

MEDIATION

ROUNDTABLE

Accepting that a marriage is over can be heartbreaking, even if both spouses believe it is what's best. The responsibility – and emotional complexity – of deciding things like how to split assets and how custody will be shared can have a significant impact on couples (and kids). Very often, things get messy. In South Jersey, many family law mediators help couples reach an amicable compromise on the very personal issues surrounding divorce. Even though it's a really tough time, fair and reasonable solutions can be found, they say. So everyone has a chance to move on to a better place.



Presented by





Michael Weinberg
WEINBERG, KAPLAN & SMITH



Karen Karpousis
CHARNY, KARPOUSIS, ALTIERI & DONOIAN



Bruce Matez
BORGERMATEZ



Deena Betze
BORGERMATEZ



Roseann Vanella
ADVANCED MEDIATION SOLUTIONS



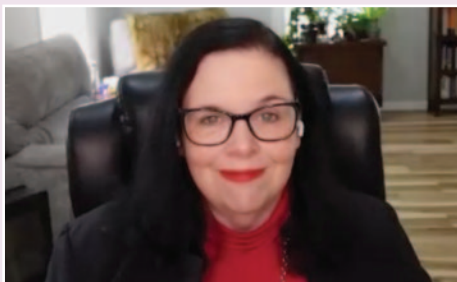
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LAW OFFICES OF MICHAEL D. FIORETTI



Hon. Marie Lihotz (ret.)
ARCHER & GREINER



Melissa Fecak
SOUTH JERSEY DIVORCE SOLUTIONS



Lynda Hinkle
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WHY CHOOSE MEDIATION...

Mediation is the best opportunity to resolve things in a non-adversarial, non-threatening, more peaceful way. It's just a far better solution than starting with lawyers, litigation, the courts and all the nastiness that goes with that.

Bruce Matez

Mediation allows you to have a voice. Sometimes in court, spouses don't have the ability to tell their story. In mediation, we have the time to listen to their stories, pay attention to what their concerns are, and help them through this process in the best way possible.

Melissa Fecak

One of the biggest advantages of mediation is the confidentiality - you're not airing your dirty laundry in public. You also have control, not only over the outcome and the settlement but control over the process and timing. There is also a big cost savings.

Deena Betze

Mediation is always better than the court system, always.

Michael Fioretti

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WHEN ONE PERSON IS BLINDSIDED BY THE DIVORCE...

There's the person we refer to in mediation as the initiator – they have already gone through the grieving process of the marriage ending, and they are now at acceptance. And 9 times out of 10, the other spouse is still in denial. These are dynamics you have to deal with in each mediation.

Deena Betze

The court system doesn't really care about somebody who's not ready to get divorced. But we do in mediation. We can help people move forward, we can give them time, we can give them the opportunity to try things. I've mediated a lot of cases where somebody found out the other spouse is having an affair or the other spouse just decides out of the blue they want a divorce. But both spouses recognize it's better to talk through the issues in mediation than to start fighting in court.

Bruce Mitez

It's an emotional process, and both parties have to be in the right frame of mind and be committed to the mediation process. If one side is blindsided, they need to go through their own personal assessment and get to a point where they are ready to mediate, because mediation is only successful if both parties are committed to the process.

Karen Karpousis

Some people who are blindsided are very relieved to come into a structured setting to figure out their next step. Because that disorientation can be much worse than waiting to eventually figure out their feelings. They want to be able to move on.

Lynda Hinkle



If someone is wounded deeply, you need to give them time to have what has happened settle in. The timing of the psychological part is always important. Everyone here has had mediations where it just wasn't the right moment, but give them a little time and they come back, and everything does work out.

Hon. Marie Lihotz

SOME MEDIATION DO'S...

The biggest thing people need to think about ahead of time is what do they want to accomplish? When people come in, I ask, "What are your objectives?" And when that's recognized, we work step by step towards each of those issues.

Hon. Marie Lihotz

One of the most important things to do when dealing with any dispute is to not ascribe motivations that may not be there. Always assume they're coming from the best possible

place and let them prove otherwise.

Lynda Hinkle

Come up with realistic goals. Sometimes I have spouses who say, "I want to keep the house." But they don't recognize that they haven't been able to afford the house *together*.

Melissa Fecak

SOME MEDIATION DON'TS...

Interrupting the other party – I have no tolerance for that. Sometimes people think the louder their voice gets, that's going to sway the other party. Usually, it has the opposite effect.

Karen Karpousis

People shouldn't rely upon outside influences, someone who is not at the table for mediation, someone who may have another agenda – a girlfriend, a boyfriend, a family member. You hired the professional, let them do their job.

Michael Weinberg



HON. MARIE LIHOTZ

“ A really good skill that mediators have is emotional intelligence. We're able to balance the things that people are saying and cut through some of the facades. ”



KAREN KARPOUSIS

“ An effective mediator thinks outside the box and finds out what’s most important to each of the parties, because that will get them to ‘Yes.’ ”

Sometimes people think the mediator is going to help convince the other spouse to accept certain things. That’s not my job. I am not here to try to pressure anybody to accept one position. That’s not what mediation is about. I want you to reach a resolution that is mutually beneficial.

