

Cause No. _____

_____	§	IN THE PROBATE COURT
_____	§	
_____	§	
_____	§	OF
_____	§	
_____	§	
_____	§	DENTON COUNTY, TEXAS

ORDER OF REFERRAL TO MEDIATION

The above referenced case is referred to mediation in accordance with the Texas Civil Practices and Remedies Code and/or the Texas Family Code.

The **Denton County ADR Program (DCAP)** is appointed to mediate in this case, and all counsel are ordered to contact DCAP to arrange the logistics of mediation within ten business days. **DCAP's** address and telephone number are as follows:

512 W. Hickory, Ste. 202
Denton, Texas, 76201
(metro) 940.320.1500
(metro fax) 940.320.1502
(email) mhouston@dentonbar.com

This mediation is a mandatory settlement conference, conducted with the assistance of the mediator. A mediated settlement agreement can be made binding on the written agreement of the parties. Mediation is private, confidential, and privileged, except as provided by applicable law. After mediation, the Court will be advised by the mediator, the parties, and counsel only that the case did or did not settle. The mediator shall not be a witness, and the mediator's records may not 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 on any person entering, leaving, or attending any mediation session. Each party and counsel shall be bound by any rules for mediation furnished by the mediator and shall complete and supply all information requested by the mediator.

IT IS ORDERED that all named parties and lead attorneys shall be present during the entire mediation process and that each corporate party must be represented by an executive officer with authority to negotiate a settlement. Counsel and parties are **ORDERED** to proceed in a good-faith effort to try to resolve this case and shall agree on a mediation date within the next 10 days. If no agreed date can be scheduled within the next 10 days, the mediator shall select a date for the mediation and all counsel and parties are **ORDERED** to appear as directed by the mediator. Any date so scheduled by the mediator is incorporated in this Order as the date on which the mediation shall occur. Referral to mediation is not a substitute for trial, and the case will be tried if not settled.

IT IS FURTHER ORDERED that the parties do the following:

1. Notify Denton County Alternative Dispute Resolution Service (DCAP), in writing at least 21 days before the date of mediation, or immediately upon entry of this Order if the mediation is scheduled less than 21 days from the date of this order, if there is any allegation, by either party, of domestic violence having been committed by either party, or any person attending the mediation, or if there is any reason the party believes his or her personal safety would be in jeopardy at mediation.
2. Pay the mediation fee assessed herein prior to, or concurrently with, the scheduling of the mediation. IT IS SPECIFICALLY ORDERED that DCAP is under no obligation to schedule the mediation until the assessed fee is paid.
3. For all cases brought under the Texas Family Code, complete the Summary Inventory, attached hereto as Exhibit A, and the delivery of it to DCAP at least 5 days prior to mediation is mandatory for all cases brought under the Texas Family Code. IT IS ORDERED that, if a cause of action is brought under the Texas Family Code and if Exhibit A has not been received from all parties by DCAP at least 5 days prior to the scheduled mediation date, the mediation shall be cancelled by DCAP and the parties shall be charged the \$150.00 cancellation fee. IT IS FURTHER ORDERED that, if a cause of action is brought under the Texas Family Code and if Exhibit A indicates a higher mediation level/fee for any party to the mediation, DCAP shall assess the fee indicated prior to, or on the date of, mediation and mediation shall not commence until said additional fee has been paid. IT IS FURTHER ORDERED that, if the case being submitted to mediation at DCAP is a divorce action, and the parties' Summary Inventories indicate different mediation levels because of disputed valuations of one or more assets, the higher valuation shall control the mediation level for both parties.
4. For all civil cases that are not subject to the Texas Family Code, the levels shall be set and indicated below. **However**, IT IS ORDERED that, if during mediation it is discovered that the amount in controversy is higher than the amount indicated by the parties prior to mediation which then indicates a higher mediation level/fee for any party to the mediation, DCAP shall assess the fee indicated on the date of mediation and mediation shall not continue until said additional fee has been paid. IT IS FURTHER ORDERED that, if the parties indicate different mediation levels because of disputed valuations of the claim(s), the higher valuation shall control the mediation level for both parties.

The following levels have been approved through the Commissioner's Court, please do not modify.

____ **Level 1.** Indigent

_____, Petitioner, has been judicially determined by this court to be indigent. Mediation will be conducted at no charge to this individual.

