



Janko Family Law

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Hello and welcome,

Mediation will be scheduled in your case, and we will send notice separately. This letter will provide advice as to preparing for and participating in mediation. Our Legal Assistant can assist you with mediation attendance requirements and dates. Please schedule a phone conference with me to discuss mediation prior to the mediation date. You can set an appointment by our office at (719) 445-0536.

The purpose of mediation is to give the parties an opportunity to resolve their differences without court action. Mediation is a cooperative process for resolving conflict with the assistance of a trained, neutral third party, whose role is to facilitate communications, help define issues, and assist the parties in identifying and negotiating fair solutions.

Cost

You and the other party are required to pay the mediation fee equally. When parties have attorneys, usually the attorneys attend mediation with the parties. If cost is a concern, I also offer the option of being on call for mediation, in which I would not attend with you, but if you had a question during mediation, I could answer it over the phone and would likewise be available to review and advise on any proposed agreement that the mediator drafts.

Mediators

The mediator is someone trained in alternative dispute resolution who will attempt to help the parties reach agreement. Some are lawyers and some are not. They cannot provide either party with legal advice but can provide general legal information. The mediator does not decide the case. The mediator only tries to help the parties reach agreement. Our Judge will only know if mediation resulted in an agreement and will not know any of the details of the mediation.

Mediation Process

Typically, mediation starts with both parties in separate rooms, and the mediator will meet with each separately. Mediations are usually conducted by Zoom currently, so you will be in a different virtual room from the other party. If your attorney is attending mediation with you, then the attorney will also be in the mediation room with you.

The mediator will first meet with each party to get a sense of the issues in the case, then assess what the positions are. Next, the mediator may ask what your proposal is. The mediator will then ask for each party's proposal if the proposals have not already been provided to the mediator by their attorneys. At this point, the mediator attempts to identify common areas of agreement and discuss possible compromises.

There is no requirement to reach agreement at mediation. It is a voluntary process. If an agreement is reached, the mediator will draft an agreement. Both parties will then have the opportunity to sign the document. If you desire a more comprehensive and deliberated agreement, you can ask your attorney to draft one prior to mediation. Mediation can be good at producing an agreement; however, the agreements are not as deliberated or comprehensive as those obtained through negotiation. Mediation generally lasts between 2 and 4 hours.

Game Plan

Dialogue. Make a list of the issues that you would like to discuss. Present yourself as calm, rationale, sincere, and professional.

Identify. Identify what is most important to you about the issues that you would like to discuss. Make sure that any agreement addresses the issues to which you have agreed. It is important to review the agreement thoroughly because the agreements are drafted under the time pressure of the mediation.

Solutions. If you have a criticism, offer a solution.

- Be open minded.
- Bargain over solutions, not positions.
- Focus on interests, not positions.
- View mediation as an opportunity to avoid a contested legal proceeding.

- Be specific in your requests and make sure that any mediated agreement you reach is specific as well.

If you have any questions, do not hesitate to contact our office to schedule an appointment.

Very Truly Yours,

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