Melissa Fecak

One party might assume they’re going to be able to take over the mediation and get more than what they’d be entitled to if they went to court. But we take care of

that pretty early on. In mediation, that’s not going to happen.

Michael Fioretti

Some couples might think mediation isn’t going to work because they don’t get along, and they have a dispute. They think only people who are in total agreement should mediate. I explain to them that if they were in total agreement, we wouldn’t have anything to mediate.

Deena Betze

One misconception is people think the mediator is going to tell

them what to do. The mediator is going to say, here’s the answer. I don’t. I try to help them work through it and try to help them find what they think is the most fair and reasonable solution to that particular issue.

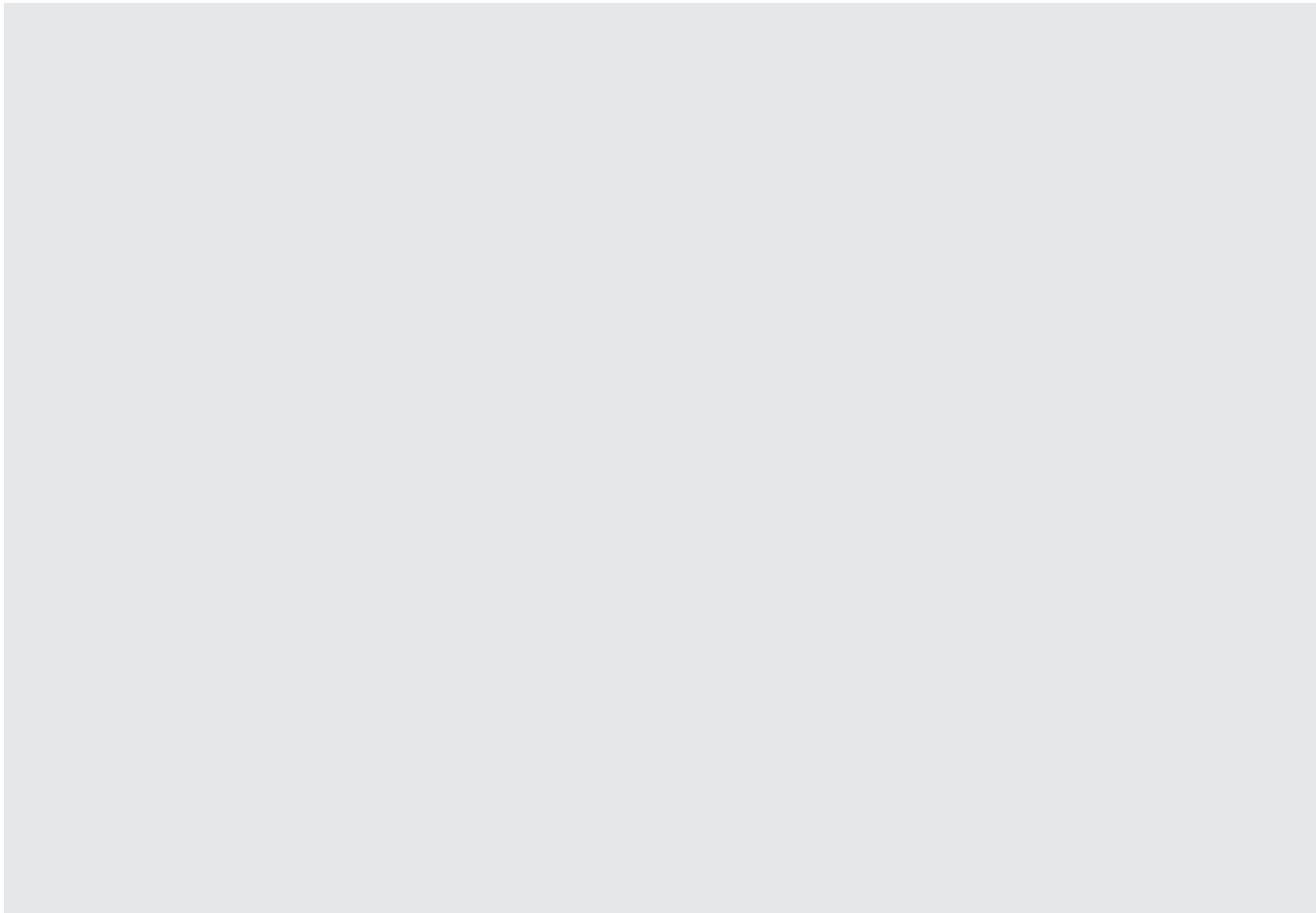
Bruce Matez

ON DECIDING CUSTODY...

A judge recently said to my client and her husband, “Does the hate for the other person trump the amount of love you have for your child? Because if the answer to that question is no, then think about what you’re about to do.” That really resonated with me.

