

# **DIVORCE MEDIATION TRAINING**

## **Presented by Marta J. Papa**

### **Day 1**

1. Overview of Mediation
2. Conflict Resolution Theory
  - a. Negotiation Theory v. Mediation Theory
  - b. Positional Bargaining v. Interest-Based

Break

- c. Role of the Mediator v. Role of the Attorney
- d. Video – “Mediation: It’s Up to You”  
(by Academy of Family Mediators)

Lunch Break

3. Overview of the Mediation Process
  - a. Legal Issues in Mediation
  - b. The Initial Consultation (Client Handbook)
  - c. Set Agenda
  - d. Financial Discussion
  - e. Parenting and Child Support Plan
  - f. Property Division Discussion
  - g. Tax and Miscellaneous Issues
  - h. Interviewing Techniques
  - i. Video

EACH STAGE OF THE PROCESS IN MORE DETAIL

4. The Initial Consultation
  - a. Mediator’s Opening Remarks
  - b. Determining the Goals of each Party

Break

## **Day 1**

- c. The “Ground Rules” for Mediation
- d. Video: “Civil War” (by Elizabeth Manley)
- e. Video: “Initial Mediation Consultation”  
(by Marta J. Papa)
- f. Role Play

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**Day 2**

5. Set Agenda of Issues to be Resolved
  - a. Find Areas of “Common Ground”
  - b. Define the Areas in Dispute
  - c. Discuss the Issues in each Disputed Area

Break

6. Finances
  - a. Gathering the Financial Information of both Parties
  - b. Review of the Documentation

Lunch Break

- c. Look for Areas of Agreement
- d. List Areas of Disagreement and Explore all the Possible Options
- e. Help each Party Clarify their Needs
- f. Discuss Possibility of Maintenance
- g. Video: “Mediating Financial Issues” (by Marta J. Papa)
- h. Role Play

Break

7. Different Strategies and Techniques Used in Mediation to Help Parties Negotiate
  - a. Principles of Counseling
  - b. Basic Negotiation Skills
  - c. Power Imbalances: How to Deal With Them
  - d. How to Empower the Underpowered Spouse
  - e. Conflict Management Techniques
  - f. Use of Caucus

## **Day 2**

- g. Video: “Debbie and Michael” (by John Haynes)
- h. Discussion of Video

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**Day 3**

8. Parenting Plan
  - a. Child Development Theory  
(Wallerstein & Kelly)
  - b. Articles on the Effects of Divorce on  
Children & Adults
  - c. Psychological & Emotional Aspects  
of Divorce:
    1. On Children
    2. On Parents
  - d. Emotional Stages of Divorce
  - e. Reactions of Children to Divorce
  - f. Signs of Stress in Children
  - g. Issues and Needs of Children in Dissolution

Break

- h. Discuss Goals and Needs of Each  
Party
- i. Discuss the “Best Interest of the Child”
- j. Brainstorm Custody and Visitation Options  
(Basic Plan)
- k. Video: “Mediating a Parenting Plan”  
(by Marta J. Papa)

Lunch Break

- l. Help Couple Negotiate a Plan  
(Parenting Plan Checklist)
- m. College Expenses
- n. Role Play

Break

## Day 3

9. Child Support
  - a. Statutory Guidelines
  - b. Video: “Creative Options for Mediating Support” (by Academy of Family Mediators)
  - c. Live Demonstration of Mediating Support
  
10. Screening for and Addressing Domestic Violence
  - a. Written Screening Profile to Detect:
    1. Spousal Abuse
    2. Child Abuse
    3. Substance Abuse
    4. Mental Illness
  - b. Mediating Disputes Involving Domestic Violence
  - c. “Mediation Triage: Screening for Spousal Abuse in Divorce Mediation” (by Girdner)

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**Day 4**

11. Property Division
  - a. Gathering and Assembling  
Documentation of all Property they own  
(Including Pension Plans)
  - b. Discuss Differences between Marital  
and Separate Property
  - c. Discuss Needs/Goals of each Party

Break

- d. Brainstorm Options
- e. Help Couple Negotiate Plan  
that Meets their Needs
- f. Record Decisions (Schedule III)

Lunch Break

- g. Video: “Mediating Property  
Division” (by Marta J. Papa)
- h. Role Play

12. Tax Issues and Maintenance
  - a. Child Care Cost Deduction
  - b. Child Dependency Deduction
  - c. Head of Household Deduction

Break

- d. Filing Status
- e. Tax Consequences of Child Support  
and Maintenance

13. Mediating Tax Issues
  - a. Demonstration
  - b. Role Play

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**Day 5**

14. Ethics in Mediation
  - a. Mediator Neutrality
  - b. Confidentiality of Information Received During Mediation Process
  - c. ABA Standards of Practice (Ethics)
  - d. AFM Standards of Practice (Ethics)
  - e. Dual Representation Prohibition (Attorney v. Mediator)
  - f. Conflict of Interest
  - g. Legal Advice v. Legal Information

Break

15. Different Approaches in Mediation
  - a. Facilitative Approach
  - b. Directive Approach
  - c. Legal Approach v. Therapeutic Approach. “The Promise of Mediation” by Bush & Folger
  - d. Different Kinds of ADR and Selecting the Right One for the Right Case

Lunch Break

- e. Video (Good Morning America)
- f. Co-Mediation
- g. Marketing your Practice

16. Reference Material and Resources
  - a. Sample Memorandum of Understanding
  - b. Overall Decisions Checklist



## **Day 5**

Break

- c. Suggested Reading List
- d. Association for Conflict Resolution
- e. Professional Liability Insurance

17. Course Evaluation