

## To Mediate a Civil Lawsuit

I hope you will read the information below and decide to mediate your legal dispute without all the emotion and hurt feelings an ugly court battle can generate. A mediation can be one or more meetings with the parties involved and the mediator to discuss the issues involved in ending the dispute in a manner acceptable to both parties. If both parties do not want to discuss the issues face to face, the mediator can meet with each party separately to determine the best way to settle the issues. Any information given by any party to the mediator is **confidential** and will not be shared with any other person without the express consent of the party supplying the information.

The mediator does **not** tell the parties what to do or offer legal or financial advice, only suggestions to be considered and used only if the people involved want to use them. Each party has the power in mediation to determine how they wish to handle their dispute and come to an agreement with the other party. The mediator or an attorney will write the agreement. Attorneys can be present during the mediation meetings for legal advice or either party may ask for a recess during mediation to talk with an attorney or any other party. Other parties, such as relatives or friends of the parties usually cannot be present in the mediation. If you need to discuss this in more detail, please E-mail or call me, Randy Edwards, at [LubbockMediator@aol.com](mailto:LubbockMediator@aol.com) or 806-535-1535.

The first item you need to consider is the **Letter or Phone Script**. This is a form you can use to send a letter to the other party about why you both might want to consider choosing mediation over the court battle. It can be copied into a word document, changed in any way you consider necessary and then sent it to the other party. It can also be used as a script in a phone call or conversation with the other party. If you would like Professional Mediation Services to send the letter, please send the name, address, and phone number of the other party along with a check or money order for \$25.00 made out to Randy Edwards, PO Box 98061, Lubbock, TX 79499 I will also send you a copy of the letter.

**Rules for Mediation** (2 Pages) are next. Please read them carefully because both parties will be asked to sign a copy of them stating they have read and understand them. This must be done before mediation can start.

**Mediation Information Sheet** (1 Page) One of these sheets must be filed out for each party and copies must be given to the mediator before mediation can start.

**Payment for Mediation Services** Payment is due at the end of each mediation session in cash, check, or money order unless other arrangements have been agreed to ahead of the session. The parties may agree to stop mediation at the end of a given time period if there is no progress toward reaching an agreement. If the mediator feels there is no progress or any way for the parties to reach an agreement the mediator will request to end the mediation and the parties may agree to do so.

Print out any or all of the following forms to use in your mediation.

## LETTER or PHONE SCRIPT

Your name  
Your Address

Other party  
Address  
Date

Other party;

I know this disagreement has been emotional for both of us, hurt, anger, frustration, mistrust, wondering how to deal with this issue.

We could do the usual thing and have two attorneys stand up in court to tell our stories to a judge and then the judge will tell us how to settle things with no control over the decision. A possible alternative that may work better with less stress, pain, and expense is mediation.

Mediation is a process in which an impartial person (Mediator) would help us to come to an understanding of the issues in our dispute and attempt to reach an agreement that is acceptable to both of us, that we can both live with in the future.

This mediation will allow us to develop an agreement to settle our dispute, because we have to deal with this situation in some way. A mediated settlement agreement can save us time and expense and should result in a more satisfactory and workable resolution to our dispute than can be obtained from a court unfamiliar with us and our situation.

Please, lets try to put aside our emotions and work together to find a way out of this situation so we can get this disagreement out of the way and both move on with our lives.

Please visit the mediation website: [www.LubbockMediator.com](http://www.LubbockMediator.com) and read about how the process works. Talk to Mr. Randy Edwards to find out how he can help us through this situation.

Please let me or Mr. Edwards know if you will try mediation.

Thank you,

Your name

## Rules for Mediations

Mediation is a process in which an impartial person helps the parties attempt to reach an agreement about the item(s) in dispute, come to an understanding of the issues(s) being discussed, or to accomplish reconciliation. The purpose of mediation is to assist the parties in developing their own final settlement or partial settlement concerning their disagreement.

