



DESCRIPTION OF DOMESTIC RELATIONS MEDIATION

The Family Mediation Process

South Eastern Mediation and Arbitration, Inc. (hereinafter “SEMA”) is committed to offering divorcing, separating and other couples a fair process in which they can discuss and decide for themselves a variety of issues affecting their children, finances and property. The parties jointly hire the center to act not as the attorney for either or both, but as a neutral mediator. During a series of mediation sessions the couple works out a mutually satisfactory plan covering the children’s living arrangements, the financial needs of each member of the family, the home and other assets and debts of the parties. The process is designed to reduce the adversarial element most often encountered in divorce, separation or post divorce in separation issues and also to save time and money.

Once an agreement is reached, a draft agreement will be prepared for the parties to review with his or her lawyer before signing. The completed and signed agreement is enforceable and, if part of a divorce or other legal proceedings, may be presented to the court for approval.

In the United States today, over one-half of all marriages end in divorce and a larger number of unmarried couples separate. More often than not, this process is traumatic, bitter, and expensive. The adversarial setting for divorce or other legal proceedings intensifies the hostility and creates a ‘winner take all’ attitude. A fairer, more civilized way to reach a fair, equitable and informed settlement is through mediation.

The following is a direct quote from the report of the Massachusetts Special Commission on Probate & Family Court Procedures:

“The evidence to date suggests that mediated settlements in marital disputes simply last longer and work better than adjudicated settlements because the parties who helped craft the settlement have a greater stake in making them work.”

Mediation is a way for individuals to reach fair and informed settlements in any domestic relations matter. In case of a divorce the mediator will insure that all relevant issues are addressed and resolved in order for you to obtain an enforceable agreement and Judgment or Order, if appropriate, in the Commonwealth of Massachusetts. The mediator will guide the

parties in addressing all pertinent issues and establish all necessary and appropriate documentation, including any enforceable contracts.

The Requirement of Commitment

The mediation process will work only if the parties are willing to make a good faith effort to reach an informed agreement. There is no legal obligation to agree; any commitment to the process and its result comes voluntarily from the people involved.

The Benefits of Mediation

The mediation process can be significantly less expensive and less painful for the individuals and the family than the protracted battles which are often part of divorce or other family litigation. When children are involved, studies indicate agreements mutually agreed upon by the parents are usually far better for the children than those imposed by court order. The structured mediation process allows the parents to establish their mutual goals and design for themselves and their children the best way to use their resources.

The Cost of Mediation

The center charges \$300.00 an hour for family mediation services, including writing your agreement. Most couples take about ten hours of mediation time to complete their agreement; additional time may be required for the mediator to consult with the parties' advisors and drafting the parties' agreement. A retainer is requested at the onset, to be applied against billed time and expenses. If more hours are needed, we submit additional bills; if the mediation ends in less time, we reimburse money not earned.

Out of State Clients

We provide mediation in situations where one client resides out-of-state while the other resides in Massachusetts.

Financial Disclosure

All financial information must be documented and disclosed prior to the final Separation Agreement.

Confidentiality

Under Massachusetts General Laws, legal privilege has been extended to family law mediators. Under this law, all mediation sessions are confidential. Neither the mediator nor any notes nor mediation documents may be subpoenaed into court. You will be asked to sign a mediation contract agreeing to the confidentiality of the mediation.

Attorneys/Advisors

We recommend that each of you have a consulting attorney. Additionally, you are free to consult with other advisors, at any time, throughout the process.

Divorce Mediation Sessions

A typical divorce mediation process will include the following sequence:

The **First Session** consists of two parts:

- 1) Introduction to mediation: The mediator describes and answers questions about mediations.
- 2) Information gathering: The mediator obtains the information necessary to understand the issues confronting you and indicates the financial or other documents you need to provide to each other.

The **Subsequent Sessions** may consist of:

Child Custody: (if applicable)

This session discusses the legal and physical custody of your minor children and will include a parenting plan appropriate for you and your family.

Child Support and Alimony: (if applicable)

This meeting concerns current income and living expenses as well as future child support and/or spousal support issues. The mediator will also provide you with a copy of the Massachusetts Child Support Guidelines, if appropriate. Tax consequences of child support/spousal support will be considered as well as child exemptions, filing status, and other relevant tax issues.

Asset, Liability, Property Division:

The division of assets typically begins with an in-depth look at the assets and the financial and tax implications of sole or continued joint ownership. Property division also includes investment real estate and second homes, pension plans, retirement plans, bank accounts, investment accounts, stocks and bonds, vehicles, businesses, and house contents. Liability decisions include responsibility for mortgage notes, equity lines, car loans, promissory notes, life insurance, pension loans, credit cards, and all other debt. Tax consequences of division of assets will be considered.

Insurance Benefits

Medical, dental, life, and disability insurance and responsibility for uninsured expenses will be considered.

Divorce Agreement and Other Documentation

The mediator will draft the Agreement and you will each receive a copy to review with your advisors as you see fit prior to signing. Once the Agreement has been approved, the Center will prepare all documents for you to present to a Court, if necessary.

Divorce Process

At the final session, the Agreement and other necessary documents will be signed and the mediator will explain any Court procedure in which you are required to participate. In Massachusetts, you may represent yourself in a divorce.