

# JENNY RIMMER MEDIATIONS

## Mediation and Family Dispute Resolution Services

### Principal:

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Nationally Accredited Mediator

Registered Family Dispute Resolution Practitioner

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## MEDIATION INFORMATION FOR PARTIES

### *“What happens in my mediation?”*

#### **ABOUT THE MEDIATION**

You are attending mediation to resolve outstanding issues in your dispute. This may be about parenting matters for your children, how you will divide your property or both those matters.

You will be provided with a copy of a Mediation and Fee Agreement - Terms and Conditions which sets out the formal terms and conditions of the professional arrangements and also includes the fees and charges for mediation. The Mediation and Fee Agreement should be read as soon as it received. You are asked to sign the Consent Form on the last page of the document and return it to me as soon as possible but before the mediation commences for parties with legal representation and within 7 days for parties without legal representation. If you have any concern with any part of the agreement, the concern must be brought to my attention in writing within 7 days of receipt, or immediately for short notice mediations. In the event that you fail to notify me that you do not consent to the terms of the Agreement, we will both be bound by its terms even if the signed Consent Form is not provided. Please note that I cannot commence the mediation unless the Consent Form has been signed and returned.

This document is provided to help explain what happens in Mediation. Mediation is a process designed to facilitate discussion and, if possible, resolution of all matters in issue. This takes place in an informal environment and is assisted by an objective third party, the Mediator. The objective is to resolve the dispute and reaching a final agreement.

#### **ABOUT YOUR MEDIATOR**

You have appointed me as your Mediator to participate in a process which involves canvassing personal issues which are of great significance to you. It is therefore appropriate that you be provided with some relevant information about my background and experience.

I am a qualified lawyer. I have over 35 years' experience in practice as a lawyer. The majority of my practice in the law has been as a specialist in Family and De Facto Law. My practice in Family Law was initially as a Solicitor in private practice and then at the Legal Aid Office Queensland, then as a Registrar of the Family Court of Australia both in Queensland and New South Wales.

I was recognised with an appointment as a Federal Magistrate in the Federal Magistrates Court of Australia in 2000. I filled that role for a total of 6 years and chose to retire from the Court in December 2006. I undertook training as a Mediator both within my role as a Registrar in the Family Court and later at Bond University. I have practiced as a Mediator since 2009 and have conducted a wide range of mediations in Queensland and interstate.

My experience in the law for over 40 years and my firsthand experience as a Federal Magistrate has highlighted the real costs to families of damaging litigation and convinced me of the benefits of alternate dispute resolution. Mediation is an opportunity for parties who are usually also parents, to resolve their disputes and avoid litigation. I hope to assist in that process as your Mediator.

### **SO WHAT IS DIFFERENT ABOUT MEDIATION?**

The important elements of mediation are the neutrality and confidentiality of the process.

#### **(a) Neutrality**

The confidence of the participants in the objectivity of the mediator is essential to the prospects of success of the process itself.

I am committed to the mediation process and have a significant professional investment in assisting the parties to achieve a satisfactory resolution. However, I have no personal interest in the outcome and intend to conduct the process in an entirely fair and neutral manner.

If at any stage in the process you have any concerns about issues of fairness and impartiality, please raise them directly with me or through your Solicitor and I will endeavour to address those concerns immediately.

#### **(b) Confidentiality**

The other equally important component of mediation is the confidentiality of the process. This is particularly important where litigation is pending or being contemplated. An essential part of productive negotiations is the willingness and capacity of parties to make concessions and offers of compromise. The prospect of them doing so would be seriously undermined if such concessions and proposals could be subsequently used in court. As a consequence, mediation is covered by principles of confidentiality and all parties, the mediator and the legal representatives are bound by a legal prohibition preventing them from disclosing the contents of discussions and proposals canvassed during the mediation.

### **THE ROLE OF THE MEDIATOR**

The mediator's role includes controlling the mediation process, facilitating discussion, generating ways the parties may consider to solve the problems, to use skills when the parties reach impasses in resolution and to generally assist the parties and their legal representatives to achieve the objective of resolution.

It is not the mediator's role to act as a legal advisor. It is not the role of the mediator to act as a Judge. It is not the role of the mediator to impose outcomes upon parties.

