

**IN THE DISTRICT COURT OF EL PASO COUNTY
388TH JUDICIAL DISTRICT COURT**

**IN THE MATTER OF THE
MARRIAGE OF**

AND

AND IN THE INTEREST OF:

MINOR CHILD(REN)

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CAUSE NO. _____

**SCHEDULING ORDER
ORDER OF REFERRAL TO MEDIATION**

In accordance with rules 166, 190 and 192 of the Texas Rules of Civil Procedure, the Court makes the following order to control discovery and schedule of this cause

| | | |
|------------------------------------------------|---------------|-----------------------|
| Discovery Complete | ____/____2011 | ____:____ a.m. / p.m. |
| Parenting Plan Filed | ____/____2011 | ____:____ a.m. / p.m. |
| Inventory Filed | ____/____2011 | ____:____ a.m. / p.m. |
| Proposed Division of Property Exchanged | ____/____2011 | ____:____ a.m. / p.m. |
| Settlement Conference | ____/____2011 | ____:____ a.m. / p.m. |
| Mediation | ____/____2011 | ____:____ a.m. / p.m. |
| Affidavit of Settlement/Mediators report filed | ____/____2011 | ____:____ a.m. / p.m. |
| Docket Call | ____/____2011 | ____:____ a.m. / p.m. |

Motions for Reset or Continuance

1. Motions for Reset or Continuance will be granted only by Court Order.

Discovery Control Plan

2. Unless otherwise ordered, discovery in this case will be controlled by Rule 190.3 (Level 2) of the Texas rules of Civil Procedure. Except by agreement of the party, leave of Court, or where

expressly authorized by the Texas Rules of Civil Procedure, no party may obtain discovery of information subject to disclosure under Rule 194 by any other form of discovery.

3. Any objection or motion to exclude or limit expert testimony due to qualification of the expert or reliability of the opinions must be filed no later than seven (7) days after the close of the Discovery Period, or such objection is waived.
4. Any motion to compel responses to discovery (other than relating to factual matters arising after the end of the Discovery Period) must be filed no later than seven (7) days after the close of the Discovery Period or such complaint is waived, except for the sanction of exclusion under Rule 193.6.
5. Any amended pleadings asserting new causes of action or affirmative defenses must be filed no later than thirty (30) days before the end of the Discovery Period and any other amended pleadings must be filed not later than seven (7) days after the end of the Discovery Period. Amended pleadings responsive to timely filed pleadings under this schedule may be filed within fifteen (15) days after the pleading to which they respond.

ORDER TO MEDIATE

6. This case is appropriate for mediation pursuant to Tex. Civ. Prac. & Rem. Code Sections 154.001 et seq., _

_____ is appointed Mediator in the above case.

Mediation

7. The following shall be prepared, exchanged, and submitted to the Mediator **no later than five days** before Final Mediation:
 - a. A list of contested issues of fact and stipulations of fact;
 - b. Legal issues to be decided by the court;
 - c. Complete Inventory and Appraisements of the marital estate;
 - d. Petitioner and respondent combined proposed values and division of property;
 - e. Proposed final parenting plan. (Fam.Code \$153.603)
8. The Mediator is granted the discretion to adjourn the first Mediation session and schedule additional sessions as necessary to facilitate resolution of all matters related to the dissolution of all issues.

This Mediation is a mandatory and binding settlement conference, conducted with the assistance of the Mediator. Mediation is private, confidential and privileged from discovery. The parties are ORDERED to commit to participate in the proceedings in good faith with the intention to settle, if at all possible. After mediation, the Mediator will advise the Court that the case did or did not settle. The Mediator shall not be a witness nor may the Mediator's records be subpoenaed or used as evidence. No subpoenas, citations, writs or other process

shall be served at or near the location of any mediation session, upon any person entering, leaving or attending any mediation session.

Mediation Fees

9. The Mediation Fees shall be divided ½ costs to Petitioner and ½ costs to Respondent. The fees shall be payable to the respective Parties' Attorney's Trust Account under IOLTA, and shall be delivered as ordered directly to the Mediator before Mediation commences. All parties and their counsel will be bound by the Rules for Mediation attached and shall complete the information ordered.

Named parties and their respective counsel are ORDERED to be present during the entire mediation process. Each party and counsel present must have sufficient authority to settle this matter, in the event settlement is reached. The authority required shall be active, not simply the authority to observe the mediation proceedings, but the authority, in the discretion of the party and or counsel representative, to participate, negotiate, demand or offer, and bind. It is further ORDERED that the Mediator shall encourage and assist the parties in reaching settlement of their dispute but may not compel or coerce the parties to enter into a settlement agreement.

It is further ORDERED that the referral of this case to Mediation will not delay or modify any time period relating to its disposition, without express order of the Court

It is further ORDERED that upon completion of the Mediation, the Mediator will file with the Court an order approving fees and Mediator's Mediation Report which is to state when the Mediation was conducted, whether the parties and their counsel appeared as ordered, whether a settlement resulted, and what fees were paid by each party. Such a post-mediation report is not to contain any additional information, which might breach the principles of confidentiality and privacy noted herein. Said order approving fees and report shall be filed with the Court within three court days of the date of completion of the mediation process.

This Order for Mediation is not a substitute for trial and the above entitled and numbered cause will be tried if settlement is not reached.

PRE TRIAL SUBMISSIONS

10. Cases not settling after mediation are required to appear at the next docket call and parties are directed to complete and exchange pretrial reports. Handwritten pretrial reports will not be accepted. The following information shall be contained in the pretrial reports:

- a. Witness lists and length duration of direct, cross and redirect examinations;
- b. Exhibit lists; each exhibit must be identified separately and not by category or group designation. Rule 193.7 applies to this designation;
- c. Copies of exhibits not produced in discovery;
- d. Complete Inventory and Appraisements of the marital estate.
- e. Petitioner and Respondent combined proposed values and division of property;
- f. Legal issues to be decided by the court;

- g. List of contested issues of fact and stipulations of fact;
- h. Proposed final parenting plan. (Fam.Code § 153.603)

**FAILURE TO COMPLY WITH DOCKET CALL PROCEDURES AND/OR
MEDIATION REFERRAL ORDERS AND PRETRIAL SUBMISSIONS MAY RESULT
IN SANCTIONS.**

SIGNED this _____ day _____ 2011.

**PATRICIA A MACIAS
JUDGE PRESIDING**

cc: Attorneys of Record

Petitioner _____
Respondent _____
Mediator _____