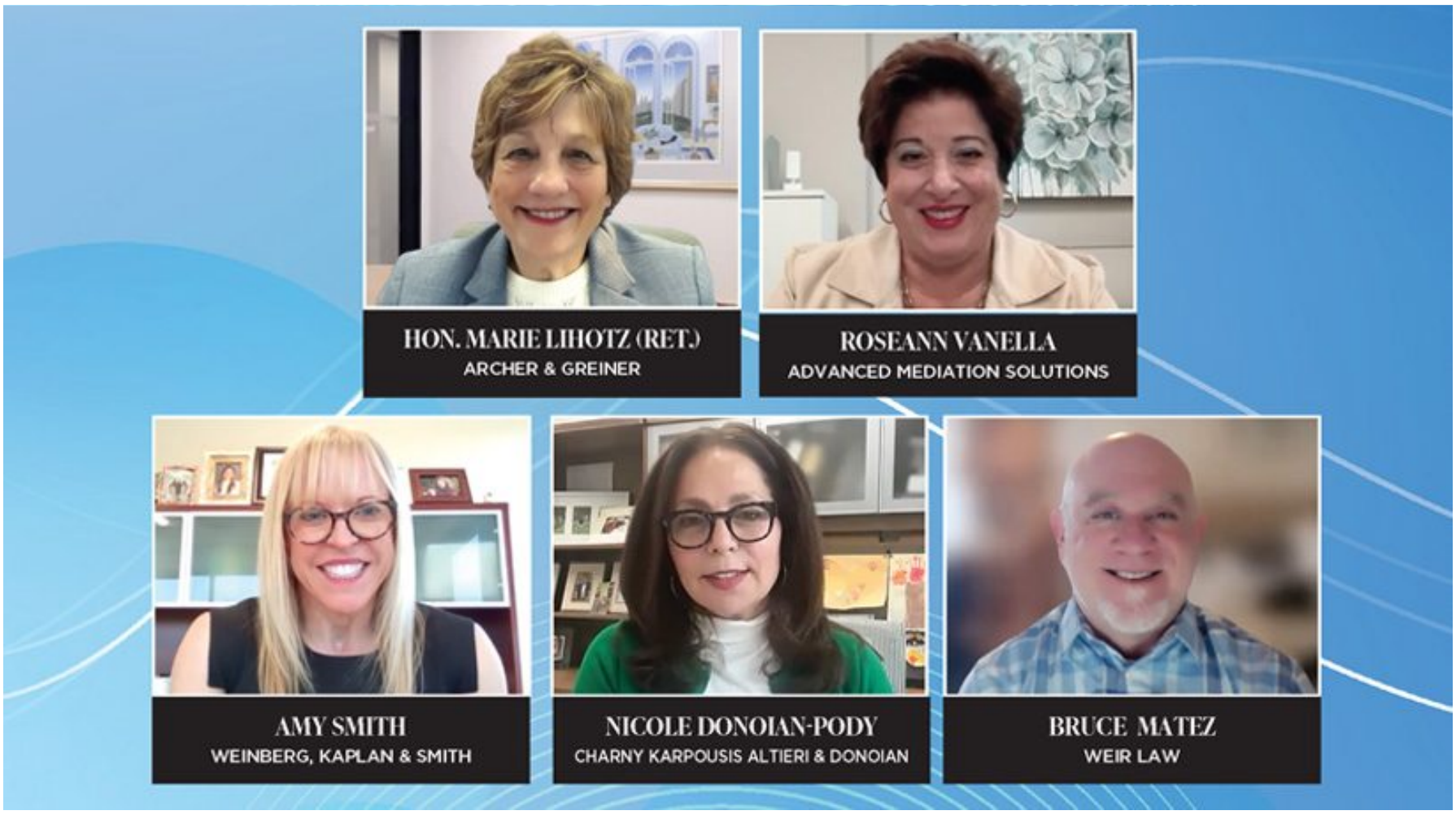
Mediation Roundtable 2026



Presented by:

NEW JERSEY ASSOCIATION OF PROFESSIONAL MEDIATORS
NJAPM

Participants:

