



***Welcome!***

We want to commend you for taking the first step toward achieving an honorable divorce. Mediation will not make a painful situation a pleasant one, but it will avoid *making it worse*.

Please take a moment to review this packet of information which should answer many of your questions. In this folder you will find:

- ***What is Family Mediation?***
- **Top 10 Steps to Making Mediation a Success**
- **The Divorce Process**
- **Divorce Rules From Your Child**
- **Document Checklist for Settlement Planning**
- **Developing a Business Relationship with your Former Partner**

We look forward to assisting you to reach your goals. Our goal is to help you work with one another through one of life's most difficult challenges. Should you have any questions after reviewing this material, or if you would like to schedule a consultation, please contact us.

BERECZ & ASSOCIATES, PLC

Deborah Bennett Berecz

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## ***Gabriella Reihanian Havlicek***

Gabriella is a skilled attorney with a strong background in mediation, law and policymaking. Her commitment to advocating for individuals and families is evident throughout her educational achievements and extensive work experience.

At Berecz & Associates, PLC, Gabriella brings her extensive mediation and courtroom experience to serve family law clients. She particularly **appreciates mediating for families who want to maintain control over their divorce process and their family's future decisions**. She is dedicated to helping families transition through divorce using the best process for each client's needs and situation providing personalized solutions, compassionate guidance, and quality legal representation.



Gabriella earned her degree in political science from Michigan State University where she worked for the Michigan House of Representatives for over five years. During her final year at the House, Gabriella entered law school and obtained her Juris Doctor from WMU Thomas M. Cooley Law School where she completed her training to be a Civil Mediator and Family Mediator.

Following law school, she served as Executive Director for the Michigan Community Mediation Association where she established the highly successful Behavioral Health Mediation program, showcasing her **innovative approach to conflict resolution**. Gabriella then moved to Saint Joseph and became an Assistant Prosecuting Attorney for Berrien County. She quickly established a strong track record of convicting offenders and securing justice for victims.

As a mediator, she ensures that both parties' concerns are understood and accounted for in the settlement agreement. She appreciates helping families **craft more thoughtful, thorough and custom-designed settlements than what is available in a courtroom**.

To learn more about Gabriella, please visit our **[website](#)**

**Contact Gabriella Havlicek to assist you through your divorce using the best approach for your family.**



## ***Deborah Bennett Berecz***

Deborah Bennett Berecz (pronounced Be-Réece) litigated for many 20+ years but since 2015, she's limited her practice to assisting families who want to "do divorce different" as she puts it.

Deborah's clients are often hurt, scared and angry. Yet frequently they also genuinely want an outcome that is fundamentally fair to all involved, particularly their children. She often hears, "I don't want to take advantage of him/her, but I also don't want to be taken advantage of." Or "I want to treat him/her fairly and I want to be treated fairly." Deb knows *these goals are achievable*. *Mediation is one of the best ways to get there.*



Deb was trained as a mediator in 1997 after litigating for a few years and observing: 1) how much it cost clients, 2) how unprepared they often were to live happy, peaceful lives after their divorce, and 3) how often clients were denied input into their own settlement decisions. After mediating for 25+ years now, she sees her clients leave mediation with settlements they crafted to meet their unique needs, *able to co-parent together in peace*, and feeling good about how they got to their settlement decisions.

Deborah graduated from Andrews University in 1998 and obtained her law degree from Notre Dame Law School in 1993. In 2018, Deborah was honored as a Distinguished Alumna of Andrews University. She has authored numerous publications in professional journals and presented nationally at conferences on effective dispute resolution. Deb focuses her practice on family law, including mediation, collaborative divorce, adoption, and prenuptial agreements.

To learn more about Deborah, please visit our [website](#)

**Contact Deborah Berecz to assist you through your divorce using the best approach for your family.**



## WHAT IS FAMILY MEDIATION?

In mediation, you and your spouse/partner meet with a neutral mediator, in a private, confidential setting, to develop settlement solutions. The mediator is not your attorney or your spouse/partner's and she meets with you both to help you have productive dialogue about all the many decisions you must make when faced with a divorce or other family dilemma. You may have found that such discussions without a mediator quickly degenerate into negative interactions. Angry, hurtful things may have even been said during those "talks." A neutral mediator helps keep you on track and allows you to dialogue about difficult issues in a more productive way.

