

Some Lawyers Urge More Use of Divorce Mediation Option

By Maddy Sauer

Divorce can be a long, Painful, costly, and adversarial process. Many emerge from the system financially and emotionally drained.

Some in the state are working to make divorce a less expensive and less adversarial process via mediation. According to professional mediators, the differences can be tremendous.

Attorney Steve Menack, the founder of the New Jersey Association of Professional Mediators and a mediator at "A Better Solution: Quality Mediation and Arbitration Services," is an advocate for the increased use of mediation because it costs less and takes less time than the traditional route. According to Mr. Menack, of Bridgewater, mediation involves an impartial third party, the mediator, who works closely with both parties to solve the disputed issues.

Traditionally, each party in a divorce case will hire his own lawyer and will then be billed sometimes up to hundreds of hours as the divorce process moves on, sometimes for a few years, according to Mr. Menack.

He said the mediation does not involve retainer fees. Rather, the couple will split the hourly cost of mediation which can range from \$150-\$400 per hour. Mr. Menack says that he settles most of his mediation cases in a few two-hour sessions. "This adds up to a small fraction of the traditional amount just to get a case started," said Mr. Menack.

Another benefit of mediation, according to Mr. Menack, is that it does a lot to keep litigants out of court in the future.

"Mediation deals with contingencies," he said.

Rebecca Goff, an attorney and mediator with Greater Solutions in Whitehouse, said that mediation is especially useful for couples who must retain some sort of relationship, parental or otherwise, after the divorce. She said that by the end of many traditional divorces, couples end up paying huge legal fees and they hate each other, which doesn't serve as a good beginner for post-divorce relations. Not to be confuse with arbitration, in mediation the couples

both agree to the resulting settlement which they help to create.

Advocates for divorce mediation are lending their support to an upcoming senate bill. Bill #52 would give judges the authority to refer appropriate cases to mandatory session of mediation. It passed the Senate and it is expected to go in front of the Assembly this fall.

According to Douglas Schoenberg, of Summit, a mediator and the vice-chair-man of the Commission to Study the Law of Divorce, the bill contains "nothing revolutionary" since state judges have had the authority to recommend mediation for years.

"The problem is that judges aren't doing it," said Mr. Schoenberg. He blamed the under-utilization of mediation on basic ignorance. "The public doesn't know that they have the option and the professionals aren't telling them," he said.

According to Mr. Schoenberg, opposition to mediation is coming from divorce lawyers who may be worried about the future of their positions. "A lot of divorce attorneys don't know what their role will be and they are afraid their income will go down," he said.

Ms. Goff said, however, that after seeing the mediation process, many attorneys change their mind.

"They don't believe it until they've seen it in action," she said. "An adversarial system is the only real system that we've had for this (divorce)," she said.

Divorcing couples can opt for mediation at any time.

The state court system is starting a mediation program. Marilyn Slivka at the Administrative Office of the Courts said that the following the recommendations of three Supreme Court committees, the courts plan to begin a pilot program in three counties to refer more case to mediation to solve economic issues.

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