Hon. Marie Lihotz (ret.)
Archer & Greiner

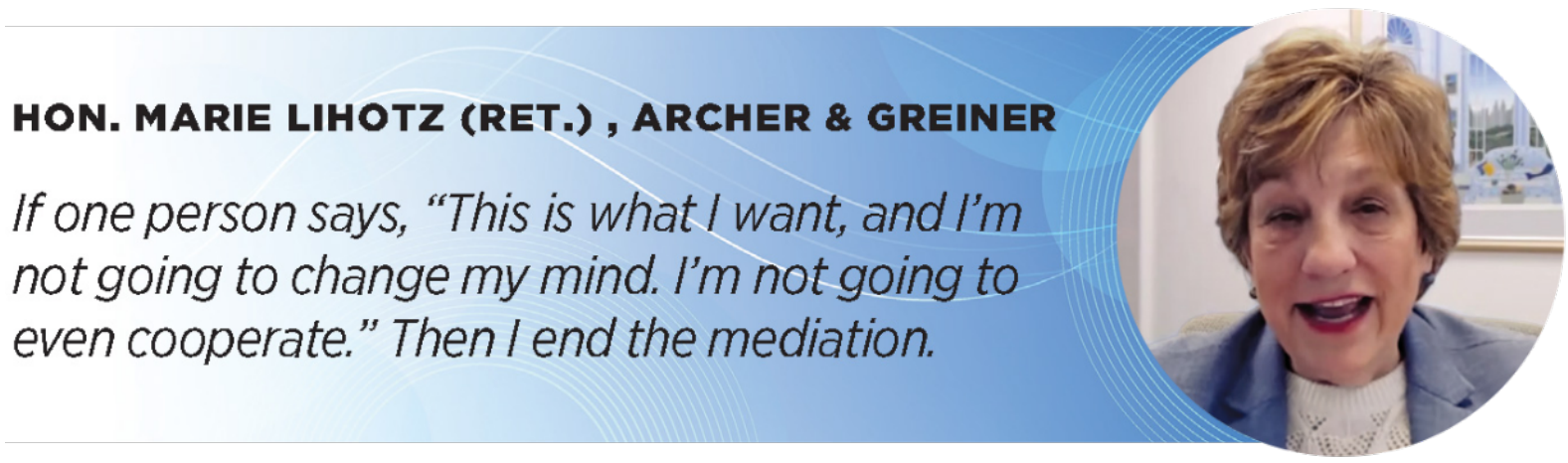
Roseann Vanella
Advanced Mediation Solutions

Amy Smith
Weinberg, Kaplan & Smith

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Bruce Matez
Weir Law

Today when couples decide to divorce, more and more are turning away from litigation and toward mediation. It's a first choice for many, and for good reason. Experts will tell you costs are less, it's quicker, and most important, you have a say in your future. When the decisions you're about to make are life-altering, how you make them can make all the difference in the world.



Trends in mediation

I am seeing more mature people getting divorced, and we're talking marriages in excess of 30 years. They are much more likely to use mediation, because they know what their assets are, and they know how they want to divide them. They engage a forensic expert who does a valuation of assets and advises on how to equalize them for tax purposes. It's a pretty simple process. And the way the ethics rules work, although the mediator can't do the divorce, someone else in the mediator's firm can then represent one of the two parties with the consent of the other and finalize the divorce, which is uncontested. They use the mediated agreement as the final determination. That can happen because there isn't any problem looking ahead.

Hon. Marie Lihotz (ret.)
Archer & Greiner

One of the trends we've been seeing is couples are coming to mediation to finalize their divorce after many years of being separated. So they've been separated but living in the same house. There's actually a term for that now: silent divorce. They're basically living separate lives, but everybody on the outside has no idea this is happening. What that does is create a lot of complications, because without having a Separation Agreement, the waters become very muddy, so to speak. The couples I work with after they've gone through this process together, they're always saying, "I'm so glad this is done."

Roseann Vanella
Advanced Mediation Solutions

Ever since Covid, we've been doing a lot more mediations. There are a lot of very good mediators – I actually have two at my office, my partner, Michael Weinberg, and we have a new partner, Drew Molotsky. He also does mediation. Because of the court backlog, mediations are being done much more often. It's very effective, and it's cheaper. It's an easier way to get your case completed.

Amy Smith
Weinberg Kaplan & Smith

Attitudes have changed. I'm seeing more articles that call litigation outdated. People recognize that if you go to court, everyone's hearing your personal business. When you go to mediation, it's private. And you're not waiting. I think people recognize all that, so mediation is much more common today than it was 10 or 15 years ago.Attitudes have changed. I'm seeing more articles that call litigation outdated. People recognize that if you go to court, everyone's hearing your personal business. When you go to mediation, it's private. And you're not waiting. I think people recognize all that, so mediation is much more common today than it was 10 or 15 years ago.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Today's economy

The economy has made separating and divorce more difficult because people are splitting up with more debt, and more people are out of work. Those are the most difficult cases, because there's just not enough money to go around. You start with two incomes in one household, but now you have two incomes with two households. It's stretching everybody. It's a challenge.