**Mediators facilitate decision making.** You and your spouse/partner know best your own needs, your children, and your strengths and weaknesses. You are, therefore, best positioned to make decisions about your divorce settlement. But you may not be sure of the options available or even the full range of issues about which you need to be making decisions. A mediator guides you through the sometimes-confusing world of separation and divorce and helps you evaluate options.

The use of mediation has steadily grown as people have become increasingly dissatisfied with the ability of the court to resolve intensely personal issues. A

lawsuit works well for an auto accident, for example. Two people who never knew—much less cared about—one another enter litigation and endure document subpoenas, depositions and perhaps a trial. Once the lawsuit is over, they never have to deal with one another again. Not so with families in transition. Especially when children are involved.

Our Family Court Judges agree that no matter how many days of trial they listen to, they will never be as informed as you. So it makes sense for you to reach your own best resolution.

**Mediation helps you build a foundation for successful co-parenting.** When people separate or divorce, they frequently still care about each other at some level (despite feeling hurt or angry). If you have children, you will encounter one another at various events in your children's lives. Soccer games, school plays, graduations, weddings and eventually births of grandchildren all present an opportunity to be with one another in the future. If couples are able to process their divorce in an honorable, respectful way, those events will only be joyful ones for their children.

Yet we all know warring ex-spouses and have watched their children tensely go from mom on one side of the baseball





field to dad on the other, worried that every moment they are with one parent upsets the other parent. Holidays become dreaded rather than happy occasions for kids who know it only provides another opportunity for their parents to argue.

*It doesn't have to be that way for your children.*

## **HOW DOES MEDIATION WORK?**

You and your spouse/partner meet with the mediator for one or more sessions to discuss each issue you are required to address when divorcing.

In addition, when you mediate, you are not limited to only those issues the court requires you to decide. You may also bring to the table any issue which is important to you. For example, parents frequently address shared childcare, college education, how they will deal with future conflicts, and ways to ensure that their children will not be put in the middle of those conflicts. These are the kinds of issues the court won't require you to address but may help you and your family in the future. Mediation provides that sort of flexibility.

On average, couples utilize two or three sessions of about two hours each. Some may use less, particularly if they have no children and relatively few assets. Some will utilize more sessions if they need a detailed parenting plan or have a complex estate. It's important not to rush the process and to fully address each concern. Only then will you

emerge with a truly satisfying, enduring, and comprehensive agreement.

The length of time between sessions should also meet your needs. Some people want to keep the momentum going and schedule sessions two weeks apart. Others need time to gather documents or think about various options and sessions are scheduled further apart. Once you have developed agreement on all issues, the mediator puts your agreement in writing so you can evaluate the settlement as a whole. You will return for a final session to fine-tune the agreement if needed and sign an original.

## **DO WE NEED ATTORNEYS IF WE MEDIATE?**

It's important to remember that your mediator is neutral. Although she will give lots of legal *information* to you both, she will not provide legal *advice* in mediation. For that, you'll need to consult an attorney. For example, your mediator may inform you that in Michigan, property that you obtained during your marriage is generally what gets divided in a divorce. But she won't advise you to accept or reject an offer for how to divide the property.

Your mediator will help you think through the ramifications of various offers but will not advise you one way or another. She can't give advice and still remain neutral.



### **There are three distinct tasks required by a divorce:**

- (1) You must understand the laws that apply to parenting time, child support, property division and spousal support.
- (2) You must make decisions and come to agreement about each of those issues.
- (3) You must prepare paperwork to properly file for divorce (the Petition or Complaint for Divorce) and finalize your divorce (the Judgment of Divorce).

Your mediator assists you primarily with the second task (reaching agreements). These agreements form the basis of your Judgment of Divorce. However, the first and third tasks must also be accomplished and that's where an attorney can provide assistance.

