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LOS ANGELES SUPERIOR COURT

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JOHN A. CLARKE, CLERK

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BY EILEEN DAUGHERTY, DEPUTY

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

11 In re the Marriage of
12 Petitioner: **KIMORA LEE SIMMONS**
13 and
14 Respondent: **RUSSELL SIMMONS**

CASE NO. **BD 482 747**

**STIPULATION AND ORDER RE: CHILD
CUSTODY AND VISITATION; CHILD
SUPPORT**

Dept. 7

Judicial Officer: Hon. Harvey A. Silberman

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18 **PETITIONER KIMORA LEE SIMMONS AND RESPONDENT RUSSELL SIMMONS**
19 **STIPULATE WITH REFERENCE TO THE FOLLOWING FACTS:**

20 **RECITALS**

21 A. There are no current orders regarding child custody, visitation or child
22 support in place between Petitioner and Respondent.

23 B. Petitioner and Respondent desire to enter into a Stipulation and Order
24 regarding child custody, visitation and child support for the parties' minor children Ming
25 Lee Simmons ("Ming Lee"), born January 21, 2000, and Aoki Lee Simmons ("Aoki Lee")
26 born August 16, 2002.

27 C. The parties desire to settle this matter without further Court proceedings. The
28 parties wish to avoid a contested hearing on these issues.

STIPULATION AND ORDER

Based upon the above recitals and in consideration of the various mutual undertakings by the parties hereto, Petitioner, KIMORA LEE SIMMONS ("Petitioner"), and Respondent, RUSSELL SIMMONS ("Respondent") hereby stipulate, and the Court orders as follows:

1. CHILD CUSTODY AND VISITATION

a. Legal Custody:

i. Petitioner shall have sole legal custody of the minor children, Ming Lee and Aoki Lee. Pursuant to Section 3006 of the California Family Code, "sole legal custody" means that one parent shall have the right and responsibility to make the decisions relating to the health, education, and welfare of a child subject. Petitioner shall reasonably consult with Respondent regarding issues concerning the children's health, education, and welfare and, if the parents do not agree, Petitioner shall have the sole right and responsibility to make the final decisions regarding the children.

ii. Notwithstanding the above, the parties shall mutually agree upon any participation by the children in any professional endeavor. If the parties cannot agree on the children's participation in any professional endeavor, the parties hereby appoint John McCue, Esq. of McCue Sussmane & Zapfel, P.C., who shall make the final and binding decision on behalf of both parents. The parties acknowledge that the children's continued participation in any professional endeavor which has already commenced or is reoccurring at the date of this Stipulated Order is expressly understood to be mutually agreed.

b. **Physical Custody.** Petitioner shall have sole physical custody of the minor children, Ming Lee and Aoki Lee. Pursuant to Section 3007 of the California Family Code, "sole legal custody" means that a child shall reside with and be under the supervision of one parent, subject to the power of the court to order visitation. The children shall reside with Petitioner at all times when they are not scheduled to be in Respondent's care.

1 c. Visitation. Respondent shall have visitation with the children as
 2 follows:

3 a. *Regular Visitation Schedule.* The children shall be with
 4 Respondent every eighth week from Saturday at 9:00 a.m. until the following Saturday at
 5 6:00 p.m. Counting of weeks for purposes of the Regular Visitation Schedule shall
 6 commence on the Saturday preceding the first day of the fall term of school. Respondent's
 7 first week of visitation pursuant to this Regular Visitation Schedule shall commence on
 8 October 18, 2008. This Regular Visitation Schedule shall continue during spring break
 9 from school. Respondent's regular visitation with the children shall occur in Los Angeles,
 10 California, except that Respondent may choose to have three of Respondent's school year
 11 weeks in New York upon 45-days notice to Petitioner.

