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Divorce Mediation

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(732)-845-6754





ABOUT THE AUTHOR

Vincent DeLuca, a partner at Villani & DeLuca, P.C., is a highly experienced lawyer who is certified by the Supreme Court of New Jersey as a Matrimonial Attorney. Only a few select attorneys in the state of New Jersey have achieved this designation. Mr. DeLuca has dedicated his career to helping clients navigate the complexities of divorce and family-related legal matters. In his 33 years as an attorney, Vincent has been a strong supporter of amicable and collaborative divorce, such that his practice is almost entirely dedicated to mediation.

Vincent is currently serving as an Early Settlement Panelist to the New Jersey Superior Court and is the former President of the Jersey Shore Collaborative Law Group. This has given him a wide exposure to many different cases and firsthand experience in negotiation and resolution.

Villani & DeLuca, P.C. serves clients throughout the state of New Jersey and primarily those living in Monmouth, Ocean and Middlesex counties. If you or a loved one is contemplating divorce mediation in the state of New Jersey, contact Vincent today at (732)-845-6754 or vcdeluca@villanideluca.com. You may also visit VillaniDeLuca.com for more information.

Disclaimer: Although he addresses many psychological topics herein, Vincent DeLuca is not a therapist and does not purport to give therapeutic advice. The opinions contained in this book are based on both published literature and Mr. DeLuca's personal experience as a mediator. Mr. DeLuca is not purporting to give specific legal advice either. This book is intended to be a source of general information about the New Jersey divorce mediation process. Please do not construe anything in this book to be legal advice about your particular case, as each legal case is different, and an attorney or mediator can discuss legal complications only after he or she understands the facts of your particular case.

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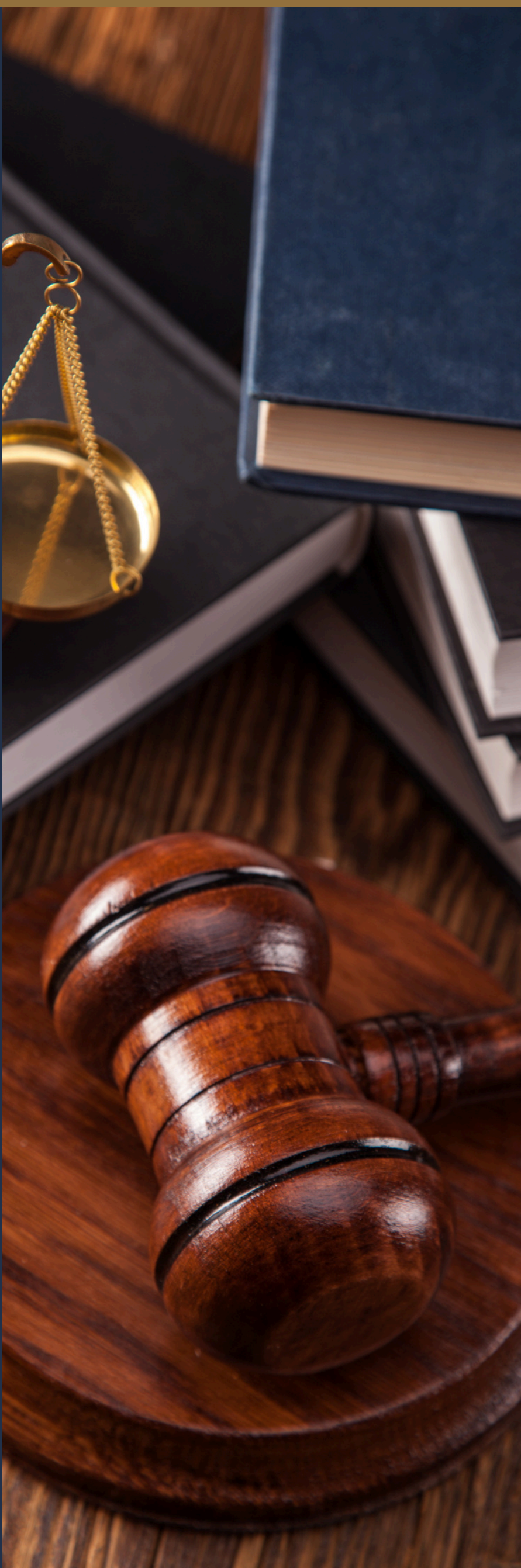
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INTRODUCTION TO VINCENT DELUCA

“Not just parties, people”



While the previous credentials outline my extensive experience, demonstrating that you can trust me to handle your case, I also find it important to tell you why I have had success as a mediator. Being a mediator is about much more than accumulating titles; it requires connection and understanding on behalf of the mediator.

I guide mediation discussions by considering the following: there is a significant difference between neutrality and self-removal. Neutrality guides the mediation process. The mediator is not an advocate for one person, but a facilitator for both; an advocate for compromise. However, I refuse to be neutral in the sense that would remove myself from the proceeding and ignore the emotional strain on both individuals. I refuse to think, “not my problem.” When you confide in me to help you resolve your disputes, it becomes my responsibility to completely commit to you, not just the matter at hand. I choose to be neutral by empathizing with all sides, taking everyone’s experiences and concerns into account during discussions pertaining to your divorce.

Developing a relationship of mutual trust with the individual handling your case is not a privilege, but a necessity. In an emotional time, your legal professional should bring you relief. You should leave the mediation process with hope for the future.

If you can find it to confide in me, I can promise that you will not just be a party in the mediation proceeding. You will not just be a side of the divorce, but an individual who I can understand and connect with. While many court resources list all of the certified mediators in New Jersey, the factor that separates one mediator from another is their philosophy, and I encourage you to consider mine.

CHAPTER 01



INTRODUCTION
TO DIVORCE
MEDIATION

Introduction to Divorce Mediation

What is Mediation?

