

## **Keeping it Confidential: Mediation and Privacy**

Like everything else in life—we like to keep our business *our* business. There is something so dehumanizing about hearing virtual strangers comment on our private lives and when dissolving a marriage the last thing we want to be is someone's cocktail conversation. Financial, emotional, and intimate details of any relationship are deeply entrenched and a breach in our privacy is usually devastating. This is a primary reason why many couples are choosing mediation over legal divorce proceedings. Mediation offers a much higher degree of confidentiality than a legal divorce process.

A mediator, by virtue of their professional relationship with a couple is bound by strict confidentiality and prides themselves on the privacy they offer their clients. In any legal proceeding, a couple's divorce details are handled by a variety of people including attorneys, paralegals, clerks, and secretaries. While all these people are professionals, details and stipulations often become topics of casual conversation and the divorcing couple loses control of their information. The number of people with access to the couple's information is much more limited in mediation processes and the smaller and more intimate structure of the mediation office lends a higher degree of privacy. This privacy is essential to both the husband and wife in both present and future terms. Having details of one's divorce surface years after the fact can be very complicating and intrusive. It is especially significant when children are exposed to details of their parent's divorce years later as that information may be different than the information offered at the time of the divorce.

Legal proceedings become part of the public record and even sealed proceedings can be opened for subsequent legal actions. The divorcing couple has no control over the access to the details and specifics of their divorce once documents have been filed. These documents can contain negotiation details which all parties may wish to remain private. In mediation they can remain private. The details of discussions and negotiations are kept private and do not become public. This privacy is essential to open and frank discussion and negotiation. With an atmosphere of confidentiality and privacy both parties are far more likely to be honest and open with information regarding financial assets, custodial issues, and property settlement.

Custody issues are one of the primary areas where couples want the highest degree of privacy. These negotiations are very sensitive and all couples fear that things said will one day be revealed to their children. It is difficult to be open and frank when you worry about your children be exposed to the details of your conversation and mediators can put those fears to rest. Notes and informal documents are not filed with the court and remain within the control of the couple.

Mediators, because privacy is a part of their basic practice, structure their offices and staff around this issue. They endeavor to make a couples experience with them a personal and intimate experience. This experience is not just lighting and comfortable furniture. It is the attitude and demeanor of the mediator. He or she is committed to the stress-free environment that makes the entire process less traumatic. These may seem like minor issues but to couples facing the dissolution of a marriage and a relationship and all that entails, any reduction in stress is very valuable. A good mediator seeks to provide that environment and is the reason a growing number of couples are choosing mediation over a legal divorce proceeding.