



LAW AND MEDIATION OFFICES OF KELLY CHANG
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MEDIATION INTAKE FORM
AND
MEDIATION CONFIDENTIALITY DISCLOSURE
AND
JOINT ORIENTATION WAIVER OF CONFLICT OF INTEREST

You both have wisely elected to mediate your divorce. Please take a few moments to complete this form before we have our free Mediation Orientation via telephone. Please be as specific as you can.

The purpose of a Mediation Orientation is twofold:

- 1) It provides a time for you two to ask all questions about mediation versus litigation.
- 2) It gives both of you an opportunity to speak with me and assess my ability to be neutral facilitator in your case to help you reach settlement.

It is important to understand the difference between a mediator and an attorney. As your mediator, I am barred from being your attorney. Thus, if the case does not settle, and you both need to hire lawyers, I cannot be the lawyer for EITHER of you. Mediators are not permitted to give legal advice.

If you both decide to hire me as your mediator, we will enter into a written fee agreement, which spells out our responsibilities, and an advance retainer will be required.

Rules for Mediation Orientation

1. Mediation is a voluntary process. No one can be “forced” into mediation. Both parties must agree, and be present, to use mediation.
2. Although Kelly Chang Rickert is an attorney, you have chosen to hire her in a capacity of a mediator. Thus, **she is not acting as either of your attorneys** in any capacity, and there shall be no attorney-client privilege, as detailed in the Disclosure form attached. Kelly Chang Rickert cannot give you legal advice in her capacity as a mediator
3. Neutrality is central to mediation. Thus, Kelly will not communicate with either of you without the other party’s knowledge, or consent. Kelly will not return any phone calls or emails in between sessions unless both of you are on the phone and on the email chain. This helps preserve the neutrality of the mediator, which is essential to the success of mediation.
4. Though we strongly believe mediation is the BEST way to resolve disputes, it may not be appropriate in the following scenarios:
 - a. When one party refuses to mediate;
 - b. If there is domestic violence in your matter;

- c. When one or both parties is hiding assets;
- d. When one or both parties refuse to negotiate fairly.

5. Mediation Disclosure Notification and Acknowledgment

To promote communication in mediation, California law generally makes mediation a confidential process. California's mediation confidentiality laws are laid out in Sections 703.5 and 1115 to 1129, inclusive, of the Evidence Code.

Those laws establish the confidentiality of mediation and limit the disclosure, admissibility, and a court's consideration of communications, writings, and conduct in connection with a mediation. In general, those laws mean the following:

- All communications, negotiations, or settlement offers in the course of a mediation must remain confidential.
- Statements made and writings prepared in connection with a mediation are not admissible or subject to discovery or compelled disclosure in noncriminal proceedings.
- A mediator's report, opinion, recommendation, or finding about what occurred in a mediation may not be submitted to or considered by a court or another adjudicative body.
- A mediator cannot testify in any subsequent civil proceeding about any communication or conduct occurring at, or in connection with, a mediation.
- This means that all communications between you and/or your attorney made in preparation for a mediation, or during a mediation, are confidential and cannot be disclosed or used (except in extremely limited circumstances), even if you later decide to sue your attorney for malpractice because of something that happens during the mediation.

6. Joint Orientation/ Waiver of Privilege/Waiver of Conflict of Interest

By attending this joint orientation, you each acknowledge you are aware that California Evidence Code section 962 provides where two or more people have retained or consulted a lawyer upon a matter of common interest, none of them, nor the successor in interest of any of them, may claim a privilege or confidentiality as to any communication made in the course of that consultation or relationship.

Therefore, by attending this joint orientation, you both understand and agree that the traditional attorney-client privilege and traditional duty of confidentiality between you and Kelly Chang Rickert is expressly waived as to any information disclosed by either of you during the Orientation or subsequently in mediation with Kelly Chang Rickert or her staff.

However, Kelly Chang Rickert is still ethically bound and agrees to maintain strict confidentiality of all matters discussed during the consultation and subsequent to the consultation as it pertains to disclosure to others unless both parties agree in writing to disclosure to third parties.

By attending this joint orientation, you each acknowledge you are aware that California Rules of Professional Conduct Rule 3-310 provides an attorney will not accept representation of more than one client in a matter in which the interests of the clients potentially or actually conflict without both clients' written signed consent. Thus, as with any joint orientation, the conflict of interest and need for written disclosure exists no matter how cordial the relationship between the two parties currently is or is anticipated to be during the legal matter.