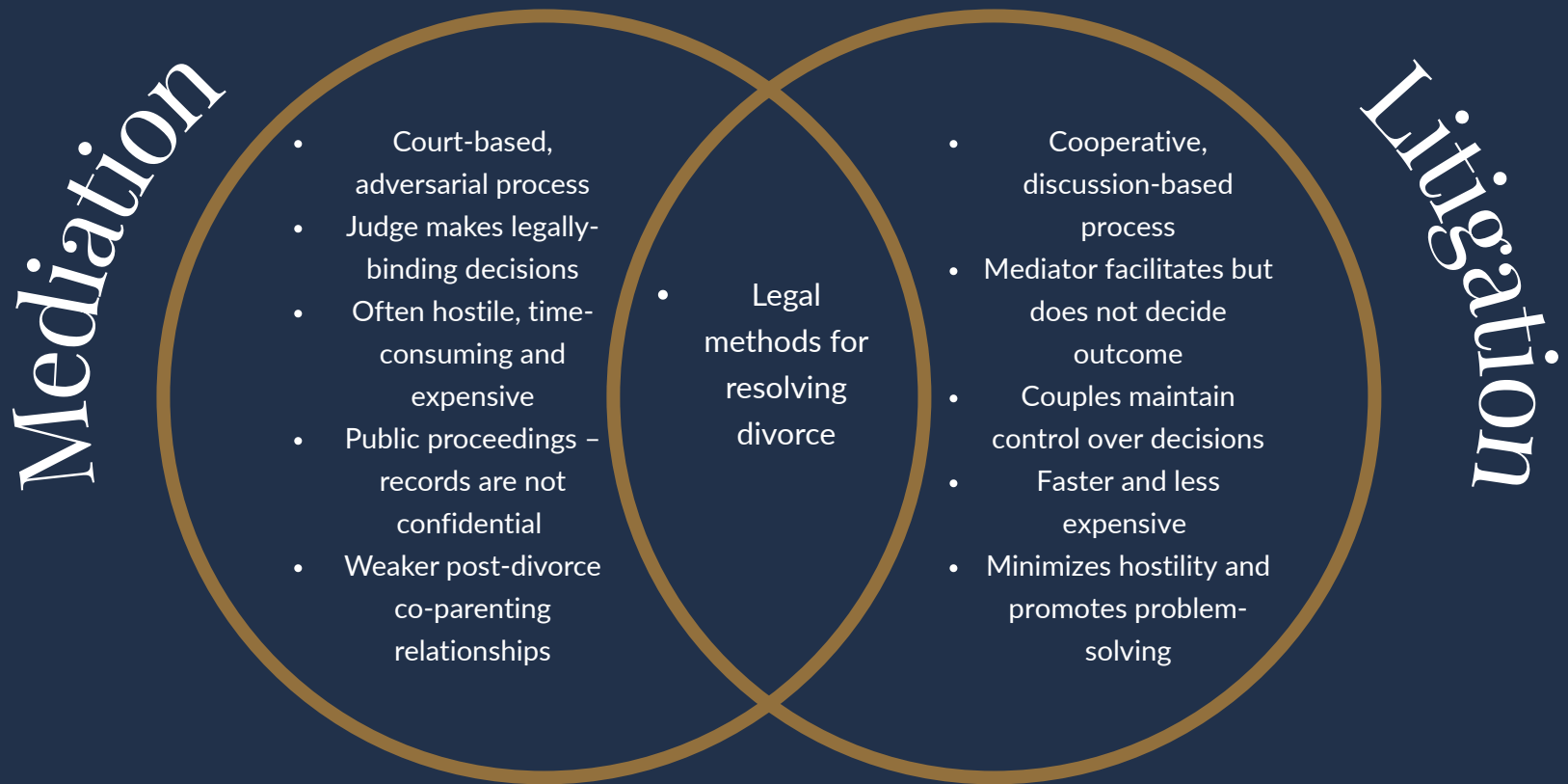
Mediation is a process where divorcing spouses work with a neutral third party, the mediator, to reach an agreement on matters related to the dissolution of the marriage. The process is designed to help couples resolve their disputes efficiently and decrease the financial and emotional burden of a divorce.

Who is the Mediator?

A mediator is a neutral facilitator responsible for guiding discussions and helping couples negotiate solutions. Mediators do not make decisions; instead, they assist divorcing spouses in making their own choices. A mediator does not provide legal representation but rather helps to structure agreements that align with the law. The mediator encourages open communication, offers strategies for conflict resolution, identifies legal considerations, and ensures that agreements meet the requirements outlined by New Jersey law. Each mediator brings their relative experience and philosophy into a proceeding; it is important for parties to find someone they can trust.

Although mediators guide the process and help facilitate agreements, they do not provide legal advice or represent either party. For this reason, attorneys can play an important supportive role in the mediation process. Divorcing spouses often choose to consult with a lawyer before, during, or after mediation to better understand their legal rights and obligations. Attorneys can review proposed agreements, explain legal implications, and ensure that outcomes are fair and enforceable. In some cases, particularly when the issues are complex or one spouse feels uncertain, attorneys may attend mediation sessions to provide real-time guidance or advocate on behalf of a party. This collaborative approach, where mediators manage communication and attorneys offer legal support, can improve clarity, promote balance, and help protect each party's interests throughout the process. Lawyers can be helpful, but it is important to note that you can enter mediation without counsel. I have seen attorneys play an important role in the mediation process, especially in more complex cases, but have also seen couples succeed on their own.





The Benefits of Mediation over Litigation

When deciding if mediation is best, the process must be compared to litigation. In a traditional divorce proceeding, attorneys present arguments in court, and a judge makes a legally binding decision on the matter. Litigation is often hostile, time-consuming, and expensive. However, in a mediation proceeding, rather than arguing, the parties engage in open dialogue and cooperative resolution. Couples maintain control over meaningful decisions, rather than leaving life-changing choices in the hands of lawyers or a judge. The mediator works with the parties; rather than observing and deciding, he or she acts as a facilitator. By choosing mediation over litigation, spouses can save copious amounts of money and speed up the divorce process, allowing them to move forward with their lives with dignity and self determination.

Divorce mediation offers several advantages over traditional litigation. Because mediation avoids prolonged court proceedings, it is typically far less expensive than litigation. Cases handled through mediation often reach resolution in weeks or months, whereas a divorce handled through litigation can take years. Unlike court proceedings, mediation discussions remain private and confidential. A divorce is both a personal and emotional obstacle, and couples may prefer to keep their sensitive matters out of public records. The end of a marriage often comes with intense emotional strain, but mediation promotes problem-solving and compromise, minimizing hostility and resentment. Through mediation, you can not only take control of your time, money, privacy, and emotional wellbeing, but also maintain greater authority over the outcome of your case. Unlike a judge, the mediator does not make decisions; the couple does with his or her assistance.

Psychological research from the International Association for Conflict Management has demonstrated that parents who mediate are more likely to work together effectively after divorce, reducing the likelihood of future conflicts (Kaiser et al., 2023). Individuals who choose mediation report higher satisfaction with both the process and outcomes. They feel listened to, respected and more in control of the agreements reached. These factors contribute to greater compliance with custody and support agreements, reducing the need for future legal intervention. Longitudinal research also demonstrates that mediation leads to stronger, more involved relationships between non-residential parents and their children compared to those who litigate (Sbarra & Emery, 2005).

Deciding if Mediation is Best for You

While mediation is highly beneficial in many cases, it may not be suitable for all divorces. A discussion-based process, mediation works best when both spouses are willing to communicate and compromise. Divorcing spouses who choose mediation should also have a relatively balanced level of knowledge about assets and finances; if there is a financial power dynamic, it will be difficult for both parties to have a voice in mediation. Rest assured, however, that a good, experienced mediator can address situations where there are different levels of financial sophistication. If they are selecting mediation, a couple should share the common goal of maintaining an amicable relationship– this is especially pertinent if children are involved. While amicability is important, in some circumstances, it is impossible to be both cordial and safe. If the case includes a history of domestic violence, coercion, or abuse, mediation may not be an appropriate method of dissolution. Assess your personal situation and the specifics of the mediation process to determine whether this approach is the right choice for resolving your divorce. During an initial consultation or through the information included herein, I am happy to help you decide if mediation is best for you.