Amy Smith
Weinberg Kaplan & Smith

The current economy has definitely affected couples who are looking to separate or divorce. What we see are couples who are not selling their marital home. Or one party is not buying out the other, because there just aren't the funds. This is where mediation works beautifully, because we can always come up with creative solutions. As long as couples are willing to work together, there will always be some solution.

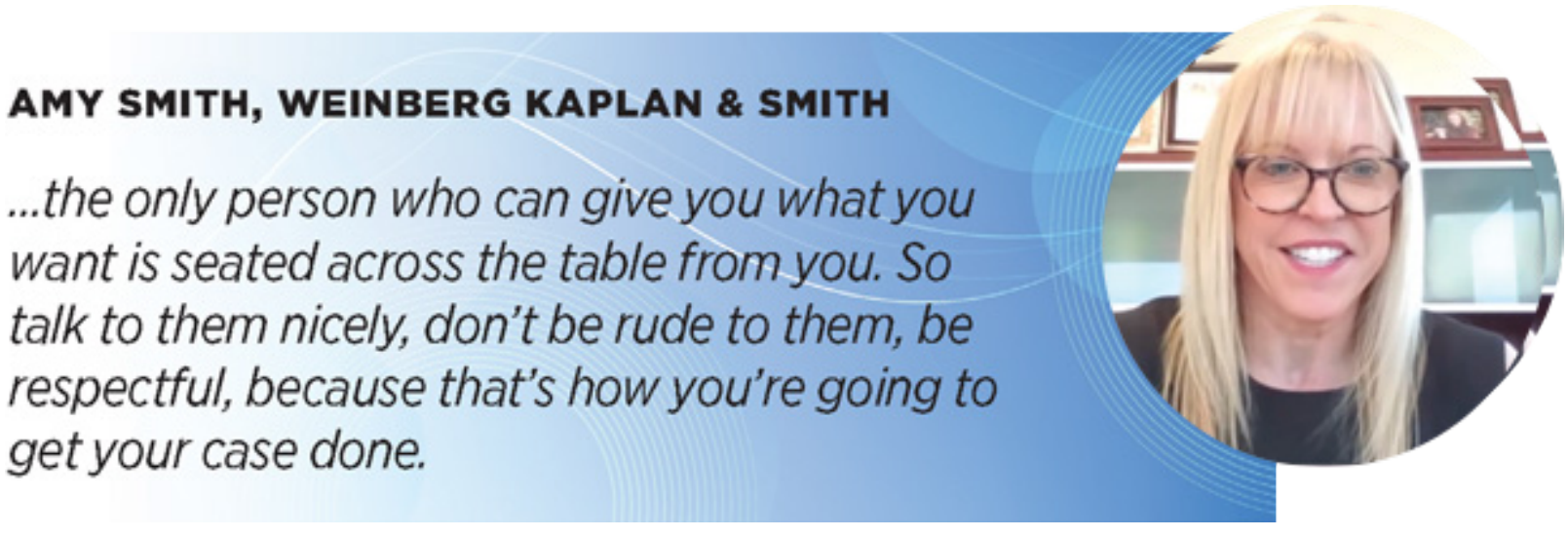
Roseann Vanella
Advanced Mediation Solutions

A year and a half ago, you put a house up for sale, it was gone. Now houses aren't selling. That causes difficulties, particularly if the whole situation has been percolating for a while, so a year ago they could have sold quickly, and now they can't. Anger starts to build, and it causes other problems.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Mortgage interest rates are high right now. Many people have a mortgage interest rate that might be 2-3%. And if they're selling their house, they'll be buying a new house with a mortgage at 6-7%. That's a significant difference. In mediation, we can try to work out a plan where maybe somebody stays in the house a little longer to see if interest rates come down. We can see if we can have a postponement on when the refinancing of the mortgage gets done. In a court system, there's only going to be a timeline set by the judge.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian



When one party wants revenge

Mediation is 100% voluntary, and revenge has no place in the mediation. That is not what mediation is about. Mediation is about working together for the good of the family and each other.

Roseann Vanella
Advanced Mediation Solutions

A lot of times, the mediators will try to caucus, meaning they'll keep the parties separate, so you're not all sitting around the same table. If the parties are separated, that may help, because the person who they're angry with isn't there. It is also important to keep in mind that if there's domestic violence, you can still mediate. The mediator has to sign a specific order, and the parties must be completely separate, but you can mediate. It just has to be done a little differently.