Therefore, by attending this joint orientation, you each acknowledge you understand you are meeting jointly with Kelly Chang Rickert despite your potential or actual conflicting interests, and you each waive the right to later claim any conflict of interest applies to Kelly Chang Rickert's services because you both

recognize the benefits of mediation, limited scope document preparation services or collaborative law resolution of your legal matter.

You each agree and understand that either of you reserves the right to later seek and consult with independent counsel after this Orientation. You each agree and understand that if Kelly Chang Rickert is jointly retained by both of you as a mediator or document preparer, then Kelly Chang Rickert is not acting as an attorney and Kelly Chang Rickert does not represent either of you and there is no attorney- client relationship and no duty of confidentiality. You each agree and understand that should you decide to proceed with the collaborative law process, the waivers herein provide that you each reserve the right to retain Kelly Chang Rickert as your collaborative attorney.

In summary, you each are hereby informed and agree that by attending this joint orientation, you each:

- waive your right to object that you had an expectation of the traditional attorney-client privilege and duty of confidentiality;
- waive your right to object that any conflict of interest exists;
- retain the right to retain Kelly Chang Rickert as your collaborative attorney.

AGREEMENT AND CONSENT

1. Each of us have reviewed the Mediation Disclosure Notification and understand the California’s mediation confidentiality laws as laid out in Sections 703.5 and 1115 to 1129, inclusive, of the Evidence Code.
2. Kelly Chang’s office has explained to both of us that there exists potential conflicting interests in the above-described matter and has informed both of us of the possible consequences of these conflicts. We also understand that we have the right to and have been encouraged to consult independent counsel before signing this consent.
3. Each of us nevertheless desires services by Kelly Chang Rickert in a limited scope capacity in connection with the matters discussed above and therefore we each consent to joint legal services and we each acknowledge there is no duty of confidentiality and we each waive any actual or potential conflict of interest.
4. We understand that, unless all participants agree otherwise, no oral or written communication made during a mediation, or in preparation for a mediation, including communications between me and my attorney, can be used as evidence in any subsequent noncriminal legal action including an action against my attorney for malpractice or an ethical violation.

NOTE: This disclosure and signed acknowledgment does not limit your attorney’s potential liability to you for professional malpractice, or prevent you from (1) reporting any professional misconduct by your attorney to the State Bar of California or (2) cooperating with any disciplinary investigation or criminal prosecution of your attorney.

We understand the rules of mediation and consent to mediation.

Name: _____ Signature: _____ Date: _____

Name: _____ Signature: _____ Date: _____

1. Contact Information for Party #1 (Email, Telephone, and Address)
2. Contact Information for Party #2 (Email, Telephone, and Address)

3. Do either of you have an attorney? If so, who?
4. Have any papers been filed with the court?
5. Case #
6. Date of Marriage (need exact date)
7. Date of Separation
8. Children. (Name, age, DOB)
9. Party 1: What is your desired custody situation?

Party 2: What is your desired custody situation?

Do either of you have plans to move out of the local area?

10. Party #1's Current Employer, if any:

Address:

Phone:

Position:

Date started:

Salary/Earnings:

Employment Benefits:

Pension Plan:

Keogh/401K/403B Plans:

Party #2's Current Employer, if any:

Name:

Address:

Phone:

Position:

Date started:

Salary/Earnings:

Employment Benefits:

Pension Plan:

Keogh/401K/403B Plans:

11. Current location and living situation for both (include sources of support).

12. PROPERTY: For each item of Community or Separate Property listed below, indicate Description, Date of Acquisition, Present Location, Source and Nature of Consideration, Purchase Price, Current Fair Market Value and Encumbrances:

Community Property: _____

Party #1's Separate Property: _____

Party #2's Separate Property: _____

13. Any prenuptial/post-nuptial agreements?
14. Current relationship status (amicable? contentious?)
15. History of violence?
16. Are there any issues either of you are concerned about?
17. How did you hear about the Law and Mediation Offices of Kelly Chang?

THANK YOU! SOMEONE WILL CONTACT YOU SHORTLY TO MAKE AN APPOINTMENT FOR YOUR ORIENTATION.

FEES AND COSTS

For Divorce Mediation and Document Preparation, Law Offices of Kelly Chang uses a “pay as you go” model. This model avoids surprises, and helps both spouses with budgeting for the expense of divorce in manageable increments.

In general, fees are broken up into two (2) categories: Mediation Time* and Document Preparation.**

1. If you require mediation to reach an agreement, you can hire Kelly to be your mediator. After you have reached an agreement, you can hire Kelly to prepare your divorce paperwork.
2. If you have already reached an agreement, you can hire Kelly to prepare your paperwork.