**When does an attorney become involved?** Some people choose to work through all of the issues, reach a tentative agreement, and then review the agreement with an attorney before signing. Others start with mediation and seek advice from an attorney along the way, when they feel they need it, perhaps between mediation sessions. There is not a right or wrong way to approach this decision. Do what meets your needs and makes you the most comfortable.

### **When consulting with an attorney, choose wisely.**

It is critical that you choose your attorney wisely. A number of attorneys understand the hard work you do in

mediation and honor your commitment to deal honorably with one another. These attorneys support your hard work in mediation and they make certain you fully understand the agreement you are considering. They will also advise you about likely outcomes if you submit your case to a judge to decide. An attorney may also suggest additional issues you might want to bring up in your next mediation session.

Conversely, there are attorneys who do not understand how to work with a client who has chosen to mediate. Attorneys accustomed to litigating frequently often believe that you are better off leaving the decisions in your attorney's or judge's hands. So choose your consulting attorney wisely.

If you are unsure whom to retain, you might want to look for a lawyer who also works regularly as a mediator. S/he will look out for your interests while supporting your ultimate objective of fairness for your family as a whole.

### **WHAT DOES MEDIATION COST?**

Because the number and length of sessions vary for each family, it's hard to predict what the full cost will be. Mediation fees are charged at an hourly rate which will be discussed at your initial consultation. Most people choose to split the cost of mediation equally. However, you may agree to a different percentage split if you both prefer. Regardless, mediation is usually far less costly than litigation. Please call our office if you would like more information about costs.



## WHAT ARE THE BENEFITS OF MEDIATING?

**Mediation allows *you*—not attorneys or the court – to shape your future.** When you choose to mediate, *you* remain in control of your divorce process: *you* decide how many sessions you use, how long each session goes, what issues you address, how you divide the costs, etc.

Such control is not available when you litigate your divorce because the court will schedule hearings and your spouse/partner may as well. Those hearings are not scheduled at your convenience and you (and your attorney) don't have a choice of whether or not to attend.

People who have litigated their divorces often talk with frustration about feeling that their lives and futures were out of their control. Mediating allows you to remain in control of your schedule, the expense, the outcome, and your future.

### **Mediation avoids allowing your divorce to become a "war zone."**

You may experience the initial reality of divorce as scary and threatening. Suddenly the future as planned disappears and a sense of fear, maybe even panic, sets in. When human beings feel fearful, we take steps to reduce fear. In a divorce situation, those steps frequently include "cleaning out" a bank account, running up a charge card before it gets canceled, hiding documents or – worse – hiding children.

The problem is, each of those actions will likely elicit a retaliatory response from the other spouse/partner as he or she begins to operate from fear as well. Pretty soon, there's a "ratcheting-up" of conflict as each action based on fear elicits a response which in turn elicits another reaction. It's a pretty miserable cycle.

Mediation provides couples an early opportunity to step back, make a commitment to avoiding such actions, and get down to the business of rationally dealing with children, the home, credit cards and 401(k)s. It's not easy but it's usually far more satisfying and less stressful in the long run. Most importantly, it lessens the stress on children.

**Mediation is cost-efficient.** As you might imagine, the alternative to mediation can often be costly. If one spouse "cleans out" a bank account, you can count on the attorney for the other spouse filing a motion with the court asking that the funds be returned. An answer to that motion must be filed with the court and one or more hearings are required to bring some calm to bear.

If, instead, a couple schedules a session early on with a mediator, they can discuss how bank accounts should be dealt with and implement the plan in an orderly way. Thus, they avoid court fees and paying two attorneys to subpoena bank account records, draft motions and argue in court at multiple hearings. The fact is, the likely outcome from a court process is an equal division of bank account funds but by the time court and



attorney fees are paid, unfortunately the funds may be exhausted.

**Mediation allows you to “test drive” your agreements.** Mediation provides time to try options under consideration. For example, you may feel a particular parenting plan would work for your children but some doubts remain about how the kids will adapt. Many couples try a particular schedule for a few weeks and then discuss the pros and cons at the next mediation session. Rarely is such a luxury provided in litigation. Rather, each side often takes a position and becomes firmly entrenched in that position as a natural consequence of litigation’s adversarial nature.

