

MEDIATION PREPARATION OUTLINE & CRITICAL CHECKLIST

(for Family Law Lawyers & Paralegals)

We offer the following two page critical checklist to family law lawyers and their paralegals charged with the important task of assisting their client prepare for an attorney-attended mediation. (These steps may also materially advance a mediation where, by design, your client is attending without his or her counsel.)



We invite you to print this and include it as part of your case file materials in all family law cases involving mediation.

I. Facilitate Scheduling and Advance Payment Arrangements

- Confirm in writing or electronic mail with all relevant parties the dates and times of the scheduled mediation and its realistic anticipated session length. (Most divorce / family law mediations require reserving a half-day or day of your client and supervising attorney's time, even if a minimum shorter period [e.g., two hours] is formally scheduled.)
- Follow-through with clients' procuring fee deposits and signing all relevant Agreements to Mediate or Fee Agreements. (This can avoid rescheduling or misunderstandings and possible court continuances, etc.)

II. Timely Forward to the Mediator Confidential Mediation Statement or Essential Materials

A. Intro Info

- Provide a *brief* overview of
 - the parties and their family (including ages, and children's names and ages),
 - their marital history and living circumstances (length of marriage and separation, homes' locations),
 - court hearing schedule, and
 - names of their respective counsel.

(We create a summary with this information if not provided, as the first thing in our preparation with any mediation attended by counsel.)

- Describe what is at issue in court and what your client and you perceive as the priority mediable issues.

B. Critical Documents

- Attach the *principal* (be selective) legal documents (pleadings, motions, responses and reply's) where applicable.
- If nothing else, always include at the very least, *both* parties' latest financial statements. Review of the financial statements allows the mediator to assess the case briefly in advance.

C. Issue Specific Aids - Optional, but Very Helpful

- If you have property division issues, detail your suggested approach, numbers and rationale. A net asset value spreadsheet (with your clients' suggested approach) is extremely helpful and recommended. Documents relating to contested values would be helpful.
- If you have support issues, detail your suggested approach, numbers and rationale. Include your proposed child support worksheet with your suggested spousal maintenance payment, if any.

When spousal maintenance is an issue, if possible, provide details of mortgages and taxes for any home ownership anticipated by either party in your post-divorce proposed scenario. (Ideally, set forth the anticipated likely mortgage interest and property taxes for each party; *these critically affect post-divorce taxes*, which financially sophisticated mediators will wish to include in any support planning mediation. However, the mediator can calculate this quickly, if you simply observe, by way of example: "Husband will likely purchase a home for \$250,000, with a ten per cent downpayment. Wife may purchase a condominium for \$190,000, with a twenty per cent downpayment.")

- If you have parenting issues, detail your suggested approach and rationale. Attach reports, if any, from parenting consultants (Child Family Investigators, parenting coordinators, therapists, etc.).

III. Prepare Your Client

- Prepare your client as to how mediation works. Assure the client that qualified professional mediators don't try to mislead or pressure parties to settlement, but rather generate new options and honest assessment of their pros and cons to each party. Let them know that ordinarily they can expect some long periods of waiting while the mediator shuttles between parties. Create an expectation that this particular mediation with this particular mediator may very well resolve this case!