***Mediation Fees: \$2,000 per session, broken down as follows: Kelly charges \$500 per hour, with a 3-hour minimum, paid in advance of each session. There is also an administrative fee of \$500 charged for each session.** The administrative fee pays for up to one (1) hour of work done in between sessions, such as finalizing disclosures, preparation of summaries and agendas, phone calls, and emails.

To book a session, we require 50% deposit. (50% of a 3-hour session = \$1,000; 50% of 6-hour session = \$2,000). The parties shall discuss and agree to any split of costs in advance of payment, so as not to waste valuable session time discussing who will pay what portion of the fee.

****Document prep fees (flat fee) paid in advance of document preparation.**

Divorce without Children = \$2,500 + \$435 filing fee (per person) + \$300 processing fee = \$3,670

Divorce with Children = \$3,500 + 435 filing fee (per person) + \$300 processing fee = \$4,670.

The document processing fee pays for our messenger service deliveries to the court, copies, and postage.

Divorce without children documents (flat fee) includes:

Petition and Response (no minor children), includes court filing fee of \$435 per person, see 2017 Superior Court of California Statewide Fee Schedule: <http://www.courts.ca.gov/documents/filingfees.pdf>

Family Law Case Cover Sheet

Summons

Notice and Acknowledgment of Receipt

Proof of Service

Actual service of papers and copies (Filing the Petition STARTS the case. However, your case is not complete until a **Judgment packet** is filed. (see below).

Judgment Package:

Declaration of Disclosures (one per party)

Declaration re: Default of Uncontested Divorce

Appearances, Stipulations and Waivers

Judgment Cover Sheet plus Stipulated Judgment

Notice of Entry of Judgment

Declaration re: Service of Declaration of Disclosures

Stipulation for Waiver of Final Declarations of Disclosures

*There is a flat rate processing charge of \$300 for document prep, which includes messenger delivery, postage, copies, etc.

Divorce with children documents (flat fee) includes:

Petition and Response (with minor children), includes court filing fee of \$435 per person, see 2017 Superior Court of California Statewide Fee Schedule: <http://www.courts.ca.gov/documents/filingfees.pdf>

Family Law Case Cover Sheet

Summons

UCCJEA Statement

Notice and Acknowledgment of Receipt

Proof of Service

Actual service of papers and copies (Filing the Petition STARTS the case. However, your case is not complete until a Judgment packet is filed. (see below).

Judgment Package:

Declaration of Disclosures (one per party)

Declaration re: Default of Uncontested Divorce

Appearances, Stipulations and Waivers

Judgment Cover Sheet plus Stipulated Judgment with Parenting Plan

Notice of Entry of Judgment

Declaration re: Service of Declaration of Disclosures

Child Support Case Registry Form

Stipulation for Waiver of Final Declarations of Disclosures

*There is a flat rate processing charge of \$300 for document prep, which includes messenger delivery, postage, copies, etc.

Recommended Signing Session:

For Mediations and Document prep, we recommend attending a signing session where both of you will review the documents, and the mediator will answer any questions. The signing session lasts 1-2 hours, and billed at \$500/hour.

Sample Costs:

For Divorce without children: 1 mediation session \$2,000 plus document prep \$3,670 = \$5,670.

For Divorce with children: 1 mediation session \$2,000 plus document prep \$4,670 = \$6,670.

For Divorce with children: 2 mediation sessions \$4,000 plus document prep \$4,670 = \$8,670.

For Divorce with children: 3 mediation sessions \$6,000 plus document prep \$4,670 = \$10,670.

Mediation FAQ'S

By Law and Mediation Offices of Kelly Chang

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I want to mediate my divorce. I want some legal advice.

Congratulations for wanting to resolve your divorce in a peaceful manner. Mediation is the best way to handle your divorce. However, if Kelly is your mediator, she cannot give you individual legal advice. Your mediator is not your lawyer. They do not represent you, in court or otherwise.

For Kelly to be your mediator, BOTH of you must agree to hire her as your mediator. Because she is a neutral, she cannot give either of you individual advice. In our experience, mediations often fail because one party perceives that there is a mediator bias.

To avoid this, we strictly adhere to 3 office policies.

