

**REFERRAL to a DISPUTE RESOLUTION ORIENTATION SESSION  
TWENTY-SEVENTH JUDICIAL CIRCUIT OF VIRGINIA**

**Montgomery County**

Exhibit S

**THIS LETTER IS AN ORDER OF REFERAL FROM THE JUDGE**

The records of the Clerk's Office indicate that a Complaint for divorce has been filed with this Court and a copy will be served on the Defendant. Your case has now been assigned to me as a judge of this court.

The purpose of this letter is to advise you that I have referred your case, pursuant to §8.01-576.5 of the Code of Virginia, to a **no-cost Dispute Resolution Orientation Session** provided by:

**BETTER AGREEMENTS, INC., 305 WASHINGTON STREET,  
SW, BLACKSBURG, VA 24060; (o)-540-552-1200; (f)-540-552-0119**

The orientation session is conducted at no cost to you, and it is required to be held in strict confidence. **You are required to participate.** Upon completion of the session you and the other party may decide to participate in a Dispute Resolution Process (explained later in this document). If you wish to be excused from participating in the orientation session, you must notify the Montgomery County Circuit Court Clerk's Office at 1 East Main Street, Suite B-5, Christiansburg, VA 24073, in writing and signed by you, within 14 days of the above date, as provided in §8.01-576.6 of the Code of Virginia.

The goal of the **Dispute Resolution Process** is to encourage the early settlement of a dispute through the use of procedures that facilitate: (1) open communication between the parties about the issues in the dispute; (2) facilitate full exploration of the range of options to resolve the dispute; (3) improve the relationship between the parties; (4) promote control by the parties over the outcome of the dispute; (5) preserve the dignity and resources of the family members; and (6) promote the best interest of any minor children. Where issues of custody or visitation are involved, the goals of the dispute resolution process shall include development of proposals addressing the child's residential schedule and care arrangements and how disputes between the parents will be handled in the future.

Please note that the purpose of this notice is not to delay your case in any way. If your case has already been scheduled for a Commissioner's Hearing or a *Pendente Lite* Hearing (Preliminary Hearing) with the Circuit Court, it will still remain on the docket to be heard as scheduled. Also, in the event that you hire an attorney, you should give the attorney a copy of this notice so that your attorney can take any action he/she feels may be appropriate.

You are responsible to contact the above named agency in order to fulfill this order.

JUDGE

6/1/10

**PROCEDURES FOR REFERRAL TO A  
DISPUTE RESOLUTION ORIENTATION SESSION**

Exhibit S-1

**ORIENTATION SESSION**

- 1) If any party objects to this Decree of Referral (Exhibit R), a written statement signed by such party must be filed with the court within **fourteen (14) days** after the entry of this decree. The statement must indicate that the dispute resolution process has been explained to the party and that he/she objects to the court's Decree of Referral.
- 2) If no objection is filed to this decree within **fourteen (14) days**, and the parties do not accept the referral to a particular mediator or dispute resolution program offered by the court, the parties and their attorneys are directed to select a mediator or dispute resolution program to conduct the orientation session.
- 3) Referral to the dispute resolution orientation session has no impact on the docketing procedures followed by this court. Thus, if the parties elect to proceed with a dispute resolution proceeding (mediation), they may be required to request that the court grant a continuance, to allow them to complete that process prior to any trial date set by the court.
- 4) Attorneys for either party may be present at the dispute resolution orientation session.
- 5) The orientation session shall be conducted within **thirty (30) days** of the date of the attached decree.

**MEDIATION/DISPUTE RESOLUTION PROCEEDING**

- 6) After the orientation session, further participation in a dispute resolution proceeding shall be by consent of all parties. The decision to proceed shall be made at the close of the orientation or no more than **ten (10) days** after the orientation session.
- 7) If the parties choose to participate in a dispute resolution proceeding they may proceed with the agency that conducted the orientation session or select another mediator or dispute resolution program. The parties and their attorneys have **seven (7) days** from the conclusion of the **fourteen (14) days** mentioned earlier, to agree on a mediator or dispute resolution program. If they cannot agree, they may request that the court select a mediator or dispute resolution program. The court shall make such referral on the basis of a fair and equitable rotation, in accordance with the statute.
- 8) The parties shall make any payment for the services of a mediator, following the no-cost orientation session. All costs and fees associated with the services shall be disclosed to the parties, prior to the services being provided.