IS MEDIATION BEST FOR YOU?

Mediation may be best for you if...

- ☒ You want to resolve matters amicably without prolonged conflict
- ☒ You are open to compromise and respectful communication
- ☒ You prefer a private process
- ☒ You wish to save time and reduce legal costs
- ☒ You want more control over decisions rather than leaving them up to a Judge
- ☒ You are concerned about reducing the emotional toll on children
- ☒ Both parties are willing to participate in good faith
- ☒ You hope to maintain a cooperative relationship moving forward
- ☒ You value a neutral third party guiding structured conversations

Mediation may not be ideal if...

- ☐ There is a history of domestic violence, coercion or intimidation
- ☐ One party is unwilling to disclose information
- ☐ One or both parties are completely unwilling to compromise
- ☐ There is a significant power imbalance that the mediator does not feel can be overcome
- ☐ You would like decisions made for you by a Judge
- ☐ There are extremely complex legal issues



CHAPTER 02

UNDERSTANDING
NEW JERSEY
DIVORCE LAWS

Understanding New Jersey Divorce Laws

Although mediation is not as formal or adversarial as traditional litigation, the process is still rooted in New Jersey law; therefore, it is important to understand the relevant legal framework when you are considering if mediation is the best option.

Types of Divorce

New Jersey recognizes two categories of divorce: no-fault and fault-based cases. In cases of irreconcilable differences, the most common no-fault ground, neither spouse must prove any wrongdoing of the other. Another no-fault ground is separation; this applies when spouses have lived apart for at least 18 consecutive months before filing for divorce. Fault-based divorce, however, requires proof of wrongdoing, which can include adultery, extreme cruelty such as mental or physical abuse, abandonment (one spouse leaving for over a year without justification), addiction or habitual intoxication, institutionalization for mental illness and imprisonment for over 18 months. The type of divorce filed, fault-based or no-fault, may impact alimony, child custody or asset division, but most couples choose to pursue a no-fault divorce, as the process is generally more simple.

Residency Requirement

In New Jersey, at least one spouse must have been a legal resident of the state for a minimum of one year before filing for divorce.

Equitable Distribution

In dividing marital property, New Jersey follows the equitable distribution system, meaning that assets and debts are divided fairly but not necessarily equally. The state evaluates case-specific circumstances instead of automatically dividing everything fifty-fifty. When calculating equitable distribution, the courts consider factors such as the duration of the marriage, each spouse's financial contributions, the earning capacity and future financial needs of each spouse, child custody arrangements, and whether one spouse contributed to the other's education or career advancement. In addition to such considerations, the court also recognizes that two types of property can exist within a marriage: marital property, which is subject to division, and separate property, which generally is not. Marital property includes assets acquired during the marriage, regardless of who purchased them, while separate property consists of assets owned before the marriage, inheritances, or gifts to one spouse. Equitable distribution is entirely case-specific, and the court uses the distinction between marital and separate property as well as its consideration factors to ensure fair division.

Child Custody and Support

Handling child custody matters can be challenging, particularly because they involve strong emotions and can significantly affect a child's well-being. When determining custody arrangements, New Jersey courts prioritize the best interests of the child. Options for child custody include joint legal custody, joint physical custody, sole legal custody and sole physical custody. Legal custody relates to decision-making authority, and physical custody refers to where the child primarily lives. In a joint legal custody arrangement, both parents will make major decisions regarding the child's health, education and general welfare. This arrangement involves parents communicating with one another about a child's life, so if a case includes intense hostility, abuse, fear or a power imbalance, this arrangement may not be appropriate. The vast majority of couples who get divorced in New Jersey that have children end up sharing joint legal custody. Joint physical custody is when the child lives with each parent for a period of time; however, this does not necessarily mean parenting time is equal. When given sole legal custody, only one parent can make major decisions for the child. In a sole physical custody arrangement, while the other parent will likely still have some scheduled parenting time, the child primarily resides with one parent.

Child support, the monetary component of post-divorce parenting, is calculated based upon utilizing the New Jersey Child Support Guidelines, considering parenting time, parents' incomes, childcare and healthcare costs, educational needs and lifestyle. Child support is not a mere price tag attached to each child born of the marriage; it is specific to the circumstances of the case and calculated using a legal framework.



Spousal Support

Child support is not the only financial obligation that may arise following a divorce. Alimony, often referred to as spousal support, is a court-ordered payment from one spouse to another following the dissolution of a marriage. In New Jersey, several types of alimony may be awarded, depending on the circumstances of the case. These include: reimbursement alimony, a temporary repayment for contributions; limited-duration alimony, awarded for a specific period and typically applicable in shorter marriages; rehabilitative alimony, intended to support a spouse while they pursue education or training to achieve financial independence; and open-durational alimony, which is generally applied to long-term marriages – those in excess of 20 years in duration. A fifth form of spousal support, known as *pendente lite* alimony, is a temporary, court-ordered payment from the higher-earning spouse to the lower-earning spouse, intended to maintain financial balance between the parties during the divorce process. This type of support is limited to covering the recipient's immediate and essential needs. When determining alimony, courts consider various factors, including the length of the marriage, the financial dependence of either spouse, the age and health of both parties, and their respective earning capacities.

Ending a Marriage

Once divorcing spouses resolve their disputes, whether through mediation or traditional litigation, their settlement agreement must be submitted to the court. Once submitted, the Judge grants a Final Judgment of Divorce, legally ending the marriage.

Understanding the legal framework for a New Jersey divorce can feel overwhelming, but there is no need to stress. Doing your own research, regardless of the capacity, can only help. If you choose to retain an attorney, they will guide you through the process. Additionally, your mediator, particularly if you work with Villani & DeLuca, will thoroughly explain all relevant New Jersey Law during the initial consultation and continue to provide clarification throughout the entire process.

TYPES OF ALIMONY

1) Reimbursement Alimony

- Temporary
- Repayment for support or contributions the recipient spouse made

2) Limited-Duration Alimony

- Short-term with a set end-date
- Cannot exceed the duration of the marriage

3) Rehabilitative Alimony

- Temporary or lump-sum
- Supports a spouse while they pursue education or training

4) Open-Durational Alimony

- Has no end date
- Only awarded when the marriage was longer than 20 years

5) Pendente Lite Alimony

- Temporary
- During the divorce proceeding
- Meant to maintain financial balance between the parties
- Limited to the receiving spouse's immediate needs

COURT-MANDATED
VS. PRIVATE
MEDIATION

CHAPTER 03



Court-Mandated vs. Private Mediation

In New Jersey, divorcing spouses have two avenues for mediation: it may be either court-ordered or conducted privately. While both approaches attempt to resolve disputes amicably through discussion, the process, flexibility, cost and outcomes can vary significantly.

Court-Mandated Mediation

Court-mandated mediation becomes available only after a couple initiates the traditional litigation process, a path that often incurs considerable financial and emotional costs. Although the mediation sessions themselves may not be very expensive, the preceding litigation steps required to reach this stage are costly and may prove unnecessary if the matter is ultimately resolved through mediation.