Amy Smith
Weinberg Kaplan & Smith

If one person says, "This is what I want, and I'm not going to change my mind. I'm not going to even cooperate." Then I will end the mediation. Maybe other mediators wouldn't do that. They might still try. But I'm not interested in wasting people's time or money or effort if one person is that entrenched.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Mediation is not a hostile environment. Mediation is an environment where both parties need to work together, either caucus style or in a room together, to come to a resolution that maybe both parties aren't necessarily thrilled with, but both can live with. If one party comes into mediation looking for revenge or emotional justice, they're not ready.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Younger couples vs. older couples

The difference between a younger and older couple mediating is where their focus is, where those areas of importance emerge. For a young couple who has children, they're thinking about what is best for the kids. They're also in a place financially where they're building their lives, so they have a long runway. An older couple who's closer to retirement and has grown children, they're not worried about the family. They're worried about how the divorce will financially impact them, and what does the future look like. What's great about mediation is we're looking at the entire picture for each individual.

Roseann Vanella
Advanced Mediation Solutions

When you're younger, your view of how much you're willing to divide is far different from someone who thinks, "I've built all this and now I have to give half of it away? I'm 60 and I want to retire. What do you mean I can't retire in five years. That was my plan." It's a very different view. It's much harder for someone in their late 50s, early 60s, to get divorced when they had a plan of retirement, and now that plan may be changing significantly.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

A lot of the older couples do not have legal representation. They may have it on the side, but they come to mediation with ideas of what they want – they've thought it through, and many of them have talked it through also. So they come in, and they mediate without an attorney.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Common misconceptions

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 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
Weir Law

Some couples believe that, in one hour, they’re going to have every issue in their case done. That’s not true. There’s a judge I like very much who always says you can’t unwind a 20 year marriage in one hour. It just doesn’t work.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Some people think the mediator will give them an opinion and tell them what’s right and wrong. That’s why I always tell clients if they don’t attend mediation with a lawyer, have a follow-up meeting after, because your lawyer can say, “I think this is good for you.” or “This is bad for you.” Mediators are supposed to stay neutral, so they help and guide, but they can’t say definitively this is what’s best for you.

Amy Smith
Weinberg Kaplan & Smith

The biggest misconception is when couples come into mediation thinking it isn’t going to work. When you’re home with a soon-to-be ex, and you’re trying to come to settlement, and you’re literally fighting back and forth, it’s very different. In mediation, we’re constantly keeping the couple moving forward. We’re not allowing them to get into these rabbit holes of discussing the past and what he said or she did. We’re moving forward.

Roseann Vanella
Advanced Mediation Solutions

The most common misconception people have coming into mediation is that I'm going to magically solve their discontent. It doesn't work that way. Often, people feel like they're being objective, they're trying to be fair, and this other person is just rejecting everything they offer. Trying to work through that emotional barrier is always a challenge for the mediator, but that's what I do. If we can somehow massage that so they feel they were heard and their concerns were recognized, then they're able to put those feelings aside and actually solve a problem.

Hon. Marie Lihotz (ret.)
Archer & Greiner

New issues in divorce

One issue we're seeing more and more is couples who have shared frozen embryos. In mediation, this has become a discussion, and couples have to make decisions. We are receiving a lot of attorney-referred clients, because the attorneys understand that these are sensitive issues and not issues that should be settled in court by a judge. A couple should try to work through the issues and come to an agreement.

Roseann Vanella
Advanced Mediation Solutions

Crypto is a really hard one, because if the lawyers don't get experts to trace those issues, there isn't much I can do. Someone may say they don't have any crypto and well, they might. It's a question of what documents are turned over so people can examine the account, because not only might they own crypto, but they also may have run other transactions through that crypto account, and unless you have access to the whole wallet history, you won't see it. Someone might have 10 coins, but you wouldn't know that, maybe a year ago, they had 50 coins and they bought real estate with it. Those transactions are in the crypto wallet, but they're not necessarily visible on a current snapshot of what's in the wallet.

Hon. Marie Lihotz (ret.)
Archer & Greiner

One emerging issue is when parents differ on whether or not children should be vaccinated. That's certainly not something for me as a mediator to decide. I will advise them to speak to a medical professional.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

We've been seeing crypto, and we still are. Crypto can be a little more difficult. It's an asset that we have to divide, just like if someone has IBM stock. It's one of the assets we have to figure out who's keeping it or are we dividing it, and if we are dividing it, how? It's not as easy to divide as your traditional 401k.