**Mediation minimizes court appearances.** A day in court is just another day at the office for us attorneys. But ask clients how they were feeling the morning of trial and most report that they didn’t sleep at all the night before or that they hadn’t been able to eat for days or that their hearts were beating out of their chests – or worse, *all* of the above! Yet during this stressful time, jobs must be maintained and children cared for.

If a couple reaches agreement in mediation, the stress of hearings and trials is avoided and they retain more of their financial and emotional resources for children, work, church, friendships, and life in general.

## **Mediated agreements are more likely to last.**

Agreements reached together are more likely to be followed than decisions that are imposed by the court. This is just human nature. We all feel better about doing something we agreed to do. Furthermore, people are remarkably creative at finding ways to just barely comply with an “Order” and still make the other party’s life miserable!

The best example I’ve heard of this was the husband who was ordered to return a bird to his wife. He returned the bird in a paper bag to his wife’s attorney’s office. He then promptly opened the paper bag, released the bird and exclaimed, “*The judge said you got the bird. He didn’t say #@\*% about the cage!*”

Nothing is worse than enduring such acting out for years after your Judgment of Divorce is entered. It’s even more painful when it involves your children. These kinds of scenarios are largely avoided when you are implementing decisions you each had a hand in shaping during mediation.

## **IS MEDIATION FOR EVERYONE?**

No. There are people for whom mediation is not the optimal process. If there is on-going physical abuse in a marriage, it is unlikely that the abused spouse/partner would feel free to express his or her needs. Thus, any agreement would be compromised because it would likely be reached by



concessions made only by the abused partner.

If one spouse/partner feels intimidated by the other, even if there has not been physical abuse in the past, that party may avoid openly and honestly discussing what is important to him or her. The collaborative or litigation process, rather than mediation, might better serve that person. He or she can always use mediation at a later point in time, perhaps with attorneys present in the session.

Similarly, if there is on-going substance abuse or significant mental illness, mediation would not be an appropriate choice. Under these circumstances the collaborative process may be a better fit. You can learn more about collaborative process at <http://familyresolutions.us/divorce/collaborative-practice/> or [www.collaborativepractice.com](http://www.collaborativepractice.com).

## HOW DO WE PREPARE?

**Work the website.** If you have children, we suggest you individually work through the program found at [www.UpToParents.org](http://www.UpToParents.org). This award-winning website offers a great opportunity to consciously commit to keeping your children's needs central in your decision-making.

**List your assets and debts.** You will need to begin compiling information and statements to efficiently begin the mediation process. It's helpful, but not required, that you bring these

documents to your first session. Contact us if you would like a checklist.

**Bring an open mind.** Most importantly, come with an open mind and a commitment to fairness for you, your partner, and your children. That commitment will be tested along the way as you grapple with difficult decisions but you, like thousands of other couples, can emerge from that process with an agreement that works.

It won't be 100% of what you want, nor will it be 100% of what your spouse/partner wants. That's the nature of compromise. But you will likely believe it is an acceptable settlement with which you can live. Sometimes it just doesn't get better than that! And as the years pass you'll have the benefit of knowing you dealt honorably and respectfully with one another. Down the road that's more meaningful than who got the Instant Pot!

## WHOM DO WE CONTACT?

In the Grand Rapids area we can be reached at 616.466.4131. In Southwest Michigan call 269.428.3447. Or you can e-mail us at [hello@familyresolutions.us](mailto:hello@familyresolutions.us) or visit our website at [www.familyresolutions.us](http://www.familyresolutions.us).

We commend you for choosing a process that allows you to divorce with dignity and we look forward to supporting you throughout the mediation process.





## FINAL NOTE

Real Simple Magazine asked its readers, "What has been your biggest success in life?" People wrote in about completing a marathon, finishing medical school at age 48, and conquering anorexia. But the response that caught my attention read as follows.