The court typically refers parties to mediation at two distinct points during the litigation process, the first called an Early Settlement Panel, and the second, Economic Mediation. During the Early Settlement Panel, volunteer attorneys offer settlement recommendations. If that stage fails to produce an agreement, the case proceeds to Economic Mediation, where a neutral, court-approved mediator such as myself becomes involved. However, by the time spouses reach this second referral, they have already spent thousands of dollars on legal fees and may feel entrenched in an adversarial mindset. Court-mandated mediation is not accessible as a first step for those looking to avoid the burdens of litigation.

The following chart depicts the order of the litigation process and where court-mandated mediation comes in.



STEPS IN THE DIVORCE LITIGATION PROCESS

Consult with an Attorney

- Sign a retainer agreement
- Prepare Complaint and Affidavit of Insurance
- File Complaint and Affidavit with Court

Serve the Complaint

- Options for Service of Complaint: a) Acknowledgement of Service, b) Personal Service via Sheriff, c) Personal Service via Process Server

Responsive Pleading Filed with Court

- Defendant has 35 days after being served to file response
- Options for Responsive Pleadings: a) Do nothing, b) File an Appearance, c) File an Answer, d) File an Answer and Counterclaim

Case Information Statement filed with Court

- Parties have 20 days after Responsive Pleading is filed to file their Case Information Statement

Contested

Uncontested

Case Management Conference

- 1st time case is introduced to the Judge
- Outline a Discovery Schedule: a) Comparative Market Analysis, b) Forensic Accountant Evaluations, c) Appraisals of Assets, d) Deadlines for Interrogatories

Early Settlement Panel

- Non-binding Arbitration / *Mediation*
- Parties appear before a Panel of Attorneys to discuss outstanding issues of the case
- The panel may offer recommendations as to how the outstanding issues can be resolved

Outstanding Issues Still
Remain

Referral to Economic Mediation

Outstanding Issues
Still Remain

4-Way Conference or Status
Conference with Judge

Outstanding
Issues Still
Remain: *TRIAL*

All terms are
agreed to by
parties

Case Management Conference

- If agreement exists, this can be changed to an Uncontested Hearing
- Otherwise, this will be the same as listed for the Contested Path

Outstanding Issues Still
Remain

All terms are agreed to
by parties

A Property Settlement
Agreement is drafted and
signed by all parties

*UNCONTESTED
HEARING* -
Finalization of
your Divorce

Private Mediation

Couples who believe mediation may be the most appropriate way to resolve their divorce-related disputes are often better served by pursuing private mediation from the beginning. This approach allows them to bypass the litigation process entirely, minimizing financial and emotional strain.

In private mediation, couples select a mediator based on his or her experience, philosophy and costs. They also retain control over the scheduling and structure of sessions, which can be conducted virtually or in-person based on mutual convenience. Comparatively, in court-mandated mediation, the court and or the attorneys assign the mediator and manage planning. Private mediation also allows couples to maintain active authority in their process rather than being told what will occur. Nothing is agreed upon without the parties' approval.

In mandated mediation, the court assigns a group of attorneys who volunteer their time (Early Settlement Panel) or a neutral mediator (Economic mediation). When the court assigns professionals to a case, their time is often very limited; mediation sessions may be short, preventing extensive negotiation. If mediation fails, the case returns to litigation. By contrast, a private mediator typically has more time to devote to a matter, such that compromise may be possible when court-mandated mediator would have already ceased.

Once a couple reaches an agreement through private mediation, it is formalized in a written settlement, which is then submitted to the court, along with a proposed Final Judgment of Divorce. Once submitted, the Judge signs the Final Judgment of Divorce, thereby concluding the process. Although court involvement is still necessary to finalize the divorce, the process remains largely private. Mediation sessions are always confidential, but choosing private mediation allows spouses to keep their case, which holds sensitive information, out of public records.

The following chart outlines the private mediation process, which is significantly more concise than court-mandated mediation.



STEPS IN THE PRIVATE MEDIATION PROCESS

Preparation

- Select a mediator based upon their experience and philosophy
- Review financial documents
- Set your goals and expectations
- Secure the appropriate mindset



Initial Consultation

- Spouses meet with the mediator to discuss the process, fees and expectations
- Parties provide financial documents and personal information
- Mediator and spouses identify key issues of the case
- Goals and priorities are established
- Couple decides whether to continue with mediation



Agenda Setting

- The mediator outlines the topics to be addressed
- Parties may agree on the order in which to address them
- Immediate concerns are often handled first



Negotiation Sessions

- 2-4 negotiation sessions are held to discuss the issues
- The mediator facilitates open communication and compromise



Drafting the Agreement

- Once the parties reach a decision, the mediator drafts a Settlement Agreement, outlining all agreed-upon terms