12 ii. *Vacations, Holidays and Special Occasions.* Notwithstanding
 13 the foregoing, the parties shall adjust the Regular Visitation Schedule as necessary to
 14 accomplish the following Vacation/Holiday/Special-Occasion Visitation Schedule which
 15 shall take precedence over the Regular Visitation Schedule.

16 (1) Summer Break. Respondent shall have the children for
 17 four weeks of the children's summer break from school as follows:

18 (a) Respondent shall have the children for the first
 19 two weeks of summer break commencing at 9 a.m. on the Saturday immediately following
 20 the last day school is in session prior to summer break and ending at 6:00 p.m. on the
 21 second following Saturday;

22 (b) Respondent shall have the children for the last
 23 two weeks of summer break commencing at 9:00 a.m. on the Saturday three weeks prior
 24 to the first day of the school term and ending at 6:00 p.m. on the Saturday one week prior
 25 to the first day of the school term

26 (c) Respondent shall have the children for one 3-day
 27 summer weekend in New York each year from 9:00 a.m. on Saturday through 6:00 p.m.
 28 on Monday, of the weekend coinciding with the weekend of the annual Rush Philanthropic

1 East Hampton Art for Life benefit. In 2008, the weekend shall be from 9:00 a.m. on
 2 Saturday July 19, 2008 through 6:00 p.m. on Monday July 21, 2008.

3 (2) Christmas Season. Respondent shall have a Christmas
 4 season vacation with the children every year, which will be any consecutive seven-day
 5 period between the 7th and 21st of December at Respondent's sole discretion.

6 (a) Respondent shall give Petitioner 45 days notice
 7 of his designation of his Christmas season visitation, and the notice shall be in writing by
 8 certified letter.

9 (b) December 7th shall be considered the beginning
 10 of the children's winter break from school ("Winter Break") each year without regard to the
 11 actual school calendar. The first Friday following the start of school in January shall be
 12 considered the end of Winter Break each year without regard to the actual school
 13 calendar.

14 (c) Counting of weeks for the Regular Visitation
 15 Schedule shall be suspended during Winter Break and shall resume following Winter
 16 Break on the first Saturday following the start of school in January. Counting will resume
 17 wherever counting left off prior to Winter Break. By way of example only, if Respondent's
 18 Christmas season vacation with the children begins at any point during the third week of
 19 the children's regular time with Petitioner then, for ease of counting, the children's first full
 20 week with Petitioner following Winter Break shall be counted as the children's fourth week
 21 with Petitioner for purposes of the Regular Visitation Schedule.

22 (3) Christmas and New Years. Petitioner shall have the
 23 children for the Christmas Eve, Christmas Day and New Years Eve and New Years Day
 24 holidays every year.

25 (4) Spring Break. The children's one-week spring break
 26 from school shall be alternated between the parties from year to year. Petitioner shall
 27 have spring break in 2009.

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(5) Three-Day Weekends. The following three-day bank/court holiday weekends shall be split equally and alternated between the parties each year as follows:

(a) Respondent shall have the children from 9:00 a.m. on Saturday through 6:00 p.m. on Monday for the following three-day weekends in even-numbered years; Respondent shall have the same in odd-numbered years:

- (i) Veterans Day
- (ii) President's Day
- (iii) Labor Day

(b) Respondent shall have the children from 9:00 a.m. on Saturday through 6:00 p.m. on Monday for the following three-day weekends in even-numbered years; Petitioner shall have the same in odd-numbered years:

- (i) Columbus Day
- (ii) Martin Luther King's Birthday
- (iii) Memorial Day

(c) In even-numbered years Respondent may elect to have one of his three-day weekends in New York; in odd-numbered years Respondent may elect to have two of his three-day weekends in New York.

(6) Parents' Birthdays. Petitioner shall have the children on Petitioner's birthday, May 4, each year; Respondent shall have the children in Los Angeles on Respondent's birthday, October 4, each year.

(7) Mother's Day. Petitioner shall have the children on Mother's Day each year from 9:00 a.m. until 6:00 pm.