*I'm proud of how I conducted myself during the divorce. I worked things through with my ex-husband so my daughter would not be caught in the middle, and I moved on without blame or excuses. It was a painful time, but I handled it in a way that I hope my daughter will one day be proud of me as well.* –Real Simple, Sept 2004.

We wish the same pride for you and your children.



## TOP 10 STEPS TO MAKING MEDIATION A SUCCESS

1. Be Patient. You didn't generate conflict in a session or two. It's very doubtful you'll resolve it in that time.
2. Focus on the Future. The past can inform us but shouldn't control us. You can nurture the hurts of the past or you can create a brighter, more peaceful future.
3. Acknowledge that the Other Side Has a Point. It's rare that any of us is right 100% of the time. When hurt or anger are most intense, we are less likely to see the full picture. Remain open to understanding the other's perspective.
4. Understand that Win-Win is Preferable. The only way you win is when the other side feels okay too. Five years from now you want to look back and know that you dealt honorably with yourself AND your former spouse/co-parent.
5. Believe that Win-Win is Possible. If you're willing to do the work, you will find your way to it.
6. Take tools from Your Mediation Session to Use in the Future. If you have children, you'll likely be grandparents someday and encounter each other at the nursery. Be open to new tools for communicating more productively so that your conflict isn't carried on down through the ages.
7. Be Prepared. If there are documents you need to gather before the next session, gather them. Analyze options and develop alternatives with an open mind.
8. Educate Yourself. They don't teach surviving divorce in school. There are good divorces and bad divorces. Yours can be one of the good ones if you take the time to learn from those who've gone before you. Read any of the excellent books available (Rebuilding by Bruce Fisher, Crazy Time by Abigail Trafford, The Divorce Mediation Handbook by Paula James to name just a few).
9. Work Through [www.UptoParents.org](http://www.UptoParents.org) if You Have Children. This website won an American Bar Association award because it does a phenomenal job of helping parents remain focused on their most important asset: their children.
10. Understand that Even The Very Best Settlement Won't Make You Ecstatic. It's tough to split assets. It's hard to identify times you won't be with your children. It's a financial strain to support two homes on what used to support one. So don't look for the resolution that's going to make you ecstatic. Be realistic.



## **DIVORCE RULES** *from your child*

**Directions:** Post these rules on your refrigerator as a reminder of your commitment to care. Ask your child to let you know if you forget one of the rules. Never reprimand your child when he or she gives you this feedback!

### **Dear Mom and Dad, I'm just a kid, so please...**

1. Do not talk badly about my other parent. (*This makes me feel torn apart! It also makes me feel bad about myself!*)
2. Do not talk about my other parent's friends or relatives. (*Let me care for someone even if you don't.*)
3. Do not talk about the divorce or other grown-up stuff. (*This makes me feel sick. Please leave me out of it!*)
4. Do not talk about money or child support. (*This makes me feel guilty or like I'm a possession instead of your kid.*)
5. Do not make me feel bad when I enjoy my time with the other parent. (*This makes me afraid to tell you things.*)
6. Do not block my visits or prevent me from speaking to my other parent on the phone. (*This makes me very upset.*)
7. Do not interrupt my time with my other parent by calling too much or by planning my activities during our time together.
8. Do not argue in front of me or on the phone when I can hear you! (*This just turns my stomach inside out!*)
9. Do not ask me to spy for you when I am at my other parent's home. (*This makes me feel disloyal and dishonest.*)
10. Do not ask me to keep secrets from my other parent. (*Secrets make me feel anxious.*)
11. Do not ask me questions about my other parent's life or about our time together. (*This makes me uncomfortable. So just let me tell you.*)
12. Do not give me verbal messages to deliver to my other parent. (*I end up feeling anxious about their reaction. So please just call them, leave them a message/text/email or put a note in the mail.*)
13. Do not send written messages with me or place them in my bag. (*This also makes me feel uncomfortable.*)



