

Some Facts to Know Before Your Divorce Mediation

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Many clients ask us what they can expect in mediation and we are careful to explain the ins and outs and the mechanics of the mediation process. Mediation can be a very positive experience for those who are of a mind to compromise and who are fortunate to have the help of a truly unbiased and experienced mediator. Knowing the basics ahead of time often helps alleviate our clients' anxiety.

The basic idea behind mediation is that the two parties, along with their attorneys, sit down with a neutral third party and attempt to reach an agreement on various issues in a divorce. The discussions that take place during mediation are kept confidential and are prohibited from being used if the matter eventually winds up in court. This arrangement is intended to allow for the worry-free sharing of ideas and offers.

One fact worth taking to heart is that mediators are referred to as neutrals because that is the essence of their role – to maintain complete neutrality regardless of the facts of a case. Maintaining neutrality can be a challenge when facts weigh heavily in favor of one party, but neutrality is absolutely essential. If one spouse perceives a lack of absolute neutrality, the mediation is unlikely to be successful.

Another fact to remember is that mediation can only result in an agreement when both parties engage in mediation with a good faith intent to be open minded and willing to compromise to find the middle ground in every disputed issue.

Being open minded and willing to compromise may sound reasonable enough, but often the problem is that by the time one or both spouses decide to file for divorce, good faith is long gone. A spouse who was the victim of neglect or deceit may not be able to forgive and forget. In our family law practice, we deal with highly contested cases where emotions are frequently too raw for a mediation to be successful.