

**HEALY, FISKE, RICHMOND & MATTHEW
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MEDIATION DESCRIPTION

The Family Mediation Process

We are a firm of lawyers experienced in divorce law and mediation, offering divorcing, separating and other couples a fair process in which they can discuss and decide for themselves arrangements for their children, support and property division. The husband and wife jointly hire a member of the firm to act not as the attorney for either or both, but as a neutral mediator. During a series of mediation sessions the couple works out a mutually satisfactory plan covering the children's living arrangements, the financial needs of each member of the family, the home and other assets and debts of the parties. Both are free to consult with a lawyer or other advisor at any time. The process is designed to reduce the adversarial element often encountered in a divorce proceeding and also to save time and money.

Once an agreement is reached, the mediator will write a draft for the husband and wife to review with his or her lawyer before signing. The completed and signed agreement is enforceable and, if part of a divorce, may be presented to the court for approval.

The Requirement of Commitment

The mediation process will work only if the husband and wife are willing to make a good faith effort to reach agreement. There is no legal obligation to agree; any commitment to the process and its result comes voluntarily from the people involved.

The Benefits of Mediation

The mediation process can be significantly less expensive and less painful for the family than the protracted battles which are often part of divorce or other family litigation. When children are involved, studies indicate divorce agreements mutually agreed upon by husband and wife are usually far better for the children than those imposed by court order. The structured process allows the husband and wife to establish their own goals and design for themselves, with help, the best way to use their own resources.

The Cost of Mediation

John A. Fiske, Barbara Zicht and Susan Matthew charge \$425 an hour, for their services, including writing your agreement. Most couples take about ten hours of mediator time to complete their agreement. John does not ask for a retainer because clients pay as they go, by check or credit card. Barbara and Susan take retainers which are then applied against billed time and expenses. If more hours are needed, they submit additional bills; if the mediation ends in less time, they reimburse money not earned or spent on necessary expenses.

SOME OBSERVATIONS ABOUT MEDIATION*

- The family usually knows better than anyone else what is best for its members.
- When spouses can decide for themselves, there is a reduction in feelings of frustration, anger and helplessness.
- When spouses can talk and listen to each other, each feels less threatened by the other.
- Self-determination, rather than orders imposed by a court, reduced conflict and increases the chance for compliance with a plan developed by the parties themselves.
- When parents can reduce their conflict over any issue, their children benefit directly.
- People will change during and after the divorce. A plan worked out by them can be more flexible in adapting to their changed circumstances.
- By hiring a mediator to help them work out an agreement, parents can save themselves time, money and frustration.

*Based on years of experience, reports from many satisfied couples, and a library of significant books and other literature about mediation.

"I strongly encourage any couple who is willing to try to enter mediation. My wish for others is to be able to benefit from such a sensible and powerful process."

■ a divorced father

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MEDIATION AND FEE CONTRACT

We wish to obtain a Massachusetts divorce as soon and as sensibly as possible. We have read the mediation description by Healy, Fiske, Richmond & Matthew (see www.mediate.com/fiske) and are willing to make a good faith effort to reach an informed and lasting agreement. We understand the entire mediation process is voluntary and either of us can end it at any time.

We agree to hire John A. Fiske as our mediator. We shall pay the hourly rate of \$425 as we go, by check or credit card ("cash and carry"), either from a joint account or ___% by _____ and ___% by _____. We understand John shall not represent either or both of us as an attorney in connection with our divorce, and shall remain as neutral and impartial as humanly possible. We understand each is entitled to have her or his own lawyer if (s)he wants and to consult the lawyer or any other advisor at any time.

During the mediation we agree to disclose **ALL** aspects of our financial situations and to participate fully in all efforts to arrive at a reasonable and fair settlement of the issues raised by our divorce. We also agree that all communications in mediation, including all notes, homework, draft agreements and other written material are completely confidential, both by this agreement and by Mass. Law c. 233 section 23C. Thus we agree neither will ask John to testify or to obtain his file in connection with any court proceeding.

We understand we decide what happens in the mediation process, and John will try to make sure each of us has the time (s)he wants, whether we meet together or separately or by phone calls. As mediator he will also inform us about relevant divorce and tax law and help us make informed decisions in the light of the law and help us to understand the advantages and disadvantages to each of us of various possible solutions.

I have received \$_____ from _____ and \$_____ from _____ to serve as mediator in accordance with this Mediation and Fee Contract.

Date: _____
John A. Fiske

Date: _____

Mediator

WHO WE ARE

JOHN A. FISKE

A divorce mediator since 1979, he has helped over a thousand couples reach many different kinds of agreements, including temporary separations, contracts to stay married and separation agreements. The author of numerous articles on divorce mediation, he is a past president of the Massachusetts Council on Family Mediation and a principal in Divorce Mediation Training Associates. He is a former Executive Secretary of the Supreme Judicial Court and First Assistant Corporation Counsel for the City of Boston.

About 95% of his practice is mediation, the other 5% involves representing one spouse when mediation is not acceptable or a pro bono case through Boston Bar Volunteer Lawyers.

He charges \$425 per hour, divided by the parties as they see fit, and predicts most couples take about ten hours of his time to come up with a complete agreement ready for signing and, in divorce cases, presentation to the court for approval.

BARBARA ZICHT RICHMOND

Barbara has been a divorce lawyer since 1984 and an active mediator since 1998. She is a member of the Massachusetts Council on Family Mediation and has mediated for many couples who were divorcing or separating and some who have decided to stay married as well as for those planning to marry. She was an associate at Hemenway & Barnes in Boston from 1984 until she joined this firm in 1998. She is an author and lecturer on family law for Massachusetts Continuing Legal Education, Inc.

In addition to the time she mediates family disputes for clients she has also spent years mediating her own family disputes. She charges \$425 an hour for the former.

SUSAN J. MATTHEW

Susan has been concentrating in family law since 1989 and began mediating cases in 2002. She believes mediation provides couples with a way to close a relationship with dignity and grace while still accomplishing the basic legal tasks of equitable division of property and fair allocation of income as alimony and child support where appropriate. She finds that the process of asking and listening enables couples to reach a place of agreement which is uniquely their own and, as a result, is far more effective than a litigation-oriented decision imposed upon them by a judge.

Susan litigated divorce cases in Massachusetts for fifteen years, most recently at Gadsby Hannah in Boston. She received formal training in mediation at the University of New Mexico in Albuquerque, New Mexico in 2002 and subsequently volunteered as a mediator in the New Mexico court system for several years. She charges \$425 per hour.