Amy Smith
Weinberg Kaplan & Smith

Success in mediation

In mediation, if one person walks out feeling they were victorious and they won, then that's not a good mediation. No one should feel they got everything. Both parties should leave a settlement feeling like they gave up something.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Mediation is not based upon a win/lose modality. That's not what mediation is about. It's about coming to common resolution. I'm really happy to say that in the 15 years we've been practicing, we have never had a client say to us, "Oh my God, I feel like I lost. I feel like he/she won. I feel like I'm leaving without anything." Some couples say they wish they had done this prior to divorcing, because it probably would have settled a lot of disputes. But they're also saying they felt supported and educated through the process. And nobody won or lost. They negotiated.

Roseann Vanella
Advanced Mediation Solutions

I had a mediation yesterday where one party was taking unreasonable positions, but we kept inching towards a position. When it was finalized, I can't tell you how happy that one person was, and I didn't really understand why, because the positions they originally took were so far afield of what we actually resolved. The other party was also satisfied. I'd say you could call that a success.

Hon. Marie Lihotz (ret.)
Archer & Greiner

If one person feels they lost, the mediation probably was not successful. For mediation to work, you both have to compromise. If you're not willing to work together – you bend on this, and I'll bend on that – it will not work. Then you're stuck with a trial, and you won't have a say in what happens in your life. In mediation, you have a hand in what your future is going to look like, because you are part of that process.

Amy Smith
Weinberg Kaplan & Smith

Compromise is one of the key ingredients to the success of any mediation. Be creative in your thinking and your decision-making. There are lots of options available to people that maybe they hadn't thought about. And be patient. A lot of people come into mediation thinking this is going to be quick and easy. Sometimes it takes time.

Bruce Matez
Weir Law

A power imbalance

There are some people who really have no information. They're dependent on their lawyer for information about valuations, about assets, about issues and their position on issues. So if I see that the imbalance isn't being equalized by their attorney, who is supposed to be guiding them, then I'm not going to finalize the mediation. I'm not going to let one person bully the other. If there truly is a power imbalance, mediators are not supposed to continue. You end the mediation.

Hon. Marie Lihotz (ret.)
Archer & Greiner

It’s not an imbalance of power, it’s an imbalance of knowledge. You may have one person who’s in charge of paying the bills and taking care of the investments. You may have another person who’s in charge of the kids’ schedules and knows what’s going on at school. The beauty of mediation is all the information is disclosed and discussed. My job as the mediator is always making sure everybody is at a point where they are understanding and able to make decisions.

Roseann Vanella
Advanced Mediation Solutions

If one of the parties feels they don’t understand some of the investment accounts or the tax issues, then that party will need to talk to a financial planner or an accountant. If it’s an emotional issue, then one or both of the parties may need to see counselors. If they are coming to see me without attorneys, then they both may need to come back with attorneys. I don’t want to do mediation where one party comes with an attorney and the other party does not, because the party without the attorney may not feel comfortable. If the party without the attorney says they don’t need an attorney, I will do the mediation. But if at some point that party feels they want an attorney, I’ll stop the mediation until they come back with a lawyer.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

When there is a financial imbalance and one person knows more, my go-to is always to get a forensic accountant. I will have them in the background guiding and reviewing documents, making sure we’re identifying every asset, every liability. If one spouse has a business, then we make sure we know the value of that business.

Amy Smith
Weinberg Kaplan & Smith

Social media during divorce

Social media can create a lot of conflicts in mediation. You could be in the middle of mediation, and one party sees something on the other party’s social media – and it may not even be something that’s relevant to the mediation – but it makes them mad, and their emotions come into play. Now the mediation gets off track.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

A lot of times people will put things on social media that they probably shouldn't. I generally tell clients: If a judge looked at whatever you're putting on social media, would they be pleased? If the judge would not be, then please don't put it on social media. Just don't post it. Don't put your dirty laundry on social media.