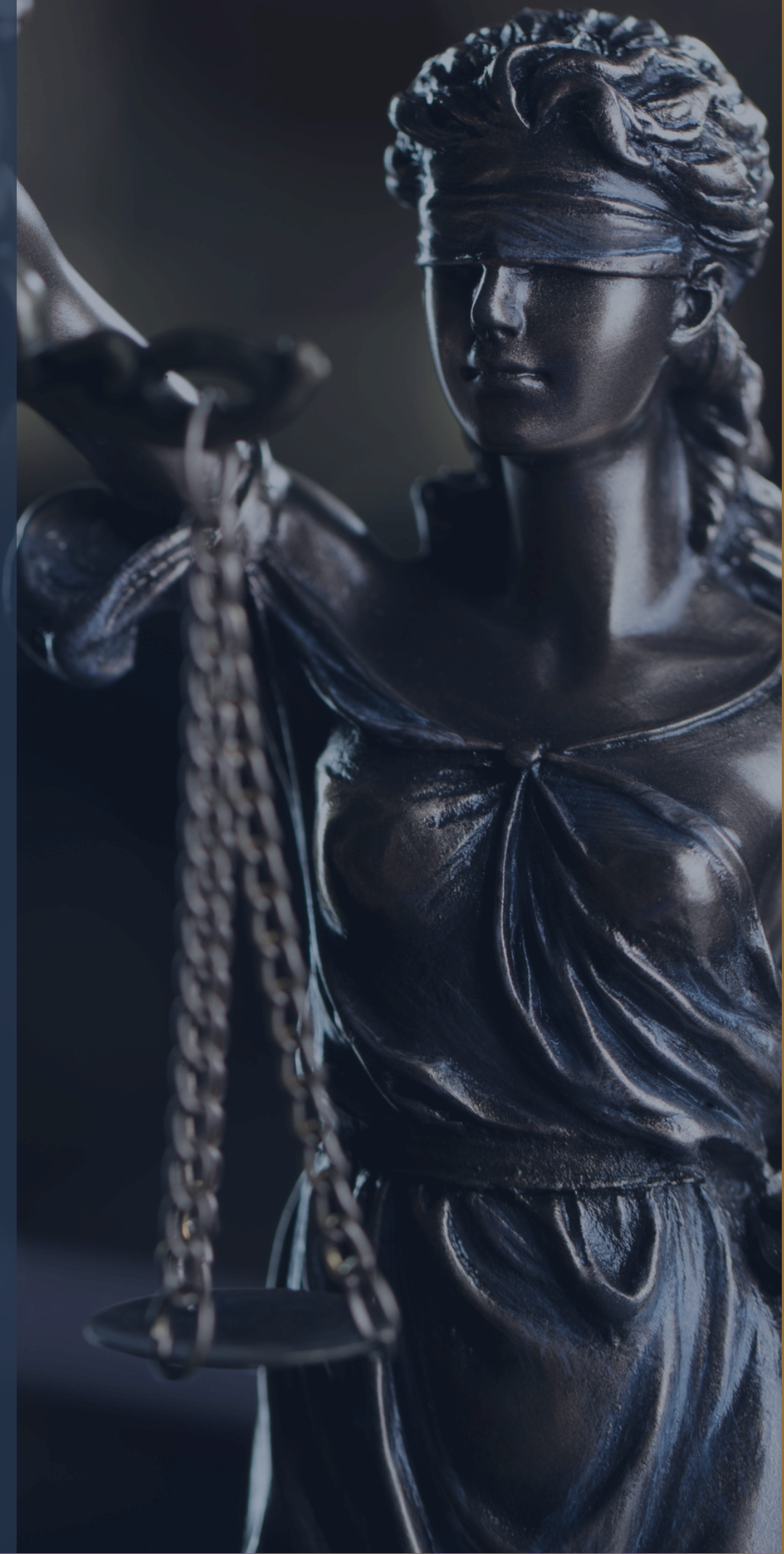
Finalization

- Each party will have the opportunity to review the draft agreement – with attorneys if they decided to retain them
- This agreement is submitted to the Court, and the Judge issues a Final Judgment of Divorce

There are significant distinctions in procedure, freedom, environment and price between court-mandated and private mediation. For those seeking to avoid litigation entirely, private mediation is often the better choice. Court-mandated mediation cannot begin until litigation is underway, meaning couples must already invest time and money in the legal process before mediation even becomes an option, and if court-ordered mediation does not succeed, the case continues through formal litigation. Multiple clients who have been referred to me through court-ordered Economic Mediation ultimately resolved their disputes through the mediation process, and many expressed regret that they had not started with private mediation from the outset.

PREPARING FOR
MEDIATION

CHAPTER 4



Preparing for Mediation

Financial Documents

When I experience delays in a mediation process, it is often because parties are unprepared to begin. To ensure productive discussions, maximizing time and money, both spouses should have some understanding of the finances of the marriage. This understanding will be found by looking at financial documents. These documents include financial statements such as bank account details, retirement savings, investments, and debts; tax returns—preferably from the past two years—to assess income history; property records, including ownership documents for real estate, vehicles, and other major assets; proof of employment and income, such as pay stubs, business revenue records, or other earnings documentation; insurance policies covering health, life, or property; and any existing legal agreements, such as prenups, postnups, or prior marital agreements.

Setting Goals and Expectations

In addition to having access to these documents, it is important for each spouse to enter mediation knowing their priorities and ideal outcomes. While your goals will serve as your framework throughout the proceedings, mediation is a process of discussion and negotiation. Thus, you must identify, before starting mediation, your non-negotiables and flexible points. Ask yourself which issues are must-haves and which areas have room for compromise.

The distinction between personal and legal goals is especially important during mediation. While legal goals focus on formal issues like asset division, custody arrangements, and support obligations, personal goals often include emotional healing, maintaining financial stability, or preserving a sense of normalcy for the children. Although you may be navigating your own pain and uncertainty, it is crucial to recognize that divorce can be even more confusing and emotional for a child. When defining your ideal outcomes, particularly if children are involved, you must be willing to step back from your own perspective at times and prioritize what truly serves their well-being. Strategies for co-parenting, custody arrangements and support impact their daily lives and long-term development. The New Jersey court system is guided by the “best interests of the child” standard, and your approach in mediation should reflect that principle.

PRE-MEDIATION TO DO LIST

1) Review financial documents

- Bank account details, retirement savings, investments, debts
- Tax returns from the past 2 years
- Ownership documents for real estate, vehicles, and other major assets
- Proof of employment and income—pay stubs, business revenue records or other earnings documentation
- Insurance policies: health, life, property
- Any existing legal agreements: prenups, postnups or prior marital agreements

2) Set your goals and expectations

- Identify your non-negotiables and flexible points
- Identify your personal and legal goals
- If you have children, be sure to consider their best interests

3) Secure the appropriate mindset

- Maintain an open, cooperative attitude
- Manage your anger and sadness before mediation
- Stay solution oriented
- Do not dwell on past grievances
- Avoid asserting blame

4) Choose a Mediator

- Consider their experience and credentials
- Assess their demeanor, philosophy, and communication style
- Select someone truly neutral



A GOOD MEDIATOR IS...

- Credible
- Experienced
- Neutral
- An active listener
- Communicative
- Dedicated
- Patient
- Persistent
- Adaptable
- Empathetic
- Emotionally intelligent
- Respectful
- Affable

Securing the Appropriate Mindset

Success in mediation depends on maintaining an open, cooperative attitude. While the mediator is there to support, understand, and empathize with you, mental and emotional preparation before mediation can significantly change your outcome. As far as managing emotions, you are entirely valid in acknowledging the anger, sadness or fear you are experiencing, and expressing your feelings to the mediator can help him or her understand you. However, during the proceedings, you should do your best to stay solution-oriented. Picture your life without the stress you are enduring rather than letting it consume you. It is much easier said than done, but dwelling too heavily on past grievances will only keep you from achieving long-term stability. Although you may feel inclined to assert blame or accusations against your former partner, staying respectful to all parties involved in the mediation will be the best way for you to achieve a successful outcome.

Choosing a Mediator

In addition to your personal preparation, selecting a qualified mediator is essential for a smooth and effective process. When choosing a mediator, recognize that this person's demeanor, discretion, and skill will have a major impact on your life. The experience and credentials of an individual, including certifications, mediation training, and specialization in family law, can demonstrate their expertise in the field. Because a mediator's role is to remain neutral, it is crucial to select someone who does not favor either spouse. Even if you appear to be the favored party, this imbalance can backfire, as the other spouse may become uncooperative, causing the process to stall or fail. Your mediator's communication style must also align with your needs. Look for someone who can foster calm, productive dialogue rather than heighten conflict. Practical considerations such as fees, scheduling flexibility, and the format of the sessions (in-person or virtual) should also factor into your decision.

Preparation for mediation is a detailed process that includes gathering documents, managing emotions, setting goals, and selecting the right mediator, but it is a necessary step. In my experience, adequate preparation lays the foundation for a fair, respectful, and efficient resolution, helping both parties move forward with clarity and confidence.

CHAPTER 5

THE DIVORCE MEDIATION PROCESS



The Divorce Mediation Process

After deciding that mediation is the best approach for your case, preparing for the sessions, and selecting a mediator, the process officially begins. Divorce mediation typically consists of multiple structured discussions where couples, guided by a neutral mediator, work through their disputes. The number of sessions varies based on the complexity of the matter, but most couples require 2 to 4 meetings of 1 to 2 hours to reach a full agreement.