## DIVORCE RULES *from your child*

14. Do not blame my other parent for the divorce or for things that go wrong in your life. *(This really feels terrible! I end up wanting to defend them from your attack. Sometimes it makes me feel sorry for you and that makes me want to protect you. I just want to be a kid, so please, please...stop putting me in the middle!)*
15. Do not treat me as an adult. It causes me too much stress for me. *(Please find a friend or a therapist to talk with.)*
16. Do not ignore my other parent or sit on opposite sides of the room during my school or sports activities. *(This makes me very sad and embarrassed. Please act like parents and be friendly, even if it is just for me.)*
17. Do let me take items to my other home as long as I can carry them back and forth. *(Otherwise it feels like you are treating me like a possession.)*
18. Do not use guilt to pressure me to love you more and do not ask me where I want to live.
19. Do realize that I have two homes, not just one. *(It does not matter how much time I spend there.)*
20. Do let me love both of you and see each of you as much as possible! Be flexible even when it is not part of our regular schedule.

***Thanks, your loving child***



## ***DOCUMENT CHECKLIST FOR SETTLEMENT PLANNING***

- ☐ Recent statements for all bank or credit union accounts identifying account numbers, current balances and name(s) on account, including those owned with or for children.
- ☐ Kbb.com reports on all vehicles and boats for private party (not trade-in) values.
- ☐ Warranty deeds and mortgage statements reflecting balances owed for all real estate. Warranty deed likely in your closing document packet.
- ☐ Most recent property tax statement and any recent appraisal reports for all real estate.
- ☐ Retirement account statements (401K's, IRA's, 403B's, pension, etc.) Use same date for all plans if possible.
- ☐ Life insurance statements for policies which have a cash surrender value. Note: term policies do not have a cash surrender value; most employers provide term policies. (The amount which is paid your beneficiary when you die is the "payable on death" amount. Cash surrender value is what your life insurance company would pay you if you canceled the policy before you die).
- ☐ Statements for investments (stocks, mutual funds, bonds, e-trade, cryptocurrency, etc.)
- ☐ Statements for all charge accounts and other debts (car loans, home equity lines of credit) indicating whether account is joint or individual and balance owed.
- ☐ Financial statements, if any, recently prepared for loan applications or other reasons.
- ☐ Last three paystubs for both spouses.
- ☐ Recent credit report to ensure that all joint debt is accounted for in your settlement.
- ☐ Most recent tax return with W-2s and schedules attached.
- ☐ List of significant collections and approximate value (guns, comic books, art, etc.)
- ☐ If you have children under 18:
  - Verification of annual daycare costs.
  - Information on, or copy of, current health insurance cards.
  - Cost of employer provided health insurance with breakdown for cost for: 1) self alone and 2) cost for self and children.
  - Statements for accounts that you have for the benefit of your children (529, ESA, UTMA etc.)

**Note: Do not provide screenshots, print outs of web pages or photos. Provide actual statements instead.**





## ***DEVELOPING A BUSINESS RELATIONSHIP WITH YOUR FORMER PARTNER***

When parents separate, their relationship shifts from being one of intimacy to being one of business. An **intimate relationship** is informal, with many assumptions and unspoken and unwritten expectations. An intimate relationship contains a high degree of personal involvement and emotional intensity. People share personal information and secrets and don't expect a lot of privacy from the other. It is often very difficult and emotionally upsetting to lose this type of closeness.

It is now better to think of establishing a **business relationship** with your child's other parent. In this new relationship, you will have explicit agreements in place. Each parent now needs privacy. Expecting the other parent to disclose personal information about his or her new life is not appropriate. You are moving to a place where there will be little emotional intensity and very few assumptions made about the other person.

When you meet or communicate with each other, you will be most successful if you are disciplined, formal and courteous. In a business relationship, people don't call to "chat". Each interaction is structured with a specific agenda to be discussed. In most circumstances, the only business you will have together after the separation and divorce is your child.

### ***The Business Relationship***

A business relationship is characterized by rules. For example, phone calls are returned as soon as possible, notices of changed plans are delivered as soon as possible, phone calls are not avoided by use of answering machine or caller ID screening, and other common courtesies are extended. The rules you find helpful may differ from another's. They can be discussed and agreed upon during mediation sessions if necessary.