_____, Respondent, has been judicially determined by this court to be indigent. Mediation will be conducted at no charge to this individual.

___ **Level 2.** The net value of the estate/resources of the parties is less than \$100,000 or in a non-family law matter the amount in controversy is less than \$100,000.00.

(Check One):

___ The cost of mediation is \$150.00 per (Party / Petitioner / Respondent). (circle one)

___ The \$300.00 mediation fee will be charged to _____.

___ **Level 3.** The net value of the estate/resources of the parties is between \$100,000 and \$500,000 or the amount in controversy in a non-family law matter is between \$100,000.00 and \$500,000.

(Check One):

___ The cost of mediation is \$900.00 per (Party / Petitioner / Respondent). (circle one)

___ The mediation fee (\$1,800.00) will be charged to _____.

___ **Level 4.** The net value of the estate/resources of the parties is more than \$500,000 or the amount in controversy in a non-family law matter is more than \$500,000.00.

(Check One):

___ The cost of mediation is \$1,500.00 per (Party / Petitioner / Respondent). (circle one)

___ The mediation fee (\$3,000.00) will be charged to _____.

The term “Net value of the estate/resources of the parties” in all cases (whether divorce, modification, SAPCR only, etc.) shall be defined for each party by figuring the total value of that party’s assets (whether community, separate, or mixed character) minus that party’s liabilities (whether community, separate, or mixed character.)

SIGNED on _____.

JUDGE PRESIDING

Certification of Net value of the Estate/Resources or Amount in Controversy of the parties

I hereby certify to the best of my knowledge, that the below level correctly reflects the net value of the estate/resources or in a non-family law case, the amount in controversy for my client:

- _____ LEVEL 1: My client is indigent
- _____ LEVEL 2: Less than \$100,000.00
- _____ LEVEL 3: \$100,000.00 to \$500,000.00
- _____ LEVEL 4: Greater than \$500,000.00

Signed on the _____ day of _____, 2012.

Attorney for Petitioner/Plaintiff

Certification of Net value of the Estate/Resources or Amount in Controversy of the parties

I hereby certify to the best of my knowledge, that the below level correctly reflects the net value of the estate/resources or in a non-family law case, the amount in controversy for my client:

- _____ LEVEL 1: My client is indigent
- _____ LEVEL 2: Less than \$100,000.00
- _____ LEVEL 3: \$100,000.00 to \$500,000.00
- _____ LEVEL 4: Greater than \$500,000.00

Signed on the _____ day of _____, 2012.

Attorney for Respondent/Defendant

FOR 3RD PARTY, IF APPLICABLE:

Certification of Net value of the Estate/Resources or Amount in Controversy of the parties

I hereby certify to the best of my knowledge, that the below level correctly reflects the net value of the estate/resources or in a non-family law case, the amount in controversy for my client:

- _____ LEVEL 1: My client is indigent
- _____ LEVEL 2: Less than \$100,000.00
- _____ LEVEL 3: \$100,000.00 to \$500,000.00
- _____ LEVEL 4: Greater than \$500,000.00

Signed on the _____ day of _____, 2012.

EXHIBIT "A"

Real Property net value (FMV - note balance or balances=net value)

Common address net value

- 1 -
- 2 -
- 3 -

Cash and Accounts with Financial Institutions balances

Name of Inst. last 4 dig. of Acct. # bal. and date.

- 1 -
- 2 -
- 3 -

Motor Vehicles, Boats, Airplanes, Cycles etc. net value (FMV - note bal. = net value)

Make and Model net value

- 1 -
- 2 -
- 3 -

Retirement Benefits/IRA/SEP (defined contribution plan or defined benefit plan)

Name of Account value of Account

- 1 -
- 2 -
- 3 -

Insurance and Annuities

Co. Name of Insurer cash value

- 1 -
- 2 -
- 3 -

Brokerage/Mutual Fund Accounts

Name of Co. Bal and Date

- 1 -
- 2 -
- 3 -

Stocks, Bonds, & other Securities

Name of Issuer Value and Date

- 1 -
- 2 -
- 3 -

Closely Held Business

Name of Business Business Value

- 1 -
- 2 -

Unsecured Debt

Name of Debt Holder Liability Amount and Date

- 1 -
- 2 -
- 3 -
- 4 -

Other

- 1 -
- 2 -
- 3 -