The mediation process includes several steps. First, the parties will engage in an initial consultation with the mediator. In this first meeting, the mediator will explain the process, rules and expectations; identify the key issues in need of resolution; address any urgent concerns such as temporary financial arrangements and living situations; and discuss confidentiality guidelines and mediation fees. The mediator will also consider whether mediation is the best option for the particular case, and if it is, more sessions will result. Each spouse will share their priorities and goals during the initial conference. The mediator encourages open communication about personal and financial needs, helps both parties recognize mutual interests, and ensures realistic expectations based on New Jersey divorce laws. Early in the process, the mediator will also gather and review the financial information couples provide. This should include statements demonstrating bank accounts, debts and assets, tax returns and pay stubs to assess income; property valuations for real estate or investments; and expense breakdowns for budgeting post-divorce.



DIVORCE MEDIATION: A 6-STEP PROCESS

1) Initial Consultation

- The mediator will...
- Explain the mediation process, rules and expectations
- Identify key issues needing resolution
- Address any urgent concerns such as the parties' living situations and temporary financial agreements
- Determine with couples whether mediation is the best fit
- Discuss confidentiality guidelines and mediation fees

2) Identifying Priorities and Interests

- Each spouse will share their goals
- The mediator will...
- Encourage open communication about personal and financial needs
- Help parties recognize mutual interests
- Ensure realistic expectations based on NJ divorce laws

3) Gathering and Reviewing Financial Information

- Couples provide...
- Financial statements such as bank account, debt and asset information
- Tax returns and pay stubs to assess income
- Property valuations for real estate or investments
- Expense breakdowns for budgeting post-divorce

4) Negotiating Settlement Terms

- Using guided discussion facilitated by the mediator, spouses negotiate agreements on their key issues

5) Resolving Disputes to Finalize Agreements

- If conflicts arise, the mediator suggests solutions
- Once an agreement is reached, the mediator drafts a Settlement Agreement, which outlines decisions in detail

6) Submitting the Agreement to the Court

- Couples submit the agreement to the Court, and the Judge issues a Final Judgment of Divorce

The mediator will then facilitate negotiation of settlement terms. This process will cover the division of assets and debts in line with New Jersey's equitable distribution laws; child custody and parenting plans prioritizing the child's best interests; child support and alimony, considering financial circumstances and the fact that child support is the right of the child; and future financial considerations such as insurance and retirement benefits. If conflicts arise during discussion, the mediator suggests solutions using compromise techniques, resolution strategies and legal guidance, ensuring compliance with New Jersey family laws. Once an agreement is reached, the mediator drafts a Mediation Settlement Agreement, which outlines the decision the parties came to.

The final step of the process involves legal validation. Couples have the option as to whether or not they want to review the settlement agreement, either individually or with attorneys if they decided to retain counsel. Then, the agreement will be submitted to the court for approval and, if approved, the couple will receive a Final Judgment of Divorce, completing the process. While each mediator's style may vary based on their experience and approach, all essential topics will be thoroughly addressed. If you are to proceed with Villani & DeLuca, P.C., we will spend ample time on each step and prioritize active communication.



CHAPTER 06

KEY ISSUES
ADDRESSED IN
MEDIATION



Key Issues Addressed in Mediation

In mediation, couples are free to discuss any issue pertaining to the dissolution of the marriage and the futures of the parties involved. The couple and the mediator typically discuss the division of assets and debts, child custody and parenting plans, child support, alimony and future financial planning. The New Jersey laws pertaining to these issues were addressed in Chapter 2.

Equitable Distribution

When dividing assets and debts in a New Jersey divorce, the state applies the principle of equitable distribution, meaning property is divided fairly, though not always equally. Marital assets may include real estate, retirement accounts, business interests, vehicles, and personal property. Debts can encompass credit card balances, mortgages, student loans, and tax obligations. Importantly, there is a legal distinction between marital and separate property; assets or debts acquired before the marriage, as well as inheritances, may be excluded from division.

A qualified mediator is well-versed in these legal standards and will guide the couple through discussions on how to value and divide property without involving the court. The mediator ensures a fair process and, when necessary, may recommend consulting experts in fields such as finance, accounting, or real estate to assist with complex valuations or asset division.

Child Custody

Custody discussions are among the most sensitive aspects of mediation, and it is important that while discussing their personal concerns, parents craft a plan that prioritizes the best interests of the child. As a neutral party who must adhere to legal standards, the mediator will look out for the child during discussion and remind parents to do the same. The mediator will cover legal custody, whether decision-making responsibilities are shared or granted to one parent, as well as physical custody, where the child will reside. Regarding physical custody, the parties will also discuss their particular parenting time schedule.



Child Support

As per New Jersey law, child support is the right of the child; while you may feel hostile paying child support to your former spouse, that money is actually for the child and is his or her legal right. When creating a child support agreement based on the New Jersey guidelines, the mediator will consider the parents' incomes, looking at combined earnings and determining the contribution percentages of each party. The payment also accounts for healthcare, insurance, tuition and extracurricular activities. Additional support may be necessary for children who require medical or developmental care. Due to potential financial changes and the child's evolving needs, support agreements can be modified. In such cases, the same mediator a couple used to draft an original agreement may be willing to revisit their case. I am completely open to revisiting matters. The modification process is typically smooth because I am familiar with and keep record of all previous discussions.



Alimony

Another financial consideration is alimony, which depends on the financial disparity between spouses and their future earning capacity. The mediator will define the type of alimony owed, if any– reimbursement, rehabilitative, limited-duration, open-durational or *pendente lite* support. Another consideration is income discrepancies, where the mediator will determine if one spouse sacrificed career growth for family responsibilities. Not only current income is considered but also the future career plans and earning capacity of each spouse. The mediator will discuss the duration of payments, aiming to craft a reasonable timeline for the financial independence of the receiving party if alimony is not permanent.



Future Considerations

Although mediation is less rigorous than litigation, by no means is it rushed; discussions remain thoughtful and proactive. Beyond immediate divorce concerns, mediation addresses retirement account division, ensuring fair distribution of pensions, IRAs or 401(k)s. The mediator will work with the parties to update life insurance beneficiary designations post-divorce. Mediation covers tax implications, discussing the changes in filing status and deductions after separation.

Mediation can address a broad range of financial, parental, and professional matters, with discussions tailored to focus on the parties' most pressing concerns. At Villani & DeLuca, we are dedicated to thoroughly resolving each issue, easing our clients' concerns, and devoting time to handle every matter with care.



CHAPTER 07

REACHING AN
AGREEMENT

Reaching an Agreement

Once spouses reach a consensus, the mediator drafts a settlement agreement, which outlines all divorce terms and serves as the basis for the final court order. A strong agreement should use clear and specific language to define asset division, custody terms and financial responsibilities. It should also address contingencies such as future modifications to child custody, support and alimony.

