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# MEDIATION IN FAMILY LAW MATTERS

By K. Dean Kantaras and Jennifer H. Cavill

**G**ENERALLY, IN FAMILY LAW matters, such as dissolutions of marriage, paternity cases and post-judgment modifications, before the parties can seek any judicial intervention, they are required to attend mediation. The Court will not allow a party to schedule a hearing for any sort of temporary relief, such as alimony, child support or attorney's fees, until the parties have attended mediation. The only way the Court will allow a hearing for temporary relief prior to the completion of mediation is if there is an emergency matter, such as a bodily injury or a child being removed from the jurisdiction of the Court.

Prior to mediation, the Court may hold a brief Case Management Conference, which is a conference with the judge, parties and attorneys, where ones are retained, to briefly discuss any discovery issues or roadblocks and to help move the case forward. Accordingly, there are certain statutory deadlines that apply in family law matters. For example, Florida Family Law Rule of Procedure 12.285 governs Mandatory Disclosure, and requires both parties to exchange certain financial information within 45 days of the date of service of the Petition, such as Financial Affidavits, the last three months of checking account statements, last three years of tax returns, etc. For a complete list of all documents required for Mandatory Disclosure, see Florida Family Law Rule 12.285. Other statutory deadlines apply, which are not discussed in this article.

Once the parties have filed Financial Affidavits, it can be determined whether they qualify for Court provided mediation or whether they must attend private mediation. The parties will qualify for Court provided mediation if they have a combined income of \$100,000.00 or less. Court provided mediation is less expensive than private mediation. However, the parties may have more flexibility in scheduling with a private mediator and are also able to use a mediator of



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their own choosing in private mediation. Whereas in Court provided mediation, the parties must attend mediation with whichever mediator is assigned.

The goal of mediation is to attempt to reach an amicable resolution to the matter without the need for judicial intervention. Mediation can resolve anything from only temporary relief, such as temporary alimony or child support; to partial settlements, such as reaching a Parenting Plan or resolving the division of marital assets; to a full resolution of all matters in the case. Prior to mediation, it is important to discuss case goals and strategies with your attorney to determine whether a partial settlement would be in your best interest in the event it is impossible to reach a full resolution at mediation.

The mediator serves as a neutral third party, who assists in the facilitation of a settlement between the parties. The mediator is neither party's advocate and is not the judge. The parties are

usually in two separate rooms during mediation. Therefore, the mediator serves as a conduit between the parties and also attempts to bridge the gap in the differences between the parties and find some middle ground. If the parties can reach a settlement, the mediator will draft a mediated settlement agreement, or mediation agreement, for the parties to sign.

In the event the parties are able to resolve all issues at mediation, the parties will sign the mediated settlement agreement, which will then be filed with the Court. At that time, a Final Hearing can be scheduled, at which only one party needs to attend. Reaching a full resolution at mediation is more cost effective than attending trial and also provides an opportunity for both parties to be satisfied with the resolution of the case. ■■■

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*EDITOR'S NOTE: K. Dean Kantaras has been licensed to practice law in Florida for over eighteen years. Mr. Kantaras is the managing partner of K. Dean Kantaras, P.A., a firm handling cases in family law and immigration. Mr. Kantaras is board certified in marital and family law by the Florida Bar, a distinction held by less than one percent of all attorneys licensed to practice in Florida. He is "A" rated by Martindale-Hubbell, the highest possible rating. He is a member of the Supreme Court of the United States, the United States Court of Appeals for the 11th Circuit and Middle District, The Florida Bar, and the Clearwater Bar Association. His offices are located at 3531 Alternate 19, Palm Harbor, 34683, (727) 781-0000 and 1930 East Bay Drive, Largo, 33771, (727) 544-0000. [www.Kantaraslaw.com](http://www.Kantaraslaw.com). Jennifer Cavill, Esq. is an Associate Attorney at the firm. She is a member of the Florida Bar, the United States District Court-Middle District of Florida, Clearwater Bar and St. Petersburg Bar Associations and Canakaris Inn of Court.*