(8) Father's Day. Respondent shall have the children on Father's Day each year from 9:00 a.m. until 6:00 pm.

iii. The one-day holidays, i.e. Parents' Birthdays, Mother's Day and Father's Day, shall be spent wherever the children are then located so that the children do not have to travel to be with a parent during a one-day holiday.

1 d. All exchanges of the children shall take place by way of delivery of the
 2 children to Respondent by Petitioner or her designated agent(s) and pickup of the children
 3 from Respondent by Petitioner or her designated agent(s).

4 e. When the children are in Respondent's custody they shall be
 5 accompanied at all times by a nanny and security person to be named by Petitioner. The
 6 parties agree that during Respondent's summer weekend at the Hamptons, security will
 7 deliver the children to the Hamptons and will pick them up from the Hamptons and will not
 8 otherwise be present except that security will be present at all times during the Art for Life
 9 event.

10 f. Respondent shall pay for all travel expenses for the children in
 11 connection with his visitation except that if Petitioner makes the travel arrangements for
 12 the children in connection with Respondent's visitation, Petitioner shall pay those
 13 expenses. If the children are already in New York at the commencement of one of
 14 Respondent's visitation periods, then Petitioner shall not be entitled to reimbursement of
 15 the children's travel expenses to New York.

16 g. Each party shall have reasonable telephonic access to the children
 17 on a regular basis while they are in the other party's care.

18 h. Each party shall keep the other party informed of his or her current
 19 address and telephone number, and shall notify the other within 24 hours of any change
 20 of permanent address or telephone number.

21 i. When the children are in Respondent's physical custody, Respondent
 22 shall have the right and responsibility to make temporary decisions regarding a child's
 23 health, welfare and day-to-day activities.

24 j. When the children are in Respondent's physical custody, Respondent
 25 shall have the right to travel with the children within the United States

26 k. In emergency situations, each party is authorized to take any and all
 27 actions necessary to protect the health and welfare of the children, including, but not
 28 limited to, consenting to emergency medical and surgical procedures or treatment. Each

1 party shall notify the other party within one hour of any such emergency situation and of
2 all medical or surgical procedures and treatment administered to the children.

3 l. Neither party shall make any derogatory remarks about the other to
4 or in the presence of the children, or permit any third party to do so.

5 m. The parties shall not discuss any of the issues involved in this case
6 in the presence of the children or while attending any activity in which the children are
7 participating.

8 n. Each party shall ensure that the children is wearing a seatbelt
9 whenever she is riding in an automobile or other motor vehicle.

10 o. Neither party shall ask or permit the children to convey notices or
11 other information to the other party that either party is obligated to provide to the other
12 party.

13 p. The Court finds that the parenting plan set forth in this stipulated
14 Order represents the entire agreement of the parties regarding child custody and visitation
15 and shall govern the parties' time with the children regardless of the travel schedule,
16 geographic location, residence or employment of Petitioner or Respondent or the children
17 in New York, California or elsewhere.

18 q. The Court finds that all negotiations leading up to this stipulation were
19 carried on at arm's length, and that the parties recognized that their interests were adverse
20 during such negotiations.

21 r. The Court further finds that each of the parties is fully aware of the
22 contents and legal effect of this Order, and that each party has entered into this stipulated
23 voluntarily and free from any duress, fraud, or undue influence of any kind.

24 s. This Order is final and shall be incorporated in any Judgment
25 hereafter entered in this matter.

