

Superior Court of California, County of Orange.

In Re the Marriage of:

<u>John B. Smith</u>)	Case Number: _____
Husband)	
V.)	
)	Judge: _____
<u>Jane W. Smith</u>)	
Wife)	
)	
And in the interests of (minor children))	

William R. Smith (Age: 5)

Separation Agreement

This agreement is made on _____, _____, between John B. Smith, the Husband, with a social security number of XXX-XX-4321, who lives at 123 West Main Street, Anaheim, California, 92807 (home phone: 657-123-5678) and the county of Orange and Jane W. Smith, the Wife, with a social security number of XXX-XX-1234, who lives at 123 West Main Street, Anaheim, California, 92807 (home phone: 657-123-5678) and the county of Orange.

The Husband and Wife may from time to time throughout this agreement, individually and collectively, be referred to as "Party" or "Parties" and "Parent" or "Parents".

The Husband is currently employed by Acme Meat Packaging Co., which is located at, One Fast Food Way, Anaheim, California, 92807 with a telephone number of 657-123-7891.

The Wife is currently employed by ABC Software Inc., which is located at, One Software Way, Anaheim, California, 92807 with a telephone number of 657-111-2233.

1. Recitals:

The parties are making this agreement with reference to the following facts:

The parties were married on May 8, 2003 in the city of San Francisco, in the state of California, and separated on or about, September 18, 2011.

As a result of serious disputes, conflict of personalities, and unique goals and differences, the parties honestly believe that the marriage may be irretrievably broken and that there may not be a possible chance for reconciliation. For this reason each party desires to settle fully and finally all aspects and rights, by this agreement, of the marital affairs including, but not limited to; Property and Debt Distribution, The Marital Home, Retirement/Pension/Profit Sharing/401k Accounts, Spousal Maintenance, Child Custody, Visitation, Child Support, Medical and Health Insurance, Secondary School Expenses, Child care, Tax Exemptions, and Income Tax Returns.

The parties each hereby acknowledge that there is one (1) child born, or legally adopted of the marriage under the age of eighteen (18).

The information about each child is as follows:

Child #1
Full Name: William R. Smith
Age: 5
Date of Birth: March 6, 2007
Sex: Male
SS#: XXX-XX-3333

The parties each now intend by this agreement to settle fully and finally all of their respective rights and obligations arising out of or related to the marriage.

Check One (A or B):

A. This agreement has been drafted and executed with the intention that it be submitted by either party to any court before which a Petition for Dissolution of Marriage may be pending or initially filed for approval by the court and for incorporation into a Final Judgment of Dissolution of Marriage.

B. This agreement has been drafted and executed with the intention that it **NOT** be submitted by either party to any court before which a Petition for Dissolution of Marriage may be pending or initially filed for approval by the court and for incorporation into a Final Judgment of Dissolution of Marriage.

There is no other pending action filed by either party regarding the dissolution of the marriage.

The date of execution of this agreement is the day on which the agreement is signed by both parties.

Any transfer of property, funds, debts and/or documents pursuant to the agreement shall be made on the date of the execution of this agreement, if not already done so, unless otherwise specified in this agreement.

The parties both agree to lead separate lives, and, except for the duties and obligations imposed and assumed under this agreement, each shall be free from interference and control of the other as fully as if he or she were single. The parties each agree not to molest, interfere with, or harass the other.

2. **Property and Debt Distribution:**

As of March 6, 2011, the parties have each possessed his and her marital and non-marital property and have been responsible for the marital and non-marital (separate) debt that will be described below.