1. **The Mediation Orientation is the first contact Kelly has with both parties.** Any previous contact with our office is with staff regarding only protocol or pricing. It is important for both parties to understand Kelly's capacity as a mediator, and trust that she did not previously give legal advice to either party, or favor one party over the other.
2. **Both parties must attend the initial Mediation Orientation.** In order for mediation work, the parties must choose this option. If Kelly gives legal advice to one side, she is automatically conflicted out from representing the other side; as well as mediator. If only one party attends, the orientation becomes a legal consultation, which costs \$500.
3. **Kelly does NOT communicate with either party in between sessions.** There are no secret phone calls or emails. Both parties are copied on all emails. Calls to the office are answered by staff regarding procedure, pricing or scheduling.

My husband/wife is being difficult and refuses to mediate. He/she already hired a lawyer. I want to hire you to mediate for me.

This is a tough situation to be in. If the other side has hired a lawyer, there is an imbalance of power. In this situation, you can still mediate if he agrees. But here is how this would work: Kelly would be a neutral mediator. Your husband/wife would have a lawyer. And you would represent yourself.

Thus, in this situation where your husband/wife has already hired a lawyer, we recommend that you also hire a lawyer. The case can still settle, but Kelly would not be a mediator in your case. You can hire Kelly to be your attorney – the first step is to book a legal consultation.

How much do you charge to mediate?

Our mediation sessions are 3 hours each. We charge \$500 per hour, along with a \$500 administrative fee, for a total of \$2,000 per mediation session. The admin fee pays for work done in between sessions, such as preparing disclosures, responding to emails and telephone calls.

How long does it take to mediate?

A typical case takes about 10-15 hours of my time. In the majority of our cases, the parties are able to

complete the process in 1-2 months.

How fast can we be divorced?

California law imposes a 6-month statutory period which runs from the time the Response is filed, or when the Respondent has been served. However, you don't need to wait to finalize your issues. A Judgment can be entered on your case with a future date of divorce, and you just wait.

How do we prepare for the Mediation?

Once you have confirmed your mediation session with a 50% deposit, Kelly will send a detailed email explaining Preliminary Declarations of Disclosures. In California, prior to entry of Judgment, the law requires both of you to exchange complete financial information on forms such as the Income and Expense Declaration and Schedule of Assets and Debts. Kelly will email you the forms and explain how to prepare a draft for your upcoming mediation. The Disclosures will be finalized and exchanged during your session with her.

Can you file our paperwork or do we need to hire an attorney?

Absolutely. If you already have an agreement in place, or if you reach an agreement in mediation, you can hire us to prepare your divorce paperwork to be filed with the Court. We charge a flat fee of \$2,500 for divorce without children; and \$3,500 for divorce with children. There is a court filing fee of \$435 each for the Petition and Response, and a processing fee of \$300, for a total of \$3,670 for divorce no kids and \$4,670 divorce with kids.

How do you help us resolve our case?

Kelly provides information and guidance based on her knowledge and experience as a family law litigator for 20 years, and navigates you to settlement.

What is your success rate as a mediator?

Kelly started offering mediation services in 2016. Since then, our mediation cases have increased every year. Currently, our firm handles approximately 20-30 mediations a year, and resolved all but 1 case.

Is Kelly a better litigator or mediator?

Kelly has been a family law litigator for almost 20 years. After nearly 20 years of witnessing destruction and broken children, bank accounts, and dreams, she wanted to heal. Not just others, but herself. Family law is nasty!

Family law is different than civil law, especially if you have children. Your divorce is temporary – but your family and children are forever. Unlike a car accident, where you will never see the person you sued again – in a divorce, you will share children. Or pets. Or friends.

Divorce is not an ending. It is a re-organization. Your life and your children's lives will go on for better or worse – you choose.

Some cases absolutely need to be litigated. These are difficult times, and there are difficult lawyers out there that create difficult clients. Absent parents suddenly and unreasonably want 50/50. Scorned men and women want revenge and punishment. Broken trust leads to allegations of hidden assets and other wrongdoings.

To answer your question, Kelly has been a litigator for 20 years, and a mediator for 3. Clearly, she has more experience in the courtroom. But, she detests the destruction. If you choose her to be your mediator, she will work hard in that room to help you two reach an agreement.

If mediation isn't possible, then she can represent one of you and disarm the unreasonable side.

If both of you can agree, mediation is the best way to resolve your case. If you cannot, Kelly will represent you.

What if you are unable to settle our case?

Kelly will try my damndest to help you settle your case! If, however, there are issues of domestic violence, or non-disclosure of hidden assets, or there is a power imbalance which prevent the case from settling, the case may not settle at mediation. If the case does not settle, Kelly will not be able to represent either of you in Court. We will refer you to trustworthy attorneys who will not over-litigate your case and ruin your life.