Know Breslin Applies: | The *Breslin Circumstances*?

- A trust matter and an issue as to who are the beneficiaries
- Petition for instructions with notice to all potential beneficiaries. Responses filed by some potential beneficiaries
- At hearing no party present objects to mediation. Court orders it and makes participation a prerequisite to an evidentiary hearing
- Notice to all potential beneficiaries containing date, time, place of mediation, the following information:
  - May settle all interests with agreement for distribution of the assets and an award of attorney fees;
  - Interested persons may attend w/o counsel;
  - Nonparticipating persons receiving notice may be bound by agreement w/o further action of court or hearing; and
  - Rights may be lost by failure to participate in mediation.
- A settlement agreement on pending issues reached at mediation.
- Mediation nonparticipants who received all notices have no right to object to the settlement terms.

## To What Are We Not Sure Breslin Applies:

- Any case not in the Second Appellate District – See the Dissent (Testator's Intent, Forfeitures, and Due Process – Oh My!)
- A trust dispute other than to determine who are the beneficiaries
- A contested case in probate that is not a trust matter, e.g., probate estate or protective proceedings (See PC 1000 and CCP 128)?



## Certainty vs. Uncertainty

Limitations on the applicability of *Breslin* are likely to be revealed in the coming years on a case-by-case basis – A HOT MESS!

### SOLUTION:

Revisit TEXCOM's 2006 proposal to add new section to Probate Code:

- *“Sec. 1051. The court may order mediation in any proceeding under this code upon motion of a party, by written stipulation of all parties, or upon the court’s own motion. The court’s order may include provisions for payment of mediation costs and fees.”*



# Questions

# Stay in Touch!



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