

## **YOUR MEDIATION**

Perhaps the most important aspect of your case is preparing for and attending mediation. It will always be our goal to settle your case out of court. Mediation is often the most effective way to do so.

### **WHAT IS MEDIATION?**

Mediation is an informal meeting. Typically, you and your lawyer will be in one room and your spouse and his/her lawyer will be in another. The mediator will be a family law attorney or a retired attorney or judge who is skilled in the mediation process. The mediator will be objective and will not advocate for either side. Mediators are precluded from giving any legal advice and have no judicial authority. Rather, the mediator will assist you and your spouse in effectuating a settlement.

Mediation can take place at any time during your case. Mediation often works best when all the financial documents have been exchanged and all issues to be litigated have been identified. However, there are exceptions to this general statement.

### **PREPARATION**

Prior to mediation, you and your lawyer will work together to prepare a letter to the mediator outlining all of the issues in your case. This letter is confidential and will not be reviewed by your spouse or their attorney. We will draft the letter and ask for your input. Accompanying the letter will be documents and relevant schedules that will aid the mediator in becoming familiar with your case and allow the mediator to understand our view of the case. Documents that we provide may be the pleadings, financial affidavits, expert opinions, proposed equitable distribution schedules, child support guidelines and alimony proformas (to name a few).

Preparation is vital to a successful mediation. You will meet with us and your forensic account to prepare for mediation. This will include developing a plan and strategy for preparing to settle your case. You will likely meet more than once with your lawyer to prepare for mediation. To be prepared means that you are educated on that to which you are entitled and aware of the strengths and weaknesses of your case. Preparation also includes a thorough discussion and understanding of the possible ranges and components for settling your case.

### **MEDIATION PROCESS**

At the outset of the mediation, it is likely that the mediator will meet with each side separately to understand the different perspectives. During mediation, each side will be expected to make proposals on the varying issues. This process will continue as the mediator moves back and forth between the different rooms in an effort to narrow the issues and reach resolution on them. It will be the mediator's job to assist in directing the discussion and resolving issues one-by-one.

It is typical to reach an agreement on isolated issues and move on to a discussion of the additional issues. That does not mean that the issue, which has been agreed upon is forever

resolved. That is not true until a final, written, negotiated agreement has been signed. Issues are sometimes resolved one-by-one as "tentative" agreements until the entirety of the case has been settled. That is, no agreement is final until it is signed, sealed, and delivered.

It is possible to reach an agreement only on isolated issues. If so, that will be clearly stated and understood. Otherwise, it is safe for you to assume that no issue has been settled until all issues have been settled and the agreement has been negotiated, drafted and signed by each party.

It is our goal at mediation to reach a final, written and signed agreement. Your lawyer, the opposing counsel and the mediator will draft the agreement. You will have ample opportunity to review it, discuss its contents with us and become fully aware of all of the contents of the Mediation Agreement.

## **WHAT TO EXPECT**

The mediation process is confidential. That is, your judge will never know the content of the negotiations that occurred at mediation. Our judge will simply know either that the case has settled (in which case the judge will be privy to the terms of the settlement) or that it has not settled. You need not be concerned that your judge will know that you made a specific offer when your case has reached an impasse. Settlement discussions are not admissible in court.

The mediation process is a difficult one. You can expect your mediation to be a tough day. It is important that you stay flexible and remain open to consideration of different settlement options. Unlike any other area of the law, in divorce and divorce-related mediations, there are many different facets to each case. They are all integrally related in settlement discussions and can be blended to reach a workable solution.

In conclusion, the only participants in mediation with any power are you and your spouse. The mediator, the lawyers, the financial experts and others are only there to guide you through the process and attempt to reach a settlement that makes sense for you.

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