

# SUPREME COURT, CIVIL BRANCH WESTCHESTER COUNTY

## MATRIMONIAL MEDIATION PROGRAM

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### **Resolving Your Divorce Using Mediation**

Westchester County Supreme Court's Matrimonial Mediation Program offers divorcing parties a free, 90-minute initial session with a Mediator. Program Mediators have training and experience in opening paths of communication that emphasize common ground and encourage cooperation. They help parties to resolve key issues that affect their relationships with their children and the financial well-being of all family members.

#### **What is Mediation?**

Mediation is a confidential, informal alternative dispute resolution (ADR) process in which a neutral third person – the Mediator – helps divorcing parties talk to each other and reach individually-tailored solutions. Mediation allows the parties to expand the discussion beyond disputed legal issues and to address the feelings, needs, and values underlying the conflict. Mediation often results in a written agreement that can be incorporated into an Order or Judgement of Divorce.

Mediators do not decide who was right or wrong in the past or impose solutions. They do not evaluate the strengths and weaknesses of either party's case, assess the likely court outcome, or offer legal advice. Instead, Mediators help parties focus on their restructured future and empower the parties to make their own decisions that meet their unique needs and interests.

Parties may attend Mediation without their attorneys. However, parties are strongly encouraged to seek legal advice from their attorneys throughout the process, discuss with their attorneys any proposed solutions, and review with their attorneys any agreements reached.

#### **When is Mediation NOT appropriate?**

Referral to the Matrimonial Mediation Program is not appropriate where there is child abuse, domestic violence,<sup>1</sup> or any severe power imbalance that impacts an individual's ability to express what is in his or her own best interest.

#### **What are the Benefits of Mediation?**

Research shows that Mediation settles a large percentage of cases otherwise headed for court, speeds settlement, saves money, and increases compliance, and satisfaction, with agreements.

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<sup>1</sup> For helpful resources, call the New York State Domestic and Sexual Violence Hotline number, 1-800-942-6906, or visit the web site for the NYS Office for the Prevention of Domestic Violence at <http://www.opdv.state.ny.us>

Most importantly, Mediation leads to improved relationships between parents and their children, as well as between divorced parents, even years after the settlement.<sup>2</sup> Finally, Mediation leaves parties no worse off: parties are still free to go to trial if they cannot settle.

### **What Happens in Mediation?**

Both parties have the opportunity to raise issues of concern and to explain the facts of the dispute as each person sees them. The Mediator then asks clarifying questions. Once the Mediator and parties have identified the issues for discussion, the Mediator helps the parties work collaboratively to explore and choose options that meet the parties' needs.

Although most information is exchanged with everyone at the table, there may come a time when either party, the party's counsel, or the Mediator suggests a private meeting, or a caucus. The Mediator does not share any information discussed in caucus without permission.

If the parties reach agreement, that agreement will be returned to the referring Justice for review. If approved, the agreement may be incorporated in the court's Order or Judgment of Divorce. If the parties are unable to reach agreement on some or all of the issues, they return to court.

### **Who are the Mediators?**

The Mediators on the Court's Roster of Neutrals have successfully completed a minimum of sixty (60) hours of family mediation training, have at least 4 years of family mediation experience, including 250 hours of face-to-face mediation with clients, and have mediated a minimum of 25 cases involving issues of custody and visitation.

### **Do I Pay for Mediation?**

Westchester County Supreme Court's Matrimonial Mediation Program offers parties a free, 90-minute initial session with a Mediator. If the parties decide to schedule additional sessions, the Mediator is entitled to a fee. The fee arrangement with the Mediator must be agreed to in writing, and must include the ratio at which the fee will be divided between the parties. The parties must sign this fee agreement before commencing any sessions for which compensation is required. Sessions shall be paid for in advance.

### **How Do I Schedule a Mediation?**

Ask to be referred to the Matrimonial Mediation Program at the Preliminary Conference or at anytime during your case. For more information, send an email to the Program Coordinator, Katherine Mueller, at [kmueller@courts.state.ny.us](mailto:kmueller@courts.state.ny.us), or call 914-824-5051.

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<sup>2</sup>Robert Emery, et. al, Divorce Mediation: Research and Reflections, Family Court Review, Vol. 43 No. 1 (January 2005) pp. 22-37.