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t. The Court finds that the parenting plan set forth in this stipulated order shall be deemed a final judicial custody determination for purposes of the changed circumstances rule and this statement constitutes a clear, affirmative indication that the parties intend such a result within the meaning of *Montenegro v. Diaz* (2001) 26 Cal.4th 249.

u. Pursuant to the requirement of Section 3048(a) of the California Family Code, the Court makes the following findings:

i. *The basis for the Court's exercise of jurisdiction.* The Court has jurisdiction because California has been the minor children's domicile for more than six months and is the home state of the children within the meaning of the Uniform Children Custody Jurisdiction and Enforcement Act.

ii. *The manner in which notice and opportunity to be heard were given.* Petitioner filed the Petition for Dissolution of Marriage on march 25, 2008, accompanied by a Declaration Under the Uniform Children Custody Jurisdiction and Enforcement Act, and respondent was personally served on March 26, 2008.

iii. *A clear description of the custody and visitation rights of each party.* The parenting plan set forth in this paragraph 1 sets forth the custody and visitation rights of each party.

iv. *A provision stating that a violation of the order may subject the party in violation to civil or criminal penalties, or both.* The Court finds that both parties have been informed that a party violating any of the custody or visitation orders set forth in this paragraph may be subject to civil or criminal penalties, or both.

v. *Identification of the country of habitual residence of the children.* The United States of America has been the country of habitual residence of the minor children of the parties.

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2. CHILD SUPPORT

a. Respondent shall pay to Petitioner, for child support, Twenty Thousand (\$20,000) Dollars per month, per child, for a total of Forty Thousand (\$40,000) Dollars per month, payable on the first day of each month, commencing on the first day of July 2008. Child support in the amount of Twenty Thousand (\$20,000) Dollars per month per child continues as to each child until a child is emancipated, reaches the age of nineteen and one half years (July 21, 2019, for Ming Lee; February 16, 2022, for Aoki Lee), dies, marries, becomes self-supporting, is no longer residing with Petitioner, joins the armed forces, is otherwise legally emancipated, or until further order of the Court, whichever occurs first. At that time, child support for that child terminates and the total child support is reduced by Twenty Thousand (\$20,000) Dollars per month.

b. For as long as child support is payable, Respondent shall maintain a policy of health insurance with the children as beneficiaries.

c. The child support payments set forth in this paragraph 2 shall be inclusive of all of Respondent's financial obligations with respect to the children including, but not limited to, child support, educational expenses, tutoring expenses, extra-curricular and summer camp and related activity expenses, child care and nanny expenses, and non-reimbursed medical, dental and orthodontic expenses. Notwithstanding the foregoing, in the event that Respondent shall voluntarily decide to pay for additional expenses for the children without first obtaining Petitioner's consent, then Respondent shall be solely responsible for the payment of said expenses and shall not be entitled to reimbursement from Petitioner.

d. Any payment by Respondent for the expenses of the children in excess of Twenty Thousand (\$20,000) Dollars per month per child shall be at Respondent's sole and discretion and he shall have no obligation whatsoever to make any payments in excess of his basic child support obligation as set forth in paragraph 2. a. of this Order. Should Respondent, on one or more occasions, agree to make any such additional child support payments or to cover expenses for a child, he shall not be

1 obligated to make any further such payments for the same or different expenses nor shall
 2 such additional payments by Respondent constitute a waiver of his sole and absolute
 3 discretion to determine whether he shall make any further such payments.

4 e. The parties' residence located at _____
 5 New Jersey (_____) is now listed on the market for sale. Petitioner
 6 shall have exclusive occupancy of the _____ Residence until it is sold under this
 7 agreement.

8 f. Commencing on July 1, 2008, payable on the first day of each month
 9 thereafter, and ending on the last day of the last month of the closing of the sale of the
 10 _____ Residence, Respondent shall pay to Petitioner as and for additional child
 11 support the _____ Residence the sum of \$18,000 (\$18,000) per month. Petitioner
 12 shall be solely obligated to pay all of the expenses and liabilities in connection with the
 13 _____ Residence, including, but not limited to, insurance, real estate taxes,
 14 telephone, utilities, gardening, landscaping, normal repairs, and general maintenance.
 15 Respondent shall not be responsible to pay for any construction costs or improvements
 16 that had not been commenced and approved by him prior to June 1, 2006, which shall be
 17 Petitioner's sole responsibility and Petitioner shall indemnify Respondent and hold him
 18 harmless against any such costs and liabilities.