For an agreement to be enforceable, it must align with New Jersey divorce laws in aspects such as equitable distribution, child support and alimony terms and calculations, and custody and parenting time. A mediator will assist in ensuring compliance, and if spouses choose to retain attorneys, they can also consult with legal representation before finalizing their settlement.

After completing the agreement, couples review it to ensure clarity and fairness; in this step they can also choose to speak with lawyers. Once the spouses confirm that they accept the agreement, it is filed with the court, and the judge will review the document and decide whether to issue a Final Judgement of Divorce, officially dissolving the marriage.

To ensure lasting success, spouses must follow their agreed-upon financial commitments, and if they feel that their financial or personal circumstances change, they should seek modifications rather than just deciding not to follow the agreement. As long as there are no safety and mental health concerns, former spouses should maintain open and cordial communication, especially in cases involving children.

By ensuring compliance with state laws, considering future adjustments, and using clear phrasing, a mediator can help you create a stable foundation for post-divorce life.



CHAPTER 08

COMMON
MISCONCEPTIONS
AND MISTAKES TO
AVOID



Common Misconceptions and Mistakes to Avoid

Common Misconceptions

Throughout my time as a mediator, I have noticed that many couples enter mediation with unrealistic expectations. This can hinder the success of the process and require them to continue with a traditional litigation proceeding.

As they enter mediation, some people aspire to win, but in reality, the process is about compromise and negotiation, not winning and losing. Many couples believe that on difficult issues, the mediator will decide for them. However, unlike a judge, mediators do not make binding decisions; they facilitate discussions for parties to make their own choices. Because mediation is conversational, people often assume that preparation is not necessary, but it is important to gather financial documents and set realistic goals before starting to achieve a successful mediation. Many believe that mediation guarantees a smooth divorce. While mediation is much less adversarial than litigation and is designed to minimize conflict, disagreements can still arise; the mediator will do their best to work through them with the parties.



COMMON MISCONCEPTIONS ABOUT DIVORCE MEDIATION

1) "Mediation means I'll get everything I want"

- Mediation is about compromise and negotiation

2) "The mediator will decide for us"

- Unlike judges, mediators do not make decisions
- Mediators assist couples in making their own decisions

3) "We don't need to prepare"

- Preparation is necessary for a smooth mediation process
- Gather documents, set goals, manage emotions
- See Chapter 4

4) "Mediation guarantees a smooth divorce"

- Mediation is designed to minimize conflict, but disagreements can still arise
- The mediator will do their best to work through them with you



TIPS TO MANAGE DISAGREEMENTS

- Stay focused on the issue, not the person
- Listen to understand, not to respond
- Use “I” statements instead of “you” accusations
- Take breaks if emotions escalate
- Clarify and reflect back what you hear
- Don’t expect to solve everything at once

Emotional Barriers

In addition to these misconceptions, unresolved feelings may disrupt mediation sessions. Uncontrolled anger, such that resentment drives decision-making rather than a search for solutions, can negatively affect the process. Excessive worry about the future can lead to hesitation or rigidity, preventing compromise. Some people attempt to use mediation as an opportunity to “punish” the other spouse and push for revenge rather than achieving a fair settlement, which turns an amicable process adversarial. Struggling to detach from past grievances can also place barriers between the parties. It can be helpful to confide in loved ones or attend counseling while handling a divorce. The mediator is always open to discussing feelings, especially our mediators at Villani & DeLuca, but it is important to ensure that unmanaged emotion does not lead the negotiation process.

Managing Disagreements

Because divorce is such an emotional process, disagreements are inevitable, but how couples approach them affects mediation success. When expressing feelings, try to avoid blaming the other party. Use “I” instead of “you” to articulate concerns. For example, instead of saying “You never think about our child,” say “I feel concerned about our child's wellbeing.” This can be extremely difficult; thus, when discussions become heated or overwhelming, pause to rest. Try to listen with an open mind when the other party is speaking, and avoid immediately rejecting their perspective. If conflicts persist, consulting attorneys, financial advisors or therapists can provide clarity.

Avoiding Power Dynamics

In some cases, one spouse may dominate discussions, pressuring the other into an unfavorable agreement. To prevent this, the mediator will encourage balanced participation. However, you can also work to avoid this by recognizing manipulative tactics – such as emotional coercion, intimidation or withholding information – and calmly bringing attention to them. If one spouse lacks financial knowledge or negotiation skills or feels uncomfortable speaking for themselves, consulting an attorney may help maintain fairness. You deserve to have a voice in your divorce proceeding. During mediation sessions, I remain entirely cognizant of each party's contribution and comfort, challenging any power dynamics.

Financial Mistakes

Finances are a significant part of the divorce process, and neglecting to carefully evaluate financial arrangements can lead to regret. Before beginning mediation, review financial statements, as failure to do so can result in uneven asset and debt distribution. Beyond determining child support, alimony and asset division, the tax impact of such payments must also be discussed. During mediation, future plans, such as for retirement, health insurance and any education costs for children, should be established. This helps to prevent the need for additional proceedings at a later date. Though a mediator is typically happy to revisit a case if an agreement is no longer sufficient, it is best for you, financially and emotionally, to be proactive in the original proceedings.

Mediation is a powerful tool for achieving a fair and amicable divorce, but correcting misconceptions, handling emotions, managing disagreements and addressing finances and power dynamics are key to success. At Villani & DeLuca, we truly wish for you to have an amicable proceeding; we will work to address these misunderstandings and mistakes in the initial consultation and as they arise.

CHAPTER 6

POST-DIVORCE
CONSIDERATIONS



Post-Divorce Considerations

Co-Parenting

For couples with children, maintaining a stable and supportive co-parenting relationship is essential. Ideally, a child's well-being should never be compromised by a divorce. Parents should use emails, text messages, phone calls or co-parenting apps to stay open and informed. A clear parenting plan, including custody schedules, holiday rules, extracurricular activities and decision-making, should be established. Both parties must remain flexible and cooperative, altering schedules when necessary and keeping the children's needs the priority. Children should never be involved in the conflict between former partners. Your disputes should remain private, and the children need to experience a positive environment.

Taking Care of Yourself

In addition to ensuring the children's well-being, both people should look after themselves. Engaging with therapeutic professionals or divorce support networks can assist with emotional recovery. Prioritizing mental and physical health during post-divorce adjustments can help you find balance in a time of change. Personal identity can shift after the end of the marriage; exploring hobbies, career aspirations or social circles can help you find yourself again. Without knowing who you are, it is difficult to move forward. Recognize that personal growth takes time and patience, and be kind to yourself after what you endured.

Financial Considerations

Adjusting to life after divorce also requires careful budgeting and financial planning. The transition to a single-income household has tax implications; it is important to understand all changes in filing status and deductions. Spending habits and budgets may also need adjustment for independence. Both people must update their financial accounts, changing names on bank accounts, credit cards and insurance policies. To ensure long-term financial security, reassess investments and retirement plans on your own.