Michael Weinberg

Who are the 2 biggest experts about what’s best for your child? It’s not somebody who put a black robe on and doesn’t know anything about you. It’s you, who have been raising this child together. You should be the ones



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to make these decisions. It's hard work, but it's better for you.

Deena Betze

Custody happens to be the most difficult area of mediation, because emotions are at the highest level. The secret with custody is you need to lay it out over a period of time. Let's do this first, without prejudice. And we'll come back and talk about how that worked. When they come back, we have another discussion and try to push it a little longer. As time goes on, when people see it's actually working and the kids are doing fine, you can establish what you want to do. You can't take that time with a judge.

Michael Fioretti



ROSEANN VANELLA

“ Mediation is all about moving forward, making plans about how to live separately, and most importantly, taking care of your kids. ”

If you have one party who was working outside the home and maybe the other party took care of the kids primarily, that doesn't mean things can't change after the marriage falls apart. The one party may adjust their schedule to take on the responsibilities that maybe they never took on before. It's a very, very hard issue.

Hon. Marie Lihotz

If they have really small children, I always say, "This schedule is going to work probably until your kids are about 14 or 15, then they're going to start dictating."

I will also write into parenting agreements, when it's older children, that parents will listen to what the child wants.

Roseann Vanella

Virtually every study that's been done on divorce and custody has shown that what's best for kids is to have active, engaged parents who have regular contact with the parents. That has a lot to do with why the model has moved to more of an equal time-sharing concept.

Bruce Matez

I went to a seminar and somebody was talking about custody, he was probably in his mid-40s. He said, "My parents are getting divorced now, and I don't want to choose sides. I don't want to be in the middle of this." That always resonated with me. I never thought an adult would have an issue with their parents getting divorced and that it would have such a great impact. But it did. Putting the children in the middle at any age is horrible.

Karen Karpousis

A CHILD'S ROLE IN CUSTODY TALKS...

There are a lot of studies that show children participating in the process on a safe level is a positive thing. There is no structure for that in New Jersey at this point. I don't think mediation is the appropriate place to bring your child. But I do think it's important for them to have some voice in a proceeding that completely and utterly changes their lives.

Lynda Hinkle

Children absolutely should not be involved, but it's harder when they get older to keep them out of the process, because they develop their own opinions.

Michael Weinberg

QUESTIONS TO ASK A POTENTIAL MEDIATOR...

How long have you been mediating? How many mediations do you do? You want someone with experience.

Roseann Vanella

Why should I go to mediation rather than just go to court?

Hon. Marie Lihotz

What makes you different from other mediators?

Melissa Fecak

How many sessions do you typically require? Some mediators have a lot of sessions, and that isn't always the right thing to do.



LYNDA HINKLE

“ It's the mediator's job to protect the deal. It's the attorney's job to protect you. In the most ideal situation, you want both of those elements. ”

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Sometimes there is a point when the mediator knows they're not getting anywhere, so do they pull the plug or just keep collecting money?

Lynda Hinkle

WHEN YOU MEDIATE OVER ZOOM...

When we went virtual, I really thought it was going to be a problem. I thought we were going to lose our ability to align ourselves with our clients because we wouldn't be in the room together. I'm finding out I was wrong. It's actually better in a lot of situations. I use it probably 90% of the time.

Michael Fioretti

I mediated a case with 2 litigants and the wife did not feel comfortable being in the same building as her husband. She was intimidated by him. So I had the husband's lawyer and the husband in the room with me, and the wife's lawyer and the wife participated by video. We resolved the case after a few sessions.

Michael Weinberg

During Covid, you'd get people actually laying back in their bed, not being professional. I'd say, "We're going to jump off and when you come back in 5 minutes, you need to be sitting at a table, I don't want to see your bedroom." I feel that was a way to be passive aggressive and intimidating.

Roseann Vanella

There are definitely advantages to virtual mediation. Sometimes when you have a very highly contentious mediation, it's difficult to have them in separate locations in a physical office. In a virtual mediation, you



MICHAEL WEINBERG

“ Mediation is successful when you have 2 people who recognize they have a partnership that is no longer working. And they want to cooperatively dismantle this partnership, instead of fighting over things they don't need to fight about. ”

can put someone into a breakout room, have a separate talk and let them calm down. Then bring them back in and get moving in a positive direction. And if one spouse is getting really out of control, you can mute them.

Melissa Fecak

TIPS FOR RESOLVING SIMPLE, EVERYDAY DISPUTES...

Listen to what the other side is saying and identify what is really at the heart of this dispute.

Melissa Fecak

Look at the other side's position and figure out why it is not acceptable to you. How is it different from what you want? Ask yourself if you are considering all the aspects of the other side's position.

Hon. Marie Lihotz

Give them the benefit of the doubt. You have no idea what that person is going through today. Put yourself in that person's position.

Roseann Vanella

I quote Elsa from "Frozen": Let it go. There are so many horrible things happening to people around the world, wars and disease. If this isn't harming you or your family, just let it go.

Karen Karpousis

There's a difference between talking to somebody and talking with somebody. Talk with whoever it is you're having that dispute with. Don't talk at them.

Bruce Matez ■