

MEDIATION CONFIDENTIALITY and ETHICAL CONSIDERATIONS



NEVADA DISPUTE RESOLUTION COALITION

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CONTRACTING

- Know Agreement Yourself
- Provide Agreement to Parties
- Intro Statement about Agreement
- Invite Questions
- Point out Important Clauses
- Offer Reflection and Right to Review
- Execute Agreement
- Protection for Mediator

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Areas Covered by Agreement to Mediate

- Confidentiality
- Admissibility-Privilege
- Roles of the Mediator
- Ground Rules
- Financial Arrangements Between Mediator and Parties

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CONFIDENTIALITY

- Parties' Expectations Depend on Circumstances and Agreements
- Reasonable Expectations Shall Be Met
- All Confidences Shall Be Kept Unless Given Permission or Required By Law
- Confidentiality Should Not Prohibit Data Collection for Research Purposes

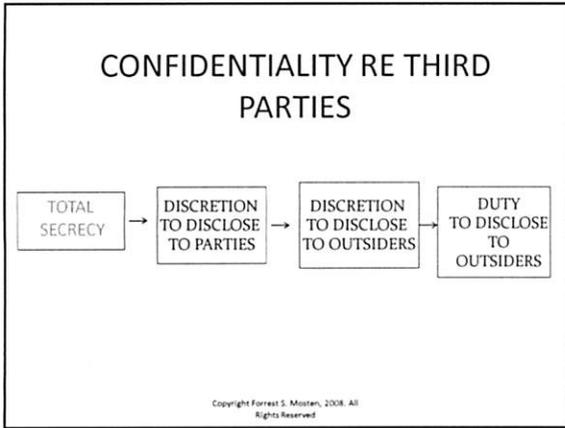


Mediation Confidentiality

- Mediation Confidentiality Agreement
- Evidence Code Sections 1115-1127
- Foxgate and Its Progeny

ASSISTANTS AND INITIAL CALLS ARE CONFIDENTIAL

- EVIDENCE 1115 (B) Includes any person designated by mediator either to assist or communicate with participants in preparation for a mediation
- EVIDENCE 1115 C Communication for the purpose of initiating, considering or reconvening a mediation



PRIVATE SESSIONS AND CAUCUSING Page 104



Initial Private Sessions

- Establish Rapport and Trust
- Learn Facts
- Emotional and Relationship Concerns
- Coach Preparation Session



Initial Private Sessions

- Sign Mediation Agreement
- Prepare for Joint Sessions
- Bonding
- Listen to Concerns
- Information
- Develop Agenda
- Formulate Proposals
- Coach Communication

Sample Mediation Confidentiality Contract Provisions

CONFIDENTIALITY

The Mediator agrees to keep all communication from either of the parties confidential in respect to any third persons, unless express verbal consent is given by both parties. However, for the purpose of facilitating communication and resolving differences between the parties, each party specifically authorizes the Mediator to meet

MEDIATION FORMATS



- SINGLE SESSION
- SEQUENTIAL SESSIONS

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