The parties agree that the following marital property shall be the sole and separate property of John B. Smith, the Husband, and Jane W. Smith, the Wife transfers and quitclaims any interest that she may have in this marital property to the Husband:

2009 White BMW 3301 (VIN#234127656781)
LG 52 Inch LCD TV
Dining Room Table and 6 Chairs

John Deere Riding Mower
52 Gallon Fish tank With Pump

The parties agree that the following marital property shall be the sole and separate property of Jane W. Smith, the Wife, and John B. Smith, the Husband transfers and quitclaims any interest that he may have in this marital property to the Wife:

2007 Black Mazda GL (VIN#123143454553)
Brown Leather Couch and Love Seat
Dell Desktop Computer
Sony 37 inch Plasma TV

The parties agree that John B. Smith, the Husband, shall pay and indemnify and hold Jane W. Smith, the Wife, harmless from the following marital debts:

TD Bank Credit Card Account: 4321-4321-0567-8902 (outstanding balance: \$6,493.00)

The parties agree that Jane W. Smith, the Wife, shall pay and indemnify and hold John B. Smith, the Husband, harmless from the following marital debts:

Bank of America Credit Card Account: 1234-2345-6789-3456 (outstanding balance: \$2,897.00)

The parties agree that the following non-marital (separate) property shall be the sole and separate property of John B. Smith, the Husband, and Jane W. Smith, the Wife transfers and quitclaims any interest that she may have in this non-marital (separate) property to the Husband:

Charles Schwab Money Market Account #678901234

The parties agree that the following non-marital (separate) property shall be the sole and separate property of Jane W. Smith, the Wife, and John B. Smith, the Husband transfers and quitclaims any interest that he may have in this non-marital (separate) property to the Wife:

Charles Schwab Money Market Account #1234234.

The parties agree that John B. Smith, the Husband, shall pay and indemnify and hold Jane W. Smith, the Wife, harmless from the following non-marital (separate) debts:

CITI Student Loan - Account: 12345177

The parties agree that Jane W. Smith, the Wife, shall pay and indemnify and hold John B. Smith, the Husband, harmless from the following non-marital (separate) debts:

ASFA Student Loan - Account: 1234-2345-6789-3456

The parties both hereby represent and warrant that as of the date of this agreement, they do not possess any property or interests in property other than the items listed in this agreement; and that the items set forth and listed in the agreement constitute full and complete disclosure.

In addition to the items listed in this agreement, if any undisclosed property or interests in property is discovered subsequently, and a court of competent jurisdiction determines it to be marital or community property of the parties, such discovery and determination shall not invalidate this agreement but, the property or the interest in it shall at the election of the

discovering party (i) be divided equally or equitably in kind or (ii) be accounted for by the party in possession who may pay to the discovering party a sum of money to offset an equal or equitable portion.

The parties both hereby represent and warrant that except for the debts and obligations set forth and listed above, each has not incurred any other outstanding debt or obligation on which the other may become liable, nor has either party incurred any obligation that could henceforth be enforced against any asset held or received pursuant to this agreement.

In the event that any outstanding debt or obligation of any kind has been incurred by either party, other than those listed above (and is hereafter asserted against the other), the party actually incurring the debt or obligation shall assume and be solely responsible for paying it and shall hold the other party harmless from all claims with respect to the debts, obligations, and expenses with respect to those debts.

In the event that the other party becomes a debtor in any bankruptcy or financial reorganization proceeding of any kind while this agreement is in effect, that debtor party waives any and all rights to any property held by the other party which is in fulfillment of this agreement. The debtor party will also convey to the other party that the bankruptcy or financial reorganization proceeding is going to take place.

The parties acknowledge and agree that the credit history established by them during their marriage shall be deemed to have the credit history of both parties, notwithstanding ordinary practices of creditors and credit reporting agencies that may have reported such credit history in the name of one party. Both parties agree to cooperate and execute any documents as may be required to enable each other to provide to prospective creditors the full credit history of both parties that was established during the marriage.

The parties each represent to the other that from the date of this agreement each party shall not charge or incur or cause to be incurred any liability or obligations based on the credit or name of the other. Each of the parties shall do whatever is necessary to close immediately all joint accounts.

The parties each forever waive any right to inherit from the other and the right to receive any property on the death of the other, except as a beneficiary of any life insurance policy, by reason of a will, codicil, or republication of will by the other party executed subsequent to the date of this agreement.

The parties each waives all right to act as administrator of the other party's estate and all right to request or petition for the appointment of any person to serve as such representative or to act as the executor of the other's will, unless expressly named in a will, codicil, or republication of will by the other party executed subsequent to the date of this agreement.