Legal Actions

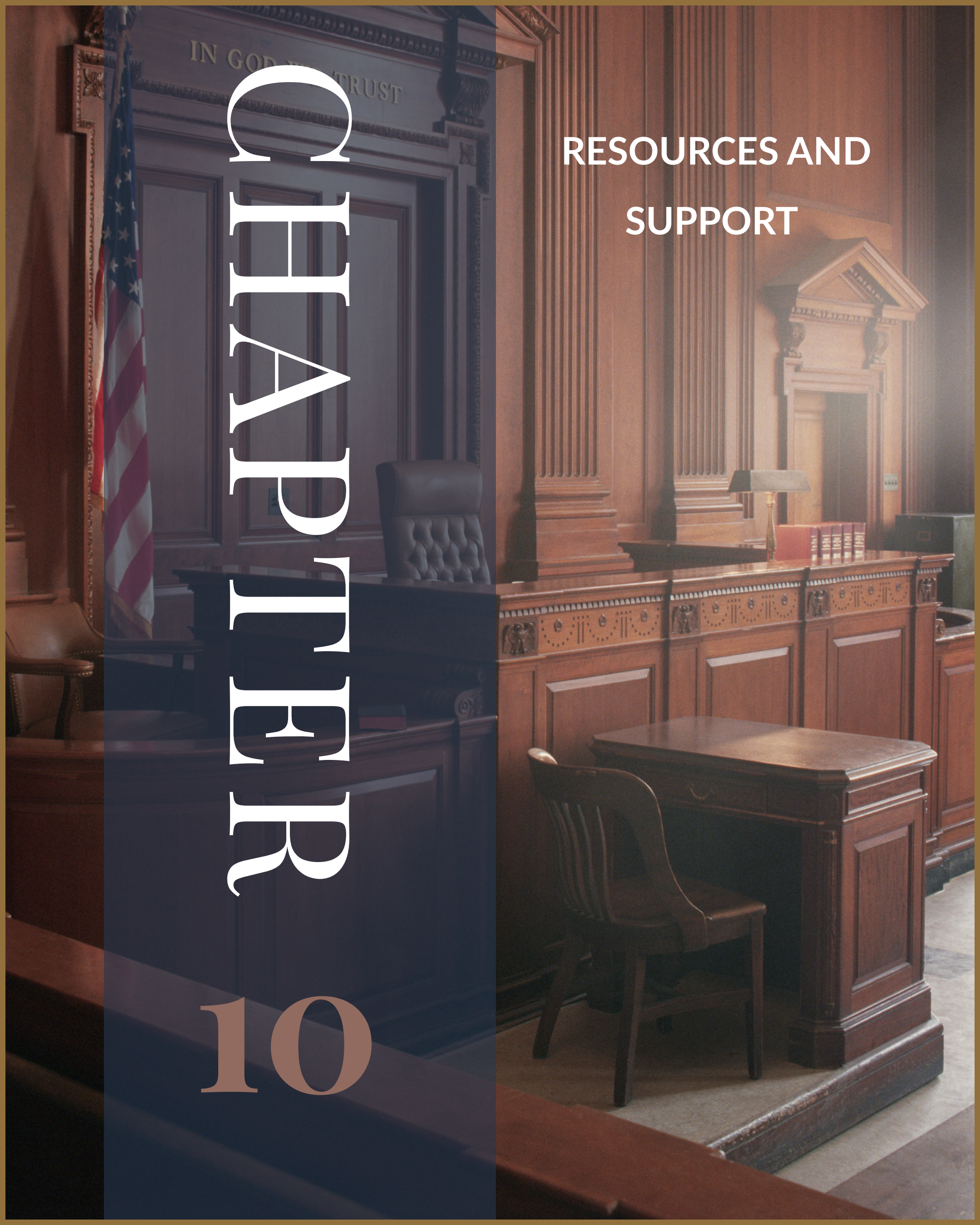
Legal and logistical actions may also be necessary. After finalizing the divorce, couples must comply with the terms outlined in their agreement and fulfill their child support, custody, and financial commitments. Documents such as wills, beneficiaries, and power of attorney designations may need updating. If circumstances change, divorce terms can be revisited in court or another mediation proceeding.

Life after divorce involves various adjustments – emotional, financial and practical – and adequate focus can allow individuals to embrace their new chapter with stability. I consistently aim to prioritize my clients' wellbeing. Therefore, at Villani & DeLuca, we aim to address all future concerns during mediation sessions and are happy to communicate with you following your divorce.

IN GOD WE TRUST

CHAPTER 10

RESOURCES AND
SUPPORT



Resources and Support

Mediation at Villani & DeLuca, P.C.

Selecting the right mediator is crucial for achieving a successful divorce resolution. At Villani & DeLuca, we provide clients with a unique opportunity to explore mediation without the burden of upfront retainer fees – an option not commonly available among practices in New Jersey. During the initial phone consultation, we arrange the first mediation session, where the mediator thoroughly explains the process. This includes a detailed discussion of confidentiality and the advantages of divorce mediation. The mediator also conducts a comprehensive interview to gather essential information, such as the couple's living situation, employment status, and the children's ages. To ensure informed decision-making, we outline how the law applies to the couple's specific circumstances, helping them understand what to expect should they pursue litigation.

At the conclusion of the first session, our mediators provide a detailed summary of discussions and a proposed course of action. This summary is shared with the couple before they schedule subsequent sessions. In many cases, with Villani & DeLuca, P.C., couples reach an agreement within two to three sessions. The mediator then drafts a settlement agreement or prepares a memorandum of understanding, which serves as the foundation for a formal settlement.

Our professionals are led by a philosophy of empathy and understanding. We prioritize connection over complacency at all stages of the mediation process, including the very beginning, when we help individuals decide if mediation is best.



Additional Resources

In addition to the mediator, other resources can be of assistance during the divorce process. **Therapists**, coaches counselors, can assist with post-divorce healing. A highly experienced option, located near Villani & DeLuca, P.C., is **Starting Over Single (SOS) Divorce Coaching** in Manasquan, New Jersey. To contact SOS Divorce Coaching, call (848)-218-2113, email sosdivorcecoaching@gmail.com, or visit www.sosdivorcecoach.com. Online and in-person divorce support groups as well as co-parenting workshops are also available. General mindfulness and stress management strategies, such as breathing exercises, meditation and creative outlets, can also assist you.

Financial planners can also be valuable resources before, during or after mediation. Before mediation, they can help you budget for the process. During mediation, they can outline debts and assets if any confusion exists between the parties. Financial planning can also be helpful post-divorce to transition into independent life. Some non-legal professionals also practice exclusively in relation to divorce; for example, Certified Divorce Financial Analysts help with asset division and financial planning in these specific matters.

Divorce mediation is a life-changing process that requires financial, legal and emotional adjustments. By selecting a mediator who speaks to you and utilizing additional resources, you can ensure the smoothest process possible.

I encourage you to trust in my philosophy of personal connection, which is embedded into my practice, **Villani & DeLuca, P.C.** If you or a loved one is contemplating divorce mediation in New Jersey, contact me today at (732)-845-6754 or vcdeluca@villanideluca.com. You may also visit VillaniDeLuca.com for more information.



Citations

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