Divorce Mediation Overview

Each mediated divorce is unique, just as your family is, so a summary of the mediated divorce process may not address all your questions and concerns. However, I hope that I am able to do so during our mediation session(s). Some parties who are mediating a divorce have attorneys who are representing their interests, and some are handling the divorce on their own. However you choose to proceed, I am happy to assist you. Here is a simple overview of one way that I can handle the mediation process in a divorce. If this does not work for you, we can talk about tailoring the process to better meet your needs.

Intake:
• I will complete the intake, schedule your IPS (Individual Private Session), which is required in mediations involving children; and schedule your mediation.
• I will answer your general questions regarding mediation. I can be reached at 402-477-0230, or at krista@carlsonfamilylaw.com.

Individual Private Screening (IPS):

• State law mandates that all parties who are mediating issues regarding their children be individually screened to determine if there are any domestic abuse concerns, and if so, what safety measures/protocols should be put in place.
• Child custody cases involving domestic abuse concerns require mediators who have taken specialized training. Specialized Alternative Dispute Resolution (SADR) is an advanced form of family mediation used in high-conflict child custody or divorce cases, particularly those involving domestic abuse, intense hostility, or safety concerns. Unlike standard mediation, SADR utilizes individualized sessions and rigid safety protocols to build safe parenting plans. This training has not yet been offered since I became a mediator. I will take it as soon as it is available, but for now, if you require SADR, I will have to refer you to attorneys I know who do SADR mediations.
• This screening can be done in person or by phone prior to the first session and usually takes fifteen minutes to an hour (depending on whether any domestic violence is present). There is no charge for the screening (see Mediation Agreement for more details).

Educational mediation session:
• The first mediation session will be scheduled for up to one hour. I will provide you with an overview of the matters to be addressed in mediating a Parenting Plan (custody and parenting time), a Financial Plan (support) for the child/children, and a Property Settlement Agreement (a division of debts and assets, alimony, and more).
• We will develop a plan of action based on your individual situation and determine in what order the issues will be mediated. The law requires that all parents mediate a Parenting Plan prior to bringing those matters before the court for resolution, therefore, this is usually the first issue addressed. Please review the Nebraska Parenting Act brochure for parenting related issues. If you like, this session can be scheduled via Zoom.

• We will discuss what information you will need for the next session.
• If you are represented by an attorney who already understands the information that I will need to mediate your case, and who is willing to submit a Mediation Statement (i.e. email me a letter) containing the information that I need to mediate it, I will waive this requirement.

Working mediation session:
• This working session will be scheduled for three hours. It may not take that long, but I do not want you to feel rushed. If the other side refuses to participate in mediation and no work can be done, I may refund some of the mediation fee depending on the circumstances.
• We will be meeting jointly or in separate rooms, whatever works best for your situation. If you mediate in separate rooms, I will shuttle between the rooms with proposals, responses, and options. If the mediation is done in the same room, I will facilitate your discussion on the matters. We will discuss the legal requirements of the various documents and discuss options on how to resolve matters.
• When working on the **Parenting Plan**, we will discuss various custody and parenting issues, including which days each parent will be the "on duty" parent responsible for the child(ren)'s needs, how you will divide the responsibility for making decisions, how you will share holidays, who will provide the transportation for exchanges, how you will communicate with each other, and similar issues. I will assist you in resolving those issues in a way that is mutually satisfactory and in the best interest of your child(ren).
• When working on the **Financial Plan**, I will explain how child support is determined and what is considered in setting support. Topics such as tax exemptions, who will insure the children, how the childcare costs will be handled, etc., will be discussed and resolved. However, <u>to properly address child support issues</u>, I will need the following information, at a minimum: 1. The amount of your gross income; 2. The amount of the other parent's gross income; 3. The cost of your own health insurance, 4. The cost of the other parent's health insurance; 5. The cost of the health insurance for the minor child and who pays it; 6. The percentage or amount you contribute to retirement; and 7. The percentage or amount the other parent contributes to retirement. If someone is paying child support for another child or children, then I need to know the amount of that obligation. If you have other children, with other people, then I may also need to know similar information for the other parent of your other children.
• The **Property Settlement Agreement** will address all other financial issues, such as the division of debts and assets, commonly called Equitable Distribution. For example, what will happen to investment and retirement accounts, will the marital home be sold or awarded to one of the parties, what will be done with business or rental properties. Family finances can be complex, so what is discussed varies from family to family. The issue of alimony will also be discussed. Alimony is not automatic or determined by a set formula, as there are many variables to be considered. In order to help you with this, I will need information about your debts, assets, and income.

Follow up sessions:
• Additional mediation sessions can be scheduled as needed. The number of sessions and the amount of time between sessions is dependent upon the complexity of the legal

issues, good faith efforts to resolve differences, additional information or documentation that is needed from third parties (i.e., asset appraisal, benefit information, tax information, etc.), and other factors. We will continue to meet and work on your mediation as needed and agreed upon. Remember, you are in control of your mediation, and we can take as much time as we need to resolve all of the issues that you want to work through.

Mediation documents:

• *A Parenting Plan* and *Financial Plan* will need to be prepared if there are minor children. If you are represented by Counsel, your attorneys may want to prepare this. Alternately, I can prepare it. If you attend in person and the physical setup of your mediation allows for it, I may prepare it in front of you in real time. That will depend on the individual case.

• A *Property Settlement Agreement* divides the marital debts and assets. I can prepare this, or your attorney can do so. If you are married, and we prepare a Property Settlement Agreement, sometimes I will include the material from the Financial Plan in this document.

• *Hearing Waiver* form: The court has a form for this, and I can assist you in locating it and completing it if desired. This may alleviate the need for a final hearing if the court allows your settlement documents to be submitted via waiver.

• *Proposed Decree*: This is what the judge will sign to dissolve your marriage, and I can prepare that if needed.

• *Exhibit 1* or *Property Statement*. If you are in Lancaster County, you will need to complete an Exhibit 1, and if you're in the Fifth Judicial District, you will need to complete a Property Statement. I can show you where those forms are located.

• Proposed agreements and related documents will be drafted based on matters resolved in mediation.

• Documents will be sent to the parties by email or mail approximately two weeks after the mediation session.

• You may choose to review the drafts together at a mediation session or outside of a mediation session. You may have an attorney review them as you deem appropriate.

• You are not bound by proposed agreements made in mediation until the agreements are drafted into the appropriate documents, signed by each of the parties, and approved by a judge.

• I encourage you to obtain legal and financial counsel, guidance, and advice as needed.

Post mediation:

• Depending on whether you are representing yourself (Pro Se), or have an attorney, final copies of the mediation documents will be provided to you and/or your attorney.

• It will then be your, or your attorney's, responsibility to process your mediated agreements through the court system.

• If there was real estate involved, someone will need to file the Quitclaim Deed with the Register of Deeds. There is a small fee involved, and you will need to complete a real estate transfer statement and file that with the deed.

• If there is a retirement account that needs to be divided, I recommend hiring counsel to prepare a QDRO. That has to be approved by the court, and it is not particularly easy to prepare. The judges do not prepare QDROs.