



## **Amaral & Associates, P. C.**

ATTORNEYS AT LAW

### **WHAT IS DIVORCE MEDIATION?**

Divorce mediation is an alternative to fighting in court with your spouse through attorneys.

Instead of court, parties who decide to use mediation work with a neutral third party certified divorce mediator, here at Amaral & Associates, P.C. to negotiate issues concerning child custody and support, spousal support, and division of assets and debts.

The mediator will help you to resolve issues through a process in which they will:

- Identify the needs of each party and the children;
- Help gather information including financial information necessary to make decisions about the division of assets and support issues;
- Explore what each party wants and help explore various alternative solutions to resolve your concerns regarding the issues of custody, property division, support and all other issues of your divorce;
- Assist you and your spouse in reaching an agreement that both parties are satisfied with.

### **WHAT ARE THE BENEFITS OF MEDIATION?**

#### **Relationships**

- Mediation helps preserve a good relationship with your spouse and reducing the tension for the sake of the children.
- Spouses who mediate their divorce typically are better able to communicate and cooperate and to keep tensions down for the sake of the children.
- The mediation experience builds a base for future cooperation between the parties and teaches you how to resolve issues in a cooperative manner.
- Typically the parties are more satisfied by having arrived at their own "solutions" to the problems as opposed to having a judge make the decisions.
- The parties' children typically benefit from such a collaborative approach.

### **Less Costly**

- Typically mediation is significantly less expensive than a litigated divorce. A typical mediated divorce costs between \$2,500-\$5,000.
- If the case is not mediated and goes to court, the cost may be five times as high - or more.
- Mediation is significantly less expensive than paying two lawyers to fight for each spouse.

### **Less Time Consuming**

- Mediated divorce cases typically take considerably less time than a litigated divorce, usually (10) hours or less here at Amaral & Associates, P.C.

### **Greater Overall Satisfaction**

- In Mediation the parties are assisted by a mediator to reach an agreement developed by the spouses themselves, not one imposed by a judge or the court system.
- Typically those spouses who mediate their own settlement are much more satisfied with their divorce.
- In addition, children of mediated divorces may adjust better to the divorce of their parents than children of litigated divorces.

### **AREAS OF MEDIATION**

The mediator will typically mediate the following issues:

- Child Custody and parenting plan
- Support including:
  - Child Support
  - Spousal Support
  - Family Support
- Property division

### **BASIC MEDIATION GUIDELINES**

#### **Custody**

- Typically the mediator will try to ensure that both parents have frequent and continuing regular contact with their children
- The mediator will also want to foster a positive environment for the children in which both parents are flexible and foster a relationship with the other parent.
- It is important that both parents are respectful of the other and that they never make negative remarks about the other parent.

## **Disclosure**

- Mediation can only work if each spouse is honest and openly discloses all facts, records, and documents required to ensure an informed and fair agreement.
- If a mediator believes that such disclosure is not taking place they will take steps to ensure that it does, and if there still a disclosure issue the mediator may decide to terminate the mediation.

## **Fairness**

- It is important that both parties feel that mediation is a fair forum in which to resolve their concerns and differences.
- The mediator does not represent either party and will not take a stand on any particular opinion.
- The mediator must ensure that the forum is fair and that neither spouse is being pushed, threatened or bullied into reaching an agreement.
- Both parties must feel comfortable with the agreement.

## **Use of Consulting Professionals**

- The mediator may request that the spouses consult with other professionals during the proceedings, such as an accountant who may be needed to address tax issues, or an appraiser, to establish the value of a residence.
- Each spouse is highly encouraged to consult their own attorney to have them review the written agreement or settlement which results from mediation.

## **Confidential**

- Everything that occurs during mediation is fully confidential.
- The mediator will not divulge anything the spouses say to him or her to the other partner or to anyone without the written permission of the other spouse.
- The mediator may not be brought into court.

## **Commitment to Success**

- In order for mediation to succeed each spouse must be committed to working towards an out of court resolution of their divorce.
- The parties must cooperate and focus on reaching resolution rather than personally attacking the other.
- The parties must be respectful, listen to each other, and not interrupt one another.
- Mediation is not for everyone. Spouses who want to attack or punish each other, who think that their lawyer "can get them a better deal," or who have been abused in the marriage should not become involved in mediation.

## **THE MEDIATION PROCESS**

### **Initial Appointment**

- An initial appointment is held during which both spouses attend and the general goals of the parties are discussed.
- A written agreement between the parties themselves as well as the mediator is reviewed and signed.
- The mediator will assign certain tasks at this initial meeting, such as bringing in certain documentation for the next meeting.

### **Subsequent Appointments**

- A series of subsequent appointments are then conducted. Most will consist of a conjoint sessions (both spouses and the mediator) but sometimes the mediator may have individual meetings (one spouse and the mediator).
- The number of appointments will depend on the number of issues the spouses need to negotiate and the degree to which they are willing to compromise.
- The frequency of appointments is scheduled according to how much time spouses need to complete "homework assignments" and/or to "think" between sessions.

### **Agreement**

- At each session the mediator makes detailed notes of agreements as they are reached.
- When all issues are resolved as a result of the mediation sessions, the mediator will draft a settlement agreement-a document summarizing the agreements that have been made.
- The mediator will recommend that the spouses take the agreement to a "consulting attorney" to look over the final document before signing.
- Once signed, the document is sent to Court for approval by the Judge and the matter is concluded.

**We, at Amaral & Associates, P.C., can assist you with your divorce mediation needs for a reasonable fee. Please contact our office in Boston at (617) 742-2020 or in Winthrop at (617) 539-1010 and at [edamaral@amarallaw.com](mailto:edamaral@amarallaw.com) or you can visit our website at [www.amarallaw.com](http://www.amarallaw.com) .**