

Phillips, Mille & Costabile Co., L.P.A.

ALTERNATIVE PROCESSES TO LITIGATION

Due to the time and expense involved in litigation, many parties are looking to Alternative Dispute Resolutions (ADR) to terminate their marriage. Like a divorce, ADR focuses on resolving the issues of equitable distribution of property, parenting time, and support. However, unlike traditional litigation, the goal of ADR is to assist the parties in reaching an agreement without leaving the issues to be decided by a magistrate or judge at the end of the divorce trial. This involvement in crafting the resolution leads to better relations between the parties in the dealings after the termination of the marriage. In addition to the above benefits, ADR assists in reducing the negative impact of the stress caused by the termination of the marriage on the participants, as well as on their children.

Mediation- In this process, the parties meet with a Mediator, a neutral party, who works with the parties to reach a mutually agreed upon termination of the marriage. A mediator has been trained in techniques to facilitate parties in disputes, and to work towards mutually agreed upon resolutions. The mediator assists the parties in identifying and resolving disputes related to division of the marital assets, support, and parenting time. The mediator accomplishes this by working with participants to focus on their goals, and discussing options for the resolution of the pending issues. In his assistance the mediator helps the parties to focus on the future and where they would like to end up, rather than focusing on the past. This aspect allows the parties in custody disputes to reach parenting time agreements that meets the children's needs, and reinforces their continuing role in the parenting of the child, even after the termination of the marriage, which can prevent future litigation on this issue.

Even if parties are currently involved in a divorce, they can incorporate a provision into their divorce decree that in the event they encounter a dispute as to the parenting time in the future, that they will seek the assistance of a trained mediator prior to filing suit. As the decree is legally binding, the court is likely to enforce this provision and require that the parties mediate any dispute prior to having the parties get caught up in additional litigation.

Collaboration-Collaboration begins with the parties and their respective counsel signing a collaboration agreement. In the agreement, the parties agree to make full disclosure of all relevant information and documents necessary to assist with the termination of the marriage, and to negotiate the resolution of all pending issues without resorting to filing a divorce complaint. In addition, the counsel involved in the collaboration agree, that in the event the participants are not able to reach a mutually agreed upon resolution, the attorney will not represent their respective client in any future divorce proceeding.

Once the relevant information has been exchanged, the parties, and their respective counsel meet in a four way conferences, in which the participants address the pending issues and attempt to reach a mutually agreed upon resolution. At any point during the collaboration process, the participants can seek the assistance of financial and mental health professionals to assist in financial and parenting time issues. Once all of the issues have been resolved formal court documents are drawn up and the marriage is formally dissolved by the Court.

FOR INFORMATION: Gregory S. Costabile is the PMC partner in charge of the Domestic Relations Department. Contact him to discuss any concern you have as to ensuring your assets and rights are properly protected. There are no legal fees for discussing a litigation matter until the scope of the needed legal services has been discussed and established.

Provided by: Gregory S. Costabile, Esq. (Phillips Mille & Costabile, Co. LPA; 440-243-2800)