Mediation is conducted according to the following rules:

### **1. Confidentiality**

Communications in mediation are confidential, and the mediator shall not disclose any communication made during mediation to the court or anyone else. However, abuse and neglect of children, the elderly, disabled persons, or murder are not confidential issues and must be reported. Certain federal matters may also require disclosure. ***WARNING: Any confidential communications between the attorney and their client in the presence of a third party (e.g. relative, friend, advisor) regarding any matter related to the subject of the mediation may not be protected as confidential if determined to be a waiver of the attorney-client privilege and may be discoverable and admissible in any subsequent legal proceedings.***

### **2. Participation and Disclosure**

Parties are expected to communicate openly and truthfully, to share all information pertinent to the issue(s), and to follow instructions as directed by the mediator. Parties agree to take turns speaking and agree not to interrupt each other. Parties agree not to argue about things that happened in the past, but instead focus on the future they would like to create. Common courtesy shall be exercised toward all in attendance at the mediation.

### **3. Legal/Financial Advice**

The mediator **cannot** provide legal or financial advice to either party. The mediator is neutral and will not advocate for either party. If the need for legal and/or financial advice arises during mediation, parties will be encouraged to discuss such issues with an attorney and/or a financial expert.

### **4. Participation of other Parties in Mediation**

In order to assist the parties in reaching an agreement, it may be necessary for the mediator to interview other persons. If so, the mediator will discuss and inform everyone involved. Such discussions are confidential unless otherwise agreed between the participating parties.

### **5. Session Attendance**

All Parties involved in the dispute are expected to attend each mediation session scheduled by mutual agreement of the parties. Parties are expected to mediate in good faith and to be prepared to discuss the issues in dispute. Parties in attendance certify they have the power to agree to any settlement reached by the mediation.

### **6. Individual Meetings (Caucus)**

At times, the process of mediation requires the mediator to hold individual meetings with the parties. Such information shared during these meetings is confidential unless approval is given by the appropriate person(s) to share such information with the other parties involved in the mediation.

**9. Other Concerns**

Any party may ask to speak to the mediator at any time without the other party present. Any party may ask for a reasonable break period for personal needs, to call another person for legal or financial advise, or if the session has become too intense. If any party feels the mediation is not working for them they may request to stop the session or decide not to continue the mediation at any time. Any party will inform the mediator if they feel the mediator is not being impartial. All parties agree not to proceed with adversarial legal proceedings (except in the case of an emergency) until the mediation is completed.

**8. Communications between Sessions/Notice of Settlement**

If mediation is continued to another date, the mediator will not discuss the mediation with either party or any attorney in the case between mediation sessions. If the parties settle their dispute before reconvening the mediation, the parties or their attorneys will immediately inform the mediator of settlement.

**9. Reporting Outcome of Mediation**

If the parties or mediator terminate the mediation before an agreement is reached, the Mediation Report will reflect an Impasse. If the parties reach an agreement during mediation that resolves all or part of their dispute, the mediator (or another person selected by mutual agreement of the parties) will complete a ***Mediation Agreement*** that will state the terms of the agreement. The completed ***Mediation Agreement*** will be given to the parties and their attorneys. Parties who attend mediation without counsel may sign the agreement at the mediation or may wait to sign the agreement until after their attorneys have reviewed and approved the agreement. Once signed, the ***Mediation Agreement*** may be enforceable as a binding contract. ***Before signing, and thereby executing, any agreement, parties have the right to have it independently reviewed by a lawyer.***

**By signing this agreement, we are acknowledging the following information:**

We agree to use our best efforts to participate fully in the mediation process in accordance with the above stated rules and move toward the fairest and most constructive agreement possible.

We further acknowledge that we have read and understood the Mediation Rules this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and that the Mediator has furnished us with a copy of these rules.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Attorney Signature)

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(Print name)

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(Attorney Print name)

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