3. **Marital Home:**

There is a marital home of this marriage located at:

123 West Main Street, Anaheim, California 92807,
with a legal description of: Third house on west side of Washington Street facing east on the 2400 block of phase (3) three of Shady Trees Housing Development.

The parties have agreed that this real estate will not be sold and each party will remain as co-owners. Any future sale of this real estate will not take place unless both parties agree.

The parties agree that Wife will reside in the above mentioned real estate and the expenses be disbursed as follows:

Husband shall be responsible for paying 50% of the monthly mortgage payment of said real estate.

Wife shall be responsible for paying 50% of the monthly mortgage payment of said real estate.

The parties agree that the Husband will be responsible for sending the mortgage payment(s) to the appropriate financial institution on timely basis. All penalties will be paid by the party delinquent on payment.

The parties agree the Husband will be responsible for paying 50% and the Wife will be responsible for paying 50% of the monthly expenses which include, but are not limited to; real estate taxes, school taxes, routine maintenance, repairs, and insurance.

The parties agree that the Husband will be responsible for sending the real estate tax payment(s), insurance payment(s), and routine monthly expenses to the appropriate agencies by the designated due date. All penalties will be paid by the party delinquent on payment.

In the event either party defaults in the payment of the mortgage, the party not in default shall have the right to make payments and on delivery of an executed paid receipt by the mortgagee, the default party will be responsible for reimbursement of the default amount.

4. **Retirement Accounts/Pensions/401ks/Profit Sharing Plans:**

The parties each waive all claims, present and future, on the other's pension benefits, retirement funds, 401k's, profit sharing plans and accounts of the life.

5. **Spousal Maintenance:**

The Husband shall pay to Wife for rehabilitative spousal maintenance, the sum of \$300.00 per month payable in advance on the first (1st) day of each month commencing on September 18, 2012 and continuing thereafter until the earliest of the following events (i) death of either party, (ii) remarriage of , (iii) the cohabitation by the Wife with a person of the opposite sex in a relationship similar to a husband-wife relationship for 90 continuous or noncontinuous days in a 12 month period, (iiii) a duration of 6 months has passed since the first payment was made.

The parties have agreed that due to the short length of the alimony/spousal support payment term and the amount of which is to be paid that having the Husband take out a term life insurance policy with the Wife as the sole beneficiary, in order to help secure the Wife 's financial future should the Husband pre-decease the last alimony/spousal support payment, would not be necessary.

The provisions of this agreement pertaining to payments of rehabilitative spousal maintenance shall be subject to modification by any order or judgment of any court, and each party shall be permitted to request or apply for a modification at anytime or under any circumstances to any court.

The Wife hereby acknowledges and agrees that Husband will make payments to him/her as set forth on the understanding that the Husband will have the right to deduct the entire amount of the payments from his/her federal, state and local income tax returns for all years in which the payments are made.

The Wife agrees that all payments received by Husband shall be included as gross income by Wife in all federal, state and local income tax returns filed for the years that such payments are received.

The parties both agree each will be responsible for his and her own health and medical insurance coverage.

6. **Child Custody and Visitation:**

The parties agree that it is in the best interest of the child that the Wife have sole physical custody of the child, born, unborn or legally adopted of this marriage. Both parties acknowledge that the actual primary physical residence of the child will be with the Wife and may be changed at anytime through proper court procedure or as they mutually agree.

The parties agree that the Wife shall have control over the minor day-to-day decisions affecting the child.

The Wife agrees that the child should have as much contact with the Husband as possible and that the child may visit the Husband as often as may be agreed upon. Although possession time may be scheduled more often, the Husband will have the right to be with the child on the following holidays and non-holidays:

Weekend Visitation: Weekend visitation shall be every other weekend from Friday to Sunday, beginning on the second Friday following the date of this order, or if a schedule has been established, on the next date that would be provided by that schedule.

Holiday Visitation: In even numbered years, the non-custodial parent shall have the children on the following holidays that are numbered with an even number, and visitation shall be reversed for odd numbered years:

Easter: From the day school is dismissed for Easter vacation to the day before school resumes after that holiday.