- 9) All memoranda, work product and other materials contained in the case files of a mediator or dispute resolution program are confidential. Any communication made in or in connection with the mediation/dispute resolution proceeding which relates to the controversy, including screening, intake, and scheduling a mediation is confidential.
- a. Confidential material and communications are not subject to disclosure in any judicial proceeding, except: (a) where all parties to the dispute resolution proceeding agree in writing; (b) in a subsequent action between the mediator and a party to the dispute resolution proceeding for damages arising out of the dispute resolution proceeding; (c) statements, memoranda, materials and other tangible evidence, otherwise subject to discovery, which were not prepared specifically for use in and actually used in the dispute resolution proceeding; (d) evidence of misconduct or fraud in a proceeding to vacate a mediated agreement, pursuant to Section 8.01-576.12 of the Code of Virginia; (e) any violence or threats of violence which occur during any part of the dispute resolution process; (f) any evidence of unreported child abuse; (g) communications that are intentionally used to plan, attempt to commit, or commit a crime or conceal an ongoing crime; (h) where communications are sought or offered to prove or disprove a claim or complaint of misconduct or malpractice filed against a party's legal representative based on conduct occurring during a mediation.
  - b. The use of attorney work product in a dispute resolution proceeding shall not result in a waiver of the attorney work product privilege. The use of tape recordings or stenographers is prohibited.
- 10) Where the dispute involves the support of minor children of the parties, the parties shall disclose between themselves and to the mediator, the information to be used in completing the child support guidelines worksheet required by Virginia Code Section 20-108.2. The guidelines computations and any reasons for deviation shall be incorporated in any written agreement between the parties. Where the dispute involves issues regarding child support or spousal support, the parties are directed to provide each other substantial full disclosure of all relevant property and financial information. *All of the above-described disclosures shall be provided to the other party and to the mediator at least two (2) business days before the mediation session.*
- 11) Both parties are required to attend the orientation session. Witnesses and children are prohibited from attending any part of the dispute resolution proceeding. Attorneys for any party may be present during any part of the proceeding, provided that the other party and the mediator receive notification of this intention at least **five (5) business days** prior to that session. A court appointed *guardian ad litem* may also participate in a dispute resolution proceeding but shall not be considered a party to the dispute resolution proceeding.
- 12) Upon request of a party determined to be indigent, the court shall inquire as to the availability of a mediator or dispute resolution program that will provide services at no cost to the parties.

- 13) Within **fifteen (15) days** of the conclusion of the dispute resolution proceeding, the mediator shall report on the outcome of the proceeding to this court. Said report shall indicate only the terms of any agreement reached or the fact that no agreement was reached. The mediator shall not disclose information exchanged or observations regarding the conduct or demeanor of the parties and their respective counsel.
- 14) All agreements reached in a dispute resolution proceeding must be in writing, signed by both parties. The writing will be conclusively presumed to contain the entire agreement between the parties. Unless the parties indicate to the contrary in the agreement, it shall be presumed that the parties request the court to incorporate the written agreement into the terms of its final decree disposing of the case.
- 15) All agreements reached in an mediation/dispute resolution proceeding must contain the following:
- I, the undersigned, do hereby acknowledge that I have been offered an opportunity to consult with independent legal counsel, prior to signing this agreement, and I have either consulted with independent legal counsel, prior to signing this agreement, or do hereby waive my right to do so. I understand that this writing contains the entire agreement between the parties, and that the court shall not consider any oral statements, understandings, or agreements. I intend to incorporate this agreement into the terms of any final Decree of Divorce.
  - Substantial full disclosures of all relevant property and financial information, if spousal support or issues involving equitable distribution of property are set forth in the agreement