

# REALMEDIATIONS™

*Dispute prevention and resolution for real people, real business and real estate.*

## *The Mediation Process*

- 1 - What is mediation?**
- 2 - How do I get started?**
- 3 - How long will it take to schedule a session?**
- 4 - How much will the mediator charge?**
- 5 - How long will the mediation take?**
- 6 - What happens during the mediation?**

### **1 - What is Mediation?**

Mediation is a process in which two or more parties in a dispute meet with a trained, neutral third person in order to work out a resolution to the dispute. Responsibility for reaching the resolution is shared by each party. The mediator does not take sides or render a decision, unlike a judge or arbitrator. The mediator's role is to help the parties identify and define the key issues in the dispute, create and develop alternative resolutions, and evaluate the options against each party's goals. The most important aspect of mediation is that it works! When the disputing parties come to the mediation voluntarily, 80-90% of the time they reach agreements satisfactory to all parties.

### **2 - How do I get started?**

The best way to get started is to call REALMEDIATIONS (949) 235-4140 or email us at [jm@realmmediations.com](mailto:jm@realmmediations.com) and tell us about your dispute. We're pleased to provide a 30 minute free phone consultation, and discuss whether mediation is a suitable approach for your dispute. If you decide you'd like to move forward, at your request we'll contact the other parties free of charge and help them to make a similar decision.

### **3 - How long will it take to schedule a session?**

Mediations can often be scheduled within days of your first call, and evening and weekend appointments are possible. Arrangements are made for payment of the initial deposit by each party prior to the mediation session.

### **4 - How much will the mediator charge?**

At REALMEDIATIONS mediators charge \$85-125 per hour per party, depending on the complexity of the case and the number of parties involved. You are responsible only for your share of fees, not the other party's. Divorce mediations can be priced as a package, including paperwork and filing.

### **5 - How long will the mediation take?**

Depending on everyone's schedules and the nature of the dispute, individual sessions can range from 2-8 hours, with breaks as necessary. Fairly simple disputes may be resolved in a few hours; more complex ones may run a few days.

## **6 - What happens during the mediation?**

*At RealMediations, the mediation will generally be structured with the following steps.*

### ***Welcome/Mediator's Opening Statement:***

The mediator will welcome the parties, make introductions, review ground rules, and outline the roles of the participants and the structure of the mediation. While the mediator will encourage each party to communicate directly with the others, if the disputants are represented by attorneys, they are welcome at the mediation. Often, an attorney with an understanding of the history of the dispute can greatly help facilitate the resolution. Other people who are critical to resolution of the dispute may also participate. However, for the sake of reaching a resolution without undue delay, the mediator may limit the number of people representing each party. During this time, an Agreement to Mediate and Confidentiality form is circulated and executed by all parties.

### ***Parties' Opening Statements:***

Each party is given an opportunity to describe the dispute as they see it, with as little interruption as possible. The other parties are encouraged to hold questions until the speaker is done, writing down their questions or comments if necessary. While you are welcome to bring evidence or other supporting material to the mediation, it is not necessary unless you feel that it would help the other parties understand your interests. It is not necessary to convince the mediator, since the parties (not the mediator) determine the outcome of the mediation.

### ***Agenda Development:***

The parties exchange their views, with the mediator developing a list of issues that need to be resolved in order for an agreement to be reached. Generally speaking, this is done in open session with all parties participating. To make sure that discussion continues until all the important issues are on the table, the mediator will usually defer discussing solutions until the next step.

### ***Brainstorming/Negotiating Agreement:***

First, the mediator will encourage everyone to be as creative as possible in suggesting potential solutions, whether the suggestions seem practical or not. As the session develops, the parties will begin to focus on the more promising options, and develop them into practical solutions. The mediator will be watching for areas of impasse, and may ask each party to caucus (meet privately with the mediator) to discuss more difficult issues. If one party caucuses with the mediator, all parties will do so, in turn. Ultimately, as these issues are dealt with, the parties will be brought together to finalize negotiations, and agreement will be reached.

### ***Writing the Agreement:***

The mediator will write the agreement. If the dispute is fairly simple and the agreement is not going to be enforceable in court, the mediator will probably produce the agreement at the end of the session and present it to the parties for their review and signature. If the agreement is more complex or will be enforceable in court, each party may want their attorney to review the agreement prior to signature. Whether the parties opt for legal enforceability or not, the history of mediation is that 80-90% of agreements entered into voluntarily are honored by the parties. Often, if there are one or two issues that are problematic, a short follow-up mediation session can resolve them quickly.

### ***Closing Statement:***

The mediator will thank the parties and review next steps or any follow up issues.