Memorial Day: From the Friday before the nationally-recognized Memorial Day to Memorial Day.

Fourth of July: The day before the Fourth of July and the Fourth of July, but if the day falls on Friday through Monday, then it shall include the weekend and the day that the offices of the State Court System is closed in honor of that day.

Labor Day: From the Friday before Labor Day through Labor Day.

Thanksgiving: From the day school is dismissed before Thanksgiving to the day before school resumes.

Christmas: From the day school is dismissed before Christmas to December 27.

New Year's: From December 27 to the day before school resumes after New Year's Day.

Summer Visitation: The non-custodial parent shall have extended summer visitation consisting of a six-week continuous period that begins on the seventh Friday next preceding the date school is to commence, and ends on Friday six weeks later. During this period, the other parent shall have visitation every other weekend, commencing two weeks after the summer vacation begins.

Mother's and Father's Day: If the celebrating parent desires, the children shall spend Mother's Day with their mother, and Father's Day with their father. This visit shall start at 8 a.m. of the day and end at 8 p.m. of that day.

The parties additionally agree to use their very best efforts to insure that the child receives the most care, love and affection possible.

The parties agree that it is in the best interest of the child that both parents have joint/shared legal custody of the child.

All decisions pertaining to the education, discipline, health, extracurricular and summer activities, religious training, medical and dental care, and welfare of the child will be decided by both parties after reasonable and adequate discussion.

The parties agree to share information about the child openly and free with one another and agree not to hamper or interfere with the natural and continuing relationship between the child and the other parent.

7. **Parenting Plan/Agreement:**

The parties would like to make it known that there is not a parenting agreement/plan in effect as of the date of this agreement.

8. **Child Support:**

The parties agree that the Husband will pay the Wife, as child support, the total amount of \$650.00 per month for the support of the child. The payments will begin the date of this agreement and will continued to be paid by the first (1st) of each month until the child reaches the age of eighteen (18), dies, becomes self-supporting, or married. The parties also agree that the child support obligation is subject to modification by the court at any time.

If the Husband, who is obligated to pay the child support has a significant income increase in the future, it is his/her responsibility to notify the Wife, at which time the child support obligation should be adjusted appropriately through the court.

If the Husband, who is obligated to pay the child support, accrues a delinquency in amount equal to at least one month's support obligation, he/she will be subject to income withholding in an amount sufficient to satisfy the support obligation, and any additional amount to reduce and retire any delinquency.

The parties agree, that as long as child support payments are court ordered, the Husband will carry and maintain life insurance in the amount of \$\$100,000.00, naming the child as the sole irrevocable beneficiary. The Husband will provide proof of such insurance coverage by means of providing a copy of the annual policy statement to the Wife.

The parties have attached to this agreement a completed child support calculation worksheet to further present to each other and the court the criteria used to determine the basis for the monthly support obligation amount.

The parties acknowledge that the monthly support obligation stated above may be different than that which is reflected on the attached child support calculation worksheet due to mutual agreement and/or one or more deviation factors.

9. **Medical/Health Insurance:**

The parties agree that for as long as the child support payments are being made, the Husband will carry and maintain health, dental, and hospitalization insurance for the child's benefit. The parties agree to pay a portion equal to his/her percentage of combined income of any required deductible amount, necessary medical, or dental expenses of the child that are not covered by such insurance.

10. **Secondary School Expenses:**

The parties agree that neither parent will be responsible for any secondary educational tuition and/or related expenses.

11. **Child Care:**

The parties agree that the Husband will not be responsible for any child care and related expenses above and beyond the standard monthly child support obligation.

12. **Tax Exemptions:**

The parties agree that the husband will claim the child as a dependant on his federal, state, and local tax returns according to current IRS regulations.

13. **Income Tax Returns:**

The parties agree that they will file separate federal and state tax returns for the calendar year in which this agreement is made into effect.

The parties both agree that they will cooperate in the filing of any necessary tax returns.

For each calendar year after the year this agreement is made into effect, each party shall file separate federal, state and local income tax returns, in which each shall include and report all of his or her separate income and shall pay all income taxes due.

