This pamphlet is designed to help you get the most from your mediation experience. Mediation is your opportunity to reach your own solution with the help of a problem-solving expert, the mediator. The mediator is experienced in family law matters and is trained to help you find solutions to problems you face.

Mediation allows you to discuss what is important to you and how you want to shape your life in the future. Mediation is not your chance to lay blame for past difficulties. The mediator does not make decisions for you and your family. The mediator gives the two of you the opportunity to settle your case in a way you both find acceptable.

What are the goals of mediation?

Mediation...

- provides you with an improved method of communication and dispute resolution;
- allows you to settle your case in terms that are acceptable to you;
- can reduce the emotional trauma that you may be experiencing;
- can improve compliance with settlements and decrees;
- can save you time and money; and
- can allow you to move forward with your life.

How is mediation initiated?

Your participation in mediation can be court-ordered, dictated by a previous order or decree, or be voluntary. You can participate voluntarily whenever you encounter a difficult situation you need help in resolving. While this will typically occur after legal papers are filed, filing is not a pre-requisite. You can participate any time you and the other party agree to mediate.

If papers are filed, and a hearing or trial is requested, the court will, in all likelihood, order you to mediate. Usually, this will occur when a temporary hearing has been requested, if your case remains unresolved after the 90-day pre-trial conference, or if contempt-of-court has been filed. If your case falls into one of these categories, you will receive an order from the court.

How do I prepare myself for mediation?

While you should come prepared to make your points, successful mediation depends on your willingness to negotiate in good faith and work toward a solution. Before beginning, have an understanding of what you wish to accomplish in mediation and think about solutions that are mutually-satisfactory. Be realistic about this. The mediator will help you analyze the strengths and weaknesses of your case. A demand by you that is far outside the reality of your situation may cause the mediation to end prematurely. You should talk to your lawyer about your rights, obligations, and goals; the likelihood of achieving your goals in trial, and the cost of achieving those goals both financially and emotionally.

Next, you should determine what issues are being contested (see checklist on reverse) and prepare yourself to discuss these in a frank and realistic manner. If there is information and/or documentation you feel the mediator needs, be prepared to present it. (Note: your attorney may have the information or will need to get it for you.) Also, if you and the other party have previously exchanged settlement proposals, you may want to present them at mediation. These can narrow the contested issues and preserve valuable mediation time.

Third, you should be prepared to exchange the following financial information:

- Paystubs or other documentation showing income from all sources, including deductions for federal and state taxes, health insurance premiums, union dues and mandatory pension withholdings fro the past six (6) months.
- Federal and State Income tax returns, including all schedules and W-2's for the last three (3) years, if not in the possession of the other person.
- A current financial statement.
- Statements and/or other documentation to support assets & liabilities listed in the financial statement.
- The Child Support Guidelines worksheet.

Additionally, if minor children are involved, you will need to attend the Children in the Middle course. Information on the Children in the Middle program, Financial Statement and Child Support Guidelines can be found at the Clerk of Court's office or at www.iowacourts.gov.

Fourth, be flexible. In order to settle the case, you need to develop a proposal that the other side likes. Listen to him or her if you want him or her to listen to you. Treat each other not as adversaries, but as partners in problem solving, knowing that at some point, your interests may diverge.

Finally, be patient. Mediation is a process that takes time. Resist the temptation to get it over with as quickly as possible. Keep working as long as the mediator sees hope.

How do I choose a mediator?

A list of mediators maintained by the program is available to anyone who inquires. Information on the mediators' training, education, experience and fee is also available. Parties may choose from the list, or employ the services of any other qualified mediator.

More than likely, your lawyer will choose your mediator for you. The choice will be based on your lawyer's confidence in the mediator's ability to help bring about a resolution to your particular case. Your lawyer or you may also consider *costs* in determining a mediator.

What are the costs?

Cost can be a factor in choosing a mediator. The costs for mediation include a $100 administrative fee ($75 for a second round or contempt mediation) and the mediator's fee ranging from $50 to $200 per hour. Normally, the fee is split, but the court could require you to reimburse the other side. You should plan on a three-hour session and bring funds sufficient to cover your share of the costs. Assuming a split fee, your cost range is $125 - 350.

If you are from low or no income circumstances, you may be eligible for reduced-rate or pro bono mediation. Those who qualify for Legal Aid or the Volunteer Lawyers Project; those on public assistance programs such as FIP, WIC, Food Stamps or SSI; and those unable to work due to mental or physical disabilities, are eligible. Eligible persons pay a fee of $10 per hour.

If you do not meet the above requirements, you can still minimize your costs by choosing a mediator with a lower hourly rate. Competent mediators are available in all price ranges.

What is my attorney's role?

Your attorney plays a vital role when you mediate. In fact, your lawyer will likely participate with you. If your lawyer does not participate, it is strongly recommended that you consult with him or her about legal aspects of your case before the mediation session and as you desire throughout the process. When an agreement is reached, you do not sign a final agreement in the mediation session. You take a copy of your agreement to your attorney for review, advice, and submission to the court.

While having a lawyer is strongly recommended, you will be expected to participate fully if you don't.

What is the judge's role?

The judge is involved in every case. S/he will…

- issue the order(s) for mediation;
- determine whether to approve agreements you have reached; and
- hear your case and make the decision on unresolved matters.

What does a mediation session look like?

In most mediation sessions, the parties initially meet in a joint session. The mediator will conduct an orientation and ask the parties to make an opening statement. Some mediators will keep the parties together throughout the session, but most will split the parties into private caucus. These caucuses allow you to speak more freely and candidly. The mediator will shuttle between the parties.

The focus in the joint session and first caucuses is fact-finding. In subsequent caucuses, the mediator will assist the parties in exchanging offers. The mediator's goal is to narrow the dispute to the point where it makes sense for both sides to agree on a solution. If an agreement is reached, you will be expected to keep it. If an agreement isn't reached, a hearing or trial will be set.

Who else can attend the mediation?

You, the other party and each of your lawyers are allowed in the mediation room. Any other person's participation is at the discretion of the opposing party. If, for instance, the other party says s/he doesn't

want your significant other in the room (or vice-versa), the mediator, in all likelihood, will honor that request. The significant other may be allowed to participate in the private caucus, however.

Of course, the primary purpose of mediation is for the two of you to talk and listen to each other and work towards an agreement. Still, you may have a reason to bring a third party to the mediation. If you do, you should discuss this with your lawyer, the program director, or the mediator prior to the session.

There may be instances in which the mediator solicits a third party's participation. This may be requested before the initial session, or at a subsequent session.

Are there situations where mediation would not be appropriate?

Yes. If there is a history of domestic abuse, or if bringing the parties together could result in direct physical or significant emotional harm to one of the parties, mediation is not appropriate. If this situation applies to you, you or your lawyer should request a waiver of mediation. Other situations such as drug or alcohol addiction by one of the parties, or an extreme disparity in the bargaining power between the parties, may make mediation inappropriate. Again, you should discuss this with your lawyer.

If a no-contact order is in effect, mediation is only to occur if both parties are represented and kept in separate rooms.

Preparing Yourself for Mediation

Information to help you make the most of your mediation experience.

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A service of the Polk County Bar Association