

STIPULATION RE ORDER OF REFERENCE

The parties intend this general reference agreement to be specifically enforceable in accordance with California Code of Civil Procedure sec. 638. The parties hereby agree that, subject to disqualification pursuant to California Code of Civil Procedure secs. 641 and 170.1 – 170.5 and California Rules of Court Rule 2.831, the referee shall be

_____.

Should he/she be unable for any reason to act as referee, the parties shall attempt to agree on an alternative referee from the ARC panel. If the parties are unable to do so, then a retired judge or justice on the ARC panel shall be appointed to act as referee by the Presiding Judge of the Superior Court of the county in which the Order of Reference is sought by any of the parties hereto.

Fees and Expenses. A non – refundable administration filing fee per party will be charged when the first hearing/trial date is scheduled.

The compensation of the referee shall be at the usual hourly rate established by ARC for his/her services and shall include all the time spent on the case, including but not limited to the reading of memoranda, review of records, research, deliberation time, and the preparation of a statement of decision. Unless modified by prior request all scheduled time shall be paid in advance as a retainer fee and shall be applied toward any final billing. All statements rendered by ARC shall be due and payable upon receipt. Any sums due and unpaid to ARC by any party to this cause shall be included in and ordered paid in the final order or judgment of the court.

Continuance, Cancellation and Refunds. Continuances of a hearing or trial date are strongly disfavored. If a hearing or trial is cancelled or continued more than 14 days before the scheduled date, the retainer fee will be refunded, less any time expended in preparation. If the matter settled, continued or cancelled is scheduled for 8 hours or longer, a minimum of thirty (30) days advance notice is required to receive a refund unless the hearing or trial can be rescheduled for a date no less than fourteen (14) days before the original hearing or trial date. If the retainer fee has not yet been paid it becomes due and payable upon notice of the continuance or cancellation.

Further Stipulations (Optional). The parties hereby incorporate by reference into this agreement those additional Stipulations which are attached hereto as Exhibits and initialed by the parties.

Dated: _____

Plaintiff

Attorney for Plaintiff

Defendant

Attorney for Defendant

COURT CASE NO.: _____

Plaintiff

v.

Defendant

STIPULATION FOR HEARING/TRIAL ON ORDER OF REFERENCE

The undersigned parties hereby agree to submit to [a two-step dispute resolution process to be administered by ARC, first using mediation before judge, justice or other neutral, from the ARC panel, followed, if necessary, by] a hearing / trial on an Order of Reference before a member of the State Bar, retired judge, justice or other neutral, from the ARC panel, to be appointed pursuant to the provisions of California Code of Civil Procedure (CCP) sec. 638, as to the following:

- all issues remaining in dispute after mediation, whether of fact or law
- all discovery matters
- all law and motion matters
- all pre-trial motions of any kind
- trial of issues of fact and law
- all post motions including motions for reconsideration, motions for new trial and motions to tax costs, including attorney fees and prejudgment interest
- only the issues of [specify]

The parties understand that the decision of the referee will stand as the decision of the Court, and upon filing of the statement of decision on any of the issues presented with the clerk of the Court, an order or a judgment will be entered thereon in the same manner as if the action had been tried by the Court. The parties hereby waive and give up the right to a jury trial with respect to any and all of the issues submitted to the referee.

The referee shall apply California rules of procedure, evidence, and substantive law in deciding the issues submitted herein.

Dated: _____

Plaintiff

Attorney for Plaintiff(s)

Defendant

Attorney for Defendant(s)