Notwithstanding the above, it is appreciated that at some stages in mediations, parties and/or their legal representatives may feel that, given my experience in the law, it may be of assistance in the negotiating process for me to express some views or opinions about the merits of some of the competing proposals and propositions in the context of considering what might be the outcome should the matter proceed to trial in a Court.

If I think such information may be of assistance, I am happy to inform the parties of my views. Please note that if I do so it is only on the basis that it is understood that such views are not provided and should not be received as legal advice. Any views expressed by me are necessarily based on limited information at the time of the mediation. Any views I express are always to be subject to the legal advice the parties have available to them at the mediation or elsewhere.

### **THE ROLE OF THE PARTIES**

You have agreed to or perhaps been ordered by the Court to, participate in the mediation process and your obligation is to do so in good faith and to make a genuine effort to resolve matters in dispute.

It is very important that you have prepared for this mediation, both by providing all necessary information to the mediator but also in understanding that mediation is different to litigation and is focused on problem solving and not just holding firm positions about outcomes for the dispute.

You have the right to be fully informed about and fully involved in the mediation. You have the right to terminate the mediation at any time provided such termination is not inconsistent with your obligations to act in good faith.

### **THE ROLE OF LEGAL REPRESENTATIVES**

The role of lawyers in mediation is perhaps the most difficult of all. Primarily, they continue to act as your legal advisors to protect your interests and to inform you of your entitlements at law. However, in mediation, lawyers need to also apply effort towards facilitating the objective of resolution, and a degree of co-operation and collaboration with the mediator and with the other legal representatives is essential in achieving that end. This is a very different role than that which they play in litigation. Discuss this with your lawyer well before the day of the mediation so you do not feel surprised or concerned that they are joining with the other lawyer to assist the mediator and the mediation process.

It is likely that, during the course of the mediation, you will observe that your lawyer will discuss with you not only your entitlements at law but also the risks of litigation and the benefits of resolution. It

is likely to be in your best interest to consider carefully all the information you are provided with on the day of the mediation.

### **SEPARATE MEETINGS WITH PARTIES**

For parenting mediations, it is a requirement for me to have separate intake meetings with the parties prior to the commencement of the mediation. It is my practice to convene these meetings on the morning of the mediation to minimise your costs. The purpose of the meeting is to clarify the facts you will have already provided to me in your intake questionnaire or through your lawyer and to ascertain if there are any issues of family violence that may impact upon a safe mediation process, to fully understand what you are seeking as an outcome, to canvas particular aspects of your case which might need clarification and to answer any questions you might have about the mediation.

During the intake sessions I will explore with you your attitude to the prospect of having joint meetings with your former partner to discuss parenting solutions. There is no obligation to do so and it is appreciated that such a prospect may be difficult and even inappropriate in some situations. That decision is entirely a matter for you and will be fully discussed when we meet.

Regardless of the type of mediation, I will most usually conduct a joint introductory session to outline the process that I will follow and to provide guidance on how to get the most out of the mediation experience.

You may also wish to bring a support person with you. Again, exercise some care in who you choose and discuss this fully with your lawyer. They are there only to support you and if they interfere with or are not assisting you in the process, they may be asked to leave. That person will need to sign a separate support person agreement to ensure the confidential nature of all discussions at mediation is maintained. If that is to occur please advise me before the mediation and it is polite to advise the other party of this also.

### **DURATION OF THE MEDIATION**

Preparation by me for the mediation commences once I have received the material from each of the parties.

The mediation itself usually commences with intakes commencing at 9.00 a.m. for parenting and property mediations or 9.30 a.m. for parenting or property only mediations. Parties should be prepared for the likelihood that the mediation will take a full day. While usually the mediation will be concluded at 5 p.m., if the business of the mediation is not completed by that time, it may be necessary to extend the time or to convene a further mediation on another day if the parties so desire. This will be discussed with everyone concerned and agreed at the time. It is prudent to arrange such things as childcare, extended parking arrangements and travel with this in mind. If you do have time issues, please advise me up front at the initial intake meeting.

## **CONCLUSION**

It is understood that many parties approach mediation with some anxiety. If you wish to discuss any aspect of your mediation that you do not feel is addressed in this document, your lawyer should be able to provide assistance.

**Jenny Rimmer**  
**Mediator**