

Marital Mediation: How to Use Mediation to Help Couples Stay Married

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Day One – Friday, February 20, 2015

8:30 Each trainee introduces herself or himself.

9:00

What question does each trainee have about marital mediation?

Has anyone thought about practicing marital mediation?

Has anyone practiced marital mediation?

Has anyone had a divorce mediation (or collaborative divorce) that turned into a reconciliation?

What is mediation? Generate definitions and examples from participants.

“What are They Really Saying” - review.

What are the applications of mediation – workplace, divorce, elder, prenuptial agreement mediation.

What is Marital Mediation?

Is there a “taboo” associated with marital mediation? What is it?

Generate reasons pro (and con) allowing a mediator to mediate marriages.

Generate role play materials from participants.

9:40 Examination of literature and websites helpful to marital mediators:

The Relationship Handbook, George Pransky.

Brief overview and example.

Taking the War Out of Our Words, Sharon Strand Ellison.

Brief overview and example.

Nonviolent Communication: A Language of Life, Marshall B. Rosenberg.

Brief overview and example.

Quick look online at the web resources and references relating to marriage and marital mediation.

10:20 Marital mediation –the importance of having a neutral to moderate or mediate the discussion.

Neutral, unbiased – discuss our experiences (good and bad) in mediation.

Zen mind, beginner’s mind. What does this have to do with it?

Mediating in the shadow of the law.

Opinions (or information) of possible outcomes?

Is the law important in mediation?

Is the law important in marital mediation?

The rules of divorce – is informing clients about what happens if they divorce useful?
Mediator's role: providing legal information (permitted) vs. legal advice (not permitted)

10:45 BREAK

11:00 First Role Play (this is the third mediation session between you and the clients).
Explain Fishbowl Role Play – what it is.

ROLE PLAY # 1: The Kliffmyers: This is the third mediation session (i.e., this is the third time the parties have met with the mediator. In the first two sessions, many facts and issues have been brought to the table. In this session, the following will be discussed: The Kliffmyers have some difficult financial issues. There are also some annoying patterns – stuff in attic, packing for trip – that bother them. Is Tom a horder? Does Amy pack too much for each trip?

DISCUSS what came up in the role play session.

12:15 LUNCH BREAK.

1:15 Preparing for the First Marital Mediation Session.

How to start the first marital mediation session.
Techniques for the first marital mediation session.
The importance of starting slowly.
What happens in the first 20 minutes of the first session.
Taking one thing at a time.
Going slowly throughout the session.
Using “Beginner’s Mind”, don’t make assumptions.
Relationship to being unbiased and neutral.
Techniques for clients between sessions.

1:35 Discussion of the three theoretical types of mediation: transformative, evaluative, and facilitative.
Where does Marital Mediation fit in?

1:50 How to obtain clarity in communications.
Similarity to deposition.
Noticing disconnects and faulty communication.
Identifying unmet needs, poor communication.
Don’t let anything go unnoticed and unremarked upon.
The problems in spousal communication, even for people in long-term marriages.

Slowing up communication process.
Compare slowness of marital mediation, not rushing to “agreement”,
with relative speed of divorce mediation.

The power of having a third party in the room.
Eli Weisel – the power of “witness”.

2:10 Techniques developed from Sharon Strand Ellison – Taking the War Out of Our Words.

A sample Role Play from Sharon Strand Ellison's book. (Mena and Todd – practice Mena's powerful nondefensive question)

2:30 Marital Mediation PowerPoint

Read samples of marital issues from Women in Science presentation and generated by participants.

2:50 ROLE PLAY # 2: (this is the fourth mediation session)

Amy thinks it will be a good idea to renovate the garage so she can embark on an independent graphics arts business and make money. Tom feels she is not sympathetic to his parents. Each of them feels the other is not doing "enough". Tom has some plans that may improve his business, but hasn't discussed them with Amy.

Discuss what came up in the role play session.

3:40 The Post-Marital (Postnuptial) Agreement (Part I)

Should the agreement be written up? Pros and cons.