The parties each agree to notify the other promptly in the event the IRS or any state or local taxing authority provides notice of an audit, deficiency, refund, or the adjustment regarding a tax return that was jointly filed or that should have been jointly filed. The party receiving such notice from a taxing authority shall provide a copy of the notice to the other party within 20 days of receiving it.

The parties further agree to cooperate fully with the other in any claims for refunds or in defending against any deficiencies that may be determined with respect to joint income tax returns filed (or to be filed). This includes, without limitation, the making, executing, and filing of amended income tax returns; applications for refunds, protests, and other instruments; and documents as may be required. The costs and expenses for such will be divided equally between the parties.

14. **Professional Fees and Costs:**

The parties have not acquired any professional service fees which they desire to be recognized, mentioned, or distributed by this agreement.

15. **Advice of Counsel:**

The parties each acknowledge that they have the legal right to representation by separate attorneys. The parties each fully understand his and her rights and the contents of this agreement.

The parties each consider the terms of this agreement to be fair and reasonable and each party accepts sole responsibility for any decisions, and potential repercussions of those decisions, which are presented as part of this agreement.

16. **Mutual Releases:**

Each party hereby releases the other from any claim of action that either may have against the other for any reason occurring prior to this agreement, whether that claim is founded in contract, tort, or any other basis.

17. **Governing Law:**

The parties agree that this document is intended to be a full and an entire settlement and agreement between them regarding the marital rights and obligations and that this agreement, and all contents within and attached, shall be interpreted and governed by the laws of the State of California.

18. **Entire Agreement:**

This agreement constitutes the entire and full agreement between the parties. If any clause is held unenforceable or found to be in any way non-executable, or if a court alters or holds unenforceable any clause in this agreement, this shall in no way affect or alter the other clauses in the agreement, which shall remain in full force.

No amendment or modification to this agreement or any judgment, decree or order based on it shall be valid unless signed and agreed to by both parties or ordered by the court after a duly noticed hearing.

19. **Further Assurances:**

The parties shall execute and deliver promptly on request any additional papers, documents, and other assurances reasonably necessary in connection with the performance of the obligations set forth in this agreement. In the event that either party fails or refuses to comply with the provisions of this agreement, the failing party shall reimburse the other party for all losses and expenses including, but not limited to, attorney's fees and all costs incurred as a result of such failure.

20. **Captions and Interpretations:**

Paragraph captions have been used throughout this agreement for convenience and reference only and are not intended to be used in the construction or interpretation of this agreement or any of its provisions. No provision of this agreement is to be interpreted for or against any party by virtue of the fact that the provision was drafted by that party or that party's counsel.

21. **Verification/Disclosure:**

The parties both have reviewed this agreement cooperatively and each party has fully and honestly disclosed to the other the extent of his or her assets, income, and financial situation, and therefore enter into this agreement in reliance thereupon.

22. **Successions:**

The parties each acknowledge that this agreement, and each provision of it, is expressly made binding upon the heirs, assigns, executors, administrators, representatives and successors in the interest of each party.

Signed and dated on _____.

Signed and dated on _____.

Print Name (Husband)

Print Name (Wife)

Signature (Husband)

Signature (Wife)

Witness

Witness

Witness Signature

Witness Signature

State of _____
County of _____

State of _____
County of _____

SWORN TO AND SUBSCRIBED BEFORE ME by the said
On _____, 20 ____,
before me, the undersigned, a Notary Public in and for said State, personally appeared John B. Smith, the Husband, known to me (or proved on the basis of satisfactory evidence) to be the person whose name is subscribed to within the instrument and acknowledged that he executed the same.

SWORN TO AND SUBSCRIBED BEFORE ME by the said
On _____, 20 ____,
before me, the undersigned, a Notary Public in and for said State, personally appeared Jane W. Smith, the Wife, known to me (or proved on the basis of satisfactory evidence) to be the person whose name is subscribed to within the instrument and acknowledged that she executed the same.

Witness my hand and official seal.

Witness my hand and official seal.

Notary Public

Notary Public

Notary Seal

Notary Seal

My commission expires: _____

My commission expires: _____

Example