



## **RULES OF MEDIATION**

The purpose of these rules is to assist the parties in reaching an agreement on the issues submitted for mediation. The rules are necessary to protect the integrity and confidentiality of the mediation process. The guidelines that follow the rules are designed to assist each party in examining relevant factors necessary for a full and fair discussion of the issues.

**AGREEMENT TO BEGIN MEDIATION:** These rules are a part of your signed Contract to Mediate. All parties will be asked to sign such a contract before the commencement of mediation with Rosma Newell, mediator.

**CONDUCT OF THE MEDIATION SESSIONS:** The mediation process will be conducted in a manner that the mediator believes will most expeditiously permit full discussion and resolution of the issues. The mediator will assist the parties in fully discussing and understanding each issue before agreements are made so that both parties arrive at solutions that they believe are *fair* and *equitable*.

**CONCERNS OF THE MEDIATOR:** The mediator may indicate verbally or in writing his or her concerns regarding any final decisions that the parties make when the mediator is concerned about or does not understand the parties' standard of fairness. The mediator's comments may appear in the preliminary and /or final Memorandum of Agreement.

**CONFIDENTIALITY OF MEDIATIONS SESSIONS:** Although some State Statutes and Rules of Court say that all communications, documents, and work notes made or used in mediations are privileged, the parties contract with each other and with, *Newell Mediation Services*, to keep the mediation discussions and documents confidential. By signing the Contract to Mediate incorporating these rules and the following guidelines, the parties agree as follows:

1. Through the adoption of these rules, the parties agree that they will not call either the mediator or agent of *Newell Mediation Services*, as a witness in any litigation of any kind regarding the mediation sessions conducted by, *Newell Mediation Services*, and in like manner, the parties shall be stopped from requiring the production of any records, documents or any other notes, and/or papers made by the mediator of *Newell Mediation Services* for any purpose(s) associated with the litigation of any issue(s) dealt with in mediation.

2. The foregoing exclusions from evidence and exemptions of the mediator and parties from giving testimony or being called on to produce documents shall apply also to the use of neutral experts and other professionals called on by the parties in mediation.

**FULL DISCLOSURE:** The parties agree that they will fully disclose to the other party and the mediator all information and writings as requested by the mediator, including financial statements, income tax returns, and so on, and all information requested by the other party if the mediator finds that such other disclosure is appropriate to the mediation process and may aid the parties in reaching an agreement. At the conclusion of the mediation process, the parties may find that their attorney's request, further verification, and disclosure to review and implement the decisions reached in mediation; therefore, the parties agree that they will provide such information at the request of the other party.

**PREPARATION OF BUDGETS:** The preparation of a budget by each party is essential to the mediation process. If either party fails or refuses to prepare a budget adequately reflecting his or her needs, the mediator shall have the option of suspending mediation of this issue or, at the parties' discretion, declaring an impasse.

**PARTICIPATION OF CHILDREN AND OTHERS:** Children of sufficient age or other persons having a direct interest in the mediation may participate in mediation sessions related to issues concerning them, with the consent of the parties and the mediator.

**PROHIBITION AGAINST TRANSFERS OF PROPERTY, CHANGE OR CANCELLATION OF INSURANCE, OR ANY OTHER ACTIONS THAT CHANGES THES MARITAL ESTATE:** The parties agree that they will not engage in any transactions that materially affect the status quo of the existing marital estate. They agree that transfers or sales of property without the written agreement of both parties and their attorneys are prohibited, except in the usual course of meeting ordinary monthly obligations. Likewise, they agree that cancellation or change of health insurance life insurance, or other benefits shall not occur while the parties are meeting in mediation.

**DRAFTING OF MEMORANDUM OF AGREEMENT: NO DECISIONS REACHED IN MEDIATION BECOME FINAL AND BINDING UNTIL THEY ARE APPROVED BY THE PARTIES' ATTORNEYS AND IMPLEMENTED THROUGH A COURT ORDER OR BINDING STIPULATION OF THE PARTIES AND THEIR ATTORNEYS.** After the mediation sessions, the mediator will draft a detailed memorandum setting forth the decisions agreed on by the parties in mediation. The Memorandum of Agreement will contain background information about the parties and will set forth the factual information relied on by the parties in reaching an agreement. The Memorandum of Agreement will be submitted to each of the parties or to his or her attorney for review and implementation of the decisions as reflected in the memorandum. Any new or omitted issues raised by the attorneys will be returned to mediation if the parties and their attorneys cannot efficiently and cooperatively resolve such new or omitted issues.

**LEGAL REPRESENTATION:** The mediator does not legally represent either of the parties. If the parties believe that legal representation is needed, it is strongly recommended that each party retain the legal counsel of his or her choice at the beginning of the mediation process.

**ALTHOUGH NEWELL MEDIATION AND LEGAL SERVICES, RECOMMENDS THAT EACH PARTY EDUCATE HIMSELF OR HERSELF ABOUT THE LEGAL APPROACH TO DIVORCE, THE MEDIATOR WILL ENCOURAGE BOTH PARTIES TO DISCUSS AND NEGOTIATE A SETTLEMENT BASED ON THEIR STANDARDS OF FAIRNESS AND THEIR OWN DECISIONS ABOUT WHAT IS BEST FOR THEMSELVES AND THEIR FAMILY.**

**SCHEDULING OF SESSIONS AND STARTING TIMES:** If any party needs to change a scheduled appointment, he or she is requested to do so at least 72 hours in advance. There will be a \$50 deposit to be placed on the calendar. The balance will be paid in full before each mediation.

**SERVICE FEES AND ADMINISTRATIVE CHARGES:** The fee for each session is \$350 per person for a four-hour session and \$850.00 per person for an eight-hour session. In addition to hourly charges for the mediation sessions, the parties will be charged for the mediator's preparation of the mediated settlement agreement, discussion with parties, their counsel, or with other persons concerning matters related to the mediation. A fee of \$ 75.00 for each additional hour. There is a traveling fee of \$100.00 if the mediator mediates outside of the home office.

**DISAGREEMENTS:** Should any disagreements arise between either party and Newell Mediation Services, concerning fees or charges, the parties agree that they will use the services of a mediator to resolve the disagreement (after first trying to resolve it themselves), and should they not resolve the disagreement through mediation, they agree to submit the matter for binding arbitration according to the terms of the State of Texas Family Code Section 6.601.

**PHONE CALLS AND SPECIAL SAFETY CONCERNS:** Newell Mediation Services have a general policy of not caucusing separately with either party unless the mediator believes it is necessary to do so to avoid a possible impasse or to reduce the intensity of the conflict. For this reason, the parties are asked not to communicate with their mediator outside the working session about any issues of substance associated with a dispute. Procedural questions are permitted. **However, parties are encouraged and permitted to discuss with the mediator, either in sessions or in private, any concerns related to either their physical or emotional safety and well-being as it relates to the mediation process.**

If any party feels that separate (private) communications with the mediator are imperative, he or she may call the mediator and present his or her concern(s) and reason(s) for discussing the matter outside the scheduled mediation sessions.

**CHILD ABUSE:** The mediator may encourage self-reporting of any such allegation disclosed during the mediation process. In circumstances where the mediator believes the safety of a child is in question, the mediator may report such information to the Texas Department of Family and Protective Services.

**WITHDRAWING FROM MEDIATION:** These rules assume that because mediation is voluntary, either party may withdraw from the mediation process at any time.

**Newell Mediation Services reserve the right to amend these rules at any time; however, such amendments will not apply to active legal cases in mediation on the date of such amendments.**

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**Mediator**

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**Date**

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**Party**

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**Date**

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