19 g. Commencing on the first day of the first month after the closing of the
 20 sale of the _____ Residence, Respondent shall provide a new automobile for the
 21 benefit of and use by the children with a value of not less than \$60,000. Said automobile
 22 shall be replaced by a new automobile every twenty-four (24) months. The choice of the
 23 vehicle and whether the vehicles shall be purchased or leased shall be in Respondent's
 24 sole and absolute discretion. The payment of the lease or purchase of the vehicles shall
 25 be deemed child support (in addition to the child support set forth in subparagraph a. of
 26 this paragraph 2). Petitioner shall be solely responsible for all other expenses with respect
 27 to the automobile including, but not limited to, insurance, repairs, maintenance, and
 28 gasoline expenses. Respondent's obligations pursuant to this paragraph shall terminate

1 when the children reach legal driving age or turn 16 year old, whichever shall first occur.

2 h. Respondent may seek a reduction in the amount of child support in
3 the event that Respondent's net income in any one year falls 30% below the net income
4 reflected on Respondent's 2008 income tax return. If Respondent seeks a reduction of
5 child support by way of a court proceeding, Respondent shall pay all attorneys' fees and
6 other costs incurred by Petitioner as a result of said court proceeding.

7 i. Respondent is entitled to the dependency exemption for the minor
8 children. However, in any tax year in which Respondent derives no tax benefit from
9 claiming the exemption, Petitioner is entitled to that exemption. Each Party shall sign and
10 deliver any documents required by the Internal Revenue Service or by any state taxing
11 authority that are necessary for the other Party to take the exemption if the other Party is
12 entitled under this Order to take the exemption.

13 j. Unless the Parties agree in writing to the contrary, or until further order
14 of the Court, Respondent has the right to deduct the minor children's medical expenses
15 on his income tax returns. If those deductions have no tax benefit to Respondent, then
16 Respondent shall release all of the payments to Petitioner for her use as tax deductions.

17 k. The amount of child support set forth in this paragraph is a negotiated
18 amount above the statewide child support guidelines. Both Parties have been fully
19 informed of their rights regarding child support. The child support provided in this
20 Stipulated Order is agreed to without coercion or duress. The agreed-upon child support
21 provisions in this Stipulated Order are in the best interest of the Parties' minor children.
22 The needs of the children will be adequately met by this stipulated amount. The right to
23 support has not been assigned to the County pursuant to the Welfare and Institutions
24 Code § 11477 and no public assistance application is pending.

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1 3. **INCORPORATIONS.** This Stipulated Order supersedes any and all prior
 2 agreements between the parties with respect to the issues of child custody, visitation,
 3 and/or child support.

4 4. **COUNTERPARTS AND FACSIMILE.** This Stipulated Order may be signed
 5 in counterparts and facsimile signatures shall be deemed to have the same force and
 6 effect as originals.

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 8 DATED: 6/19 2008

[Signature]
 KENORA LEE SIMMONS, Petitioner

9
 10 DATED: 6/13/08 2008

[Signature]
 RUSSELL SIMMONS, Respondent

11
 12 APPROVED AS TO FORM:

13 DATED: 6/13 2008

JAFFE AND CLEMENS
 By *[Signature]*
 DANIEL J. JAFFE
 Attorneys for Petitioner

17 DATED: 6/13/08 2008

KAUFMAN, YOUNG, SPIEGEL, ROBINSON AND
 KENERSON
 By *[Signature]*
 DAVID S. SPIEGEL
 Attorneys for Respondent

22 IT IS SO ORDERED:

23 DATED: JUN 24 2008 2008

[Signature]
 HARVEY J. SWANSON
 JUDGE OF THE SUPERIOR COURT

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