

ATTORNEY'S LETTERHEAD

date

Opposing Attorney, Esq.
Address

Re: XX v. YY; FC-D No. xx-x-xxxx

Dear Counsel:

I sense that this case is heading farther away from settlement rather than closer. Mediation has apparently been unsuccessful, and I gather from the silence that my recent *Rule 68 Offer of Judgment* was not favorably received. A *Motion to Set* will be heard on _____. Our likely trial date will probably be six to eight months from the *Motion to Set* hearing.

I am writing to ask that you and your client consider submitting this divorce case to binding arbitration, rather than trial.

There are several advantages to both parties by going to arbitration rather than a family court trial. We can agree on a decision-maker in whom we have confidence, rather than take our chances with whoever is assigned to handle the trial. We can get in soon, rather than waiting months for a *Motion to Set* to be heard and months more for a trial date. We can avoid all of the Family Court's costly and time consuming pre-trial procedures (required filings, multiple conferences, VSM process, etc.). We can agree to relax the rules of evidence, and conduct the proceedings with a bit less formality than in court. We can conduct the arbitration downtown, rather than driving out to Kapolei (Family Court will probably be open out there by the time we get to trial). We can reserve the amount of time that we need, rather than get short-changed or have to try the case in installments. Finally, we will get a written decision with reasons, and get it promptly. In my opinion, even though the parties have to pay for an arbitrator, the much faster resolution of the case ultimately results in a lower total cost than if the matter were tried in Family Court.

Although an arbitration decision must be confirmed by the Family Court judge, attorneys have had no difficulty getting them confirmed, even where the decision involved custody and visitation. In addition, the family court judges who have spoken about arbitration have all indicated that they will readily approve an arbitration decision and encourage this alternative to litigation. You might also take a look at Chapter 15 of the Hawaii Divorce Manual, which discusses arbitration in divorce.

There are several well-qualified arbitrators who could handle this case. I propose for your consideration: [either insert specific names or refer to the website dprhawaii.com, "family issues," "arbitration" for a list of possible arbitrators]. We would be willing to consider someone else that you might nominate, if you have another candidate in mind.

I hope you will give this your serious consideration. Please give a copy of this letter to your client, and then kindly get back to me with your response.