

MEDIATION MATTERS

By K. Dean Kantaras and Vanessa C. Fernandez

Often times in family law the court will give the parties an opportunity to mediate. Mediation is when there is a neutral person, usually called a mediator, who listens to the parties and assists the parties in reaching an agreement. Typically, the parties will be in separate rooms and the mediator will convey the offers from one party to the other.

It is important to attend mediation with as much information as possible. Completing discovery before mediation is beneficial because it can give a full picture of the issues in question. It is difficult to know if an offer is reasonable without understanding the assets and liabilities to which you may be entitled. Your attorney will assist you through the discovery and preparation process for mediation.

Conversations that occur with the mediator during this process are confidential and solely for the purpose of reaching an agreement. The mediator only facilitates communication and cannot give legal advice, which is why it is beneficial to have your attorney present. Your attorney will assist you in considering the offers from the opposing party. Once you receive an offer from opposing party you can



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either accept that offer or respond with a counteroffer. An attorney is essential because they will be able to consider all the issues in the case and explain the possible repercussions of the settlement offer.

Typically, mediation is ordered by the court and will occur before any hearing or trial. This allows you to fashion an agreement before the court steps in and hears evidence and gives a ruling the parties must follow. Mediation can be through a county mediator's office, which will either be free or reduced costs, depending on the financial circumstances of the parties. Mediation can also be through a private mediator.

In some cases, mediation can result in a partial settlement. A partial settlement is when there are several issues in a case, and you cannot reach an agreement on

everything, but you are able to agree on some things. The issues you agreed on will not need to be litigated. This partial settlement reduces costs because you will need less time preparing for court and litigating. For this reason, a partial or full settlement through mediation can lower the costs of your divorce.

Mediation allows you to retain some control over your future by giving opportunity to your own accord regarding requests and concessions in personal matters such as children and finances, rather than a judge dictating what your future will look like. ■■■

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