Amy Smith
Weinberg Kaplan & Smith

Social media is aggravating conflicts, and it's now everybody's enemy, because anything you put up can be misinterpreted or reinterpreted. Phones are so instrumental in gathering evidence. One of the biggest issues being mediated is cohabitation. If someone is being paid alimony and they're truly cohabiting with another person and in a relationship that is like marriage, the payor can say they want to terminate the alimony. There may be a photograph of the party at a concert with this person, and all of a sudden that becomes one of the pieces of evidence in the cohabitation bucket. And whether they're actually cohabiting or whether they're just dating – that becomes the big issue.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Where we see social media and digital communications come into play is with children. When I'm creating a parenting agreement, that is one of the topics I discuss: When do you think they'll be old enough to have communication devices? Do both of you have to agree when they're on social media? If they are on social media, you need to have the discussion and put security in place so they're protected. We discuss it all.

Roseann Vanella
Advanced Mediation Solutions

When kids are involved

Children are the most important part of the divorce. They didn't ask for this, they didn't ask for their parents to get divorced. So, keep them first and foremost. Money is secondary. These little people shouldn't be in the middle of your divorce, so do whatever's right for them. And make sure they're not in the way of conflict.

Amy Smith
Weinberg Kaplan & Smith

If a couple has children, we're going to discuss financial issues concerning children – child support issues, like maybe private school or college tuition or the costs of extracurricular activities. In South Jersey, kids do a lot of extracurricular activities, like summer camp, and that can be extraordinarily expensive. We will deal with those issues.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

When I'm doing a mediation and children are involved, the beginning mediation sessions are talking about everything as it relates to the kids. When I'm meeting with a couple for the first time and they have children, I ask if there is a lot of conflict in the house. Because that conflict affects the kids. If they tell me there is, then the focus will be: What can we do to lessen the conflict to help the kids? It may be suggesting a nesting arrangement where they're not living in the same house at the same time. Anything we can do to protect the kids, we focus on that first.

Roseann Vanella
Advanced Mediation Solutions

I'll often say to people, "Do you want to have a relationship where, when your kid graduates from high school, you're on opposite sides of the gym because you hate each other? And where does your kid go to take pictures? Does your kid come to you first, or do they go to the other parent first?" Those are the kind of horrible stories we hear all the time. Who needs all that anger and hatred? I can't imagine living like that.

Bruce Matez
Weir Law

Advice for parents

I wish parents would be parents, as opposed to litigants. Kids are always better off if parents are not fighting, because the longer the aggravation and the difficulties go, the more the kids feel they must pick a side, and that's the sad part. I've also seen too many recent cases where kids have emotional issues that require psychological and even psychiatric treatment. Those emotional issues stem from the confrontation of their parents and the differences that their parents are trying to work out, but they don't. They just continue to fight about things, and the child thinks it's about them, and that's a real problem.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Always focus on what is best for your kids. Make sure the kids are being taken care of. I remind couples that your kids are watching you through this entire process. So set the example. If you're showing your kids you can get through a divorce and be civil and respectful to one another, they're learning how to deal with future conflicts. Always focus on the kids.

Roseann Vanella
Advanced Mediation Solutions

Please don't involve your children in whatever your matrimonial issue is. Don't talk to your children about the other parent in a negative way. Your kids don't want to hear it. You think they do, they don't. Just leave them out of it.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

Keep an open mind, be willing to bend, be willing to compromise, and know that the only person who can give you what you want is seated across the table from you. So talk to them nicely, don't be rude to them, be respectful, because that's how you're going to get your case done.

Amy Smith
Weinberg Kaplan & Smith

How they view relationships

I've been doing this work for 26 years, and it's made me recognize that little things don't matter, because I see that really bad things happen in some marriages. Domestic violence is serious, and it's scary and it's bad, and controlling relationships are frightening. So, you know, somebody doesn't pick up their clothes...it really doesn't matter.

Nicole Donoian-Pody
Charny Karpousis Altieri & Donoian

After seeing so many divorces in the 15 years I've been mediating, I have to say communication should be at the top of everyone's list. When communication breaks down, conflicts start to happen. Nobody is a mind reader.

Roseann Vanella
Advanced Mediation Solutions

I've learned 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
Weir Law

I've been married 45 years, and I believe my two children have pretty solid marriages too. When I look at these cases, I often wonder, how did these two people get together? You have one person who's meticulous and a perfectionist, and the other person is happy-go-lucky. And yes, opposites attract, but then they don't. It's a shame that people don't think more about what it means to be married. It's hard to be married because there always appears to be something else that seems like it's more fun, and typically it's not.

Hon. Marie Lihotz (ret.)
Archer & Greiner

Last month, I celebrated being married 25 years, together 29. I've learned to always work as a team. It's not always going to be rainbows and butterflies, but this is your best friend, and you want to work together to keep moving forward for the sake of your family.

Amy Smith
Weinberg Kaplan & Smith