The term sheet.

What are the different levels of writings?

Should a non-attorney mediator partner with an attorney mediator to write up the postnuptial agreement?

Should the parties have separate attorneys review it?

What happens when there is review by separate attorneys?

What is it? Is it enforceable? Does it matter? Dangers for the mediator.

What if clients move to another state?

Differences between premarital and postnuptial agreement.

Treatment by different states – look it up in your state.

Can you have an alimony waiver?

Can you have a fixed child support or child custody provision?

Dangers of unfairness.

Is binding arbitration "binding"?

4:15 ROLE PLAY #3: (this is the fifth mediation session) Secrets. He has a credit card he's been using to supplement finances, and it's tapped out. She's attracted to her yoga teacher.

DISCUSS what came up in the role play session.

4:45 Practice your "elevator" talk on Marital Mediation.

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Day Two -- Saturday, February, 21, 2015

8:30 Questions from yesterday's session.

Marital Mediation v. marital counseling and marital therapy – what is the difference?

How to respond to questions from psychotherapists and others.

How not to practice psychotherapy without a license.

PowerPoint,-- Marital Mediation v. Marital Therapy or Marital Counseling.

Practicing the “elevator talk” when you are asked that second question: “What is the difference between marital mediation and marital counseling?”

9:30

ROLE PLAY # 4 (sixth mediation session):

He's angry at her non-participation in making a living. She's angry at his secret credit card, and keeping the issues arising at his work from her.

DISCUSS what came up in the role play session.

10:30 BREAK

10:45 What are caucuses?

Should marital mediation include caucuses, and if so when?

Dealing with the elephant in the room.

Opportunities for truthfulness when a third party is present.

How to deal with infidelity, actual or emotional.

Material on infidelity. Experiences in your mediation practices.

Gender and sexual orientation issues.

Research in Screening factors predicting marital failure or success and why they might be important for the clients to know about.

Mediator as truth-teller: opportunities, challenges and dangers.

11:20 “Hot Speech” and how to control it in a mediation session.

Helping marriages with estate planning and real estate.

Helping marriages with asset protection.

When to refer to (or call in) a specialist.

What is a neutral specialist?

- 11:50 What happens when one spouse wants marital mediation and the other spouse wants a divorce. Going from divorce mediation into marital mediation. Circumstances. Does it work? Going from marital mediation to divorce mediation. Can you do this? Ethical issues?
- 12:15 to 1:15 Lunch
- 1:15 ROLE PLAY # 5: (This is the seventh mediation session.)
Tom wants Amy to get an advance on her inheritance. Amy's heard of postnuptial agreements, and wants to isolate her inheritance as her separate property.
- DISCUSS what came up in the role play session.
- 2:15 Play Audio tape of Radio interview with Joanna Cobleigh. Discuss Joanna's approach.
Skype interview with Joanna Cobleigh
- 2:40 The Post-Marital (Postnuptial) Agreement Part II.
The term sheet – guesses, issues for discussion.
Who generates the term sheet and when.
Drafting making guesses, options in the draft. "For discussion only"
The importance of the "Statement of Facts" provision.
Examination of clause in sample actual agreements.
- 3:00 BREAK
- 3:15 ROLE PLAY #6: (eighth mediation session)
Tom and Amy discuss what to do about Tom's business and his obligations towards his parents. They discuss how to fund the rest of their children's college education. They discuss Amy's reentry into the job market and the possibility of closing down his business and getting a job.
- DISCUSS what came up in the role play session.
- 4:00 Practicalities:
How long and how often do you meet? What to charge clients. How to manage retainers.
How to develop and market your marital mediation practice.
Developing your website.
Google Analytics
Google Alerts
Giving presentations to groups.
Creating and posting PowerPoints.
Writing articles.
How to write about marital mediation without violating your clients' privacy.
Where to publish.
Having mediation organizations include marital mediation as an area of practice.
- 4:45 Present Completion Certificates to Attendees.
Provide written comments and evaluation to trainers.