

## **Help Your Client Be More Comfortable With Mediation (Version 1: In-Person Mediation)**

Here's a template that attorneys can provide to clients prior to mediation to make the client more comfortable during mediation and let them know what to expect.

Dear \_\_\_\_\_ [Client]

As you know, we are scheduled for mediation with \_\_\_\_\_ [name] on \_\_\_\_\_ [date]. His office is located at \_\_\_\_\_ and parking is available at \_\_\_\_\_. We are scheduled to start at 9:00 am and will continue until at least 5:00 p.m. in an attempt to settle all issues in your case.

I've included a few of the most common questions about what will happen on your mediation day below, but please let me know about any other questions or concerns you have about the mediation. I want you to be as comfortable as possible with this process so we have the best chance of resolving issues that day.

**Will I be reimbursed by the other side for the mediation fees I paid?** Maybe. Those fees might be discussed as an issue to be resolved at mediation, in the same way we talk about attorneys' fees possibly being awarded to one side or the other.

**Who is coming to mediation? Can I bring someone as support?** Please check with me before bringing any other person to mediation. Most mediators are not opposed to an additional, important person being there with you, but only if we ask ahead of time and notify the other party who you want to bring. If it applies, we may be bringing business evaluator, CPA or financial advisor to provide information during all or part of the meeting. If you want to bring a new significant other, or a parent, that always needs to be discussed with me and with the mediator ahead of time, as the mediator may not want an outsider there.

**Will I be sitting in the same room as the other party all day long?** This mediator generally proceeds by having the parties in separate conference rooms, so we will not be in the same room with your spouse and his/ her counsel. This is to afford us maximum privacy and security and to reduce your stress as much as possible.

**Will we be in the same room at all during the day?** It's possible that a joint session could be helpful for specific issues, like talking about the specifics of a holiday parenting time schedule. You and the other parent may want to talk about specific times or exchange days, and the attorneys and mediator do not know the specifics of your family as well as you do. You will be asked if you're comfortable with a joint session before it happens. If you know you don't want a joint session at all, tell me and I will make the mediator aware of that.

Where will we be sitting? Is there internet and a phone? Do we get breaks? You and I will be in a private conference room with a conference table, telephone, and internet. You can bring a computer or iPad. You can bring snacks you like, and we will be given a chance to leave for lunch (or order in). It's a good idea to bring a sweater or coat, as the conference rooms are sometimes very cold. There will be plenty of coffee and cold drinks provided, and a break anytime you need one.

**Will we sign final documents at mediation? Will I be divorced that day?** Usually, the final documents necessary to present to the court will NOT be signed at the mediation session. Those are prepared later, after we reach agreements, because those documents are so detailed. You will not be divorced at the end of the mediation day. Your divorce is not final until the judge signs final documents.

**If we don't sign final documents that day, then what happens if we reach agreements?** The mediator will prepare a written Memorandum of Agreement (MOA). It will have the highlights of your agreements listed, and you'll sign that MOA indicating that you'll be bound to those agreements. The goal of most mediation sessions is to reach binding agreements on most or all issues, and make sure that neither party tries to back out of the agreement later. If you aren't sure about agreeing to something, then you can always say that during the mediation session, and you will not be forced to sign anything. Please do not sign anything at this session unless you intend to be bound by that agreement.

The MOA will then be used by both attorneys to prepare the final documents for the judge to sign. Those final documents usually include a Decree of Dissolution of Marriage, a Property Settlement Agreement, and a Parenting Plan if you have children. The final documents contain more detail about your agreements, and have boilerplate provisions that could be necessary to enforce or define your settlement later.

**Will I be under a lot of pressure to agree to things?** The goal of mediation is to reach agreements, and agreements are voluntary. The mediator has no authority to force you to accept or sign anything. The mediator may make suggestions about what you should do, or whether a proposed solution is as good as you might get in court, but those are only suggestions. If your mediation session is taking place very shortly before your trial date, you will feel more pressured than usual, but that's because you will shortly be going to trial. You have a chance in the mediation session to "set your own fate" by reaching agreements instead of having a judge rule, but it's always still your choice whether or not to agree.