In the early stages of changing from an intimate to a business relationship, you will have many learning experiences as you achieve a new balance. If communication becomes especially difficult and all attempts to solve problems result in emotionally charged and frustrating efforts, then learn to write business letters to the other parent. Always make your letters courteous and to the point.



## ***DEVELOPING A BUSINESS RELATIONSHIP WITH YOUR FORMER PARTNER***

The following sample demonstrates a healthy effort to communicate and to keep the other parent informed. Such complete communication helps to eliminate confusion about agreements. It also has the effect of calming things down.

If you don't know how to write in this business style, it makes good sense to find someone to help you. That person can help you edit your letters until you get the hang of it. What you want to avoid is any negative emotional content, such as pleading, blaming or put-downs.

March 2, 2018

Dear Mary:

I am writing to let you know about my plans to take Susie to see her grandparents during my time over the Spring Break. We will be leaving at 8:30 a.m. on Wednesday, March 15, and plan to return on Sunday, March 19, by 9:00 a.m.

If you need to reach us, the telephone number there is (212) 555-1296. I will make sure that Susie calls you at the scheduled times – Saturday at 8:00 p.m. and Sunday at 7:00 p.m.

Would you mind helping her pack for this trip and reminding her to include her swimsuit? Thanks for your help.

Regards,

Ken



## PHASES OF DIVORCE and THE ROLE OF MEDIATION

### There are three distinct phases in a divorce.

- I. **Settlement Phase.** Mediation assists you in developing agreements. Those agreements will be detailed in writing in your **Agreement After Mediation (AAM)** in easy-to-understand language. Your mediator drafts your AAM.

It is important that you each review the AAM with your own individual attorney before signing. You will receive lots of legal information in mediation, but legal advice can only come from your individual consulting attorney. Why? A neutral mediator cannot advise both sides of a lawsuit. A wisely chosen consulting attorney will review your AAM, tell you what a court may order if you left it up to a judge and give you advice about whether you've made wise agreements. Buying an hour or so of an attorney's time is a minimal investment given the important decisions you are making. (Remember though, only YOU can truly determine what's best for you and your family, even if a judge would have ordered something different).

- II. **Filing Phase.** After you have completed mediation and signed your AAM, documents to process your agreement with the court must be prepared. A **Petition for Divorce** is your formal request to the court to dissolve your marriage. A **Judgment of Divorce** states the terms of your agreement in legal form and has additional provisions required under the law. **Support Orders** detail who is paying support, how much and for how long. These are the primary documents which must be prepared, signed, and submitted to the judge for approval.

A mediator is not allowed under professional ethical standards to draft legal documents for you so only the attorney for one of you can draft these documents. Or you may feel comfortable preparing them yourself from do-it-yourself forms obtained through Legal Assistance Center ("LAC") located on the 2<sup>nd</sup> floor of the Berrien County Courthouse in St. Joseph at (269) 983-7111 x8790 or on the 5<sup>th</sup> floor of the Kent County Courthouse in Grand Rapids at (616) 632-6000. You may also be able to obtain these forms from <https://michiganlegalhelp.org/self-help-tools/family>.

IMPORTANT: Make sure you insist on **Petition for Divorce** forms. Do **not** use Complaint for Divorce forms. If you run into problems, let us know!

A word of caution: many people find these documents overwhelming and confusing. At the very minimum, it is wise to allow an attorney to draft your Judgment of Divorce and support orders. These are forms with significant legal consequences and you cannot afford mistakes.

To summarize, there are three documents, or sets of documents, associated with a divorce:

1. Agreement After Mediation (AAM), prepared by your mediator
2. Petition for Divorce, prepared by you or your attorney
3. Judgment of Divorce and Support Orders, best prepared your attorney. [Note: there is a very bare bones Judgment of Divorce form but it is inadequate for most situations]



## PHASES OF DIVORCE and THE ROLE OF MEDIATION

- II. ***The Waiting Phase.*** After the Petition for Divorce is filed with the court, you must wait for the period of time imposed by the law (60 days if you do not have children, 180 days if you do), before your divorce will be final. At that time, you or your attorney will contact the court to obtain a hearing date for a short hearing, usually held by Zoom.

