

## REQUIRED READING

Please read this document - and have your spouse read it - and if you both think that Divorce Mediation may be right for you, then call our office at 718-979-5200 and request an “Initial Mediation Consultation.”

This Initial Mediation Consultation may be scheduled for Monday through Friday between 10:00 a.m. and 4:00 p.m., one evening per week (the specific day of the week varies) between 7:00 p.m. and 8:00 p.m. and on most Saturdays between 10:00 a.m. and 2:00 a.m. if that is more convenient for you and your spouse.

Mr. Leininger will explain his Divorce Mediation process which he has used for about 25 years. He will also explain the approximate cost of the Divorce Mediation once he knows the facts of your case.

If the two of you decide to hire Mr. Leininger, the initial retainer deposit is only \$2,500.00 total for both spouses, and the retainer is refundable to the extent not used up.

# WHAT IS DIVORCE MEDIATION?

Thank you for inquiring about Divorce Mediation. Divorce Mediation was developed in the mid 1970's in response to the cost and emotional trauma caused by the traditional Divorce Court System. Basically, Divorce Mediation is a voluntary settlement process in which a husband and wife use a trained neutral person, called a Divorce Mediator, to help them resolve the issues surrounding their divorce. These decisions generally revolve around three areas, (1) parenting arrangements, (2) support for the children and possibly a spouse, and (3) the division of assets including the house, cars, pensions, bank accounts, etc., as well as division of debts.

## HOW DOES DIVORCE MEDIATION DIFFER FROM GOING TO A REGULAR DIVORCE ATTORNEY?

It is important that persons considering Divorce Mediation understand the basic difference between Divorce Mediation and the normal process of going to a divorce attorney who starts a divorce lawsuit against your spouse. In Divorce Mediation, you and your spouse jointly decide to begin voluntary settlement negotiations with the help of the trained neutral person. Mr. Leininger is a trained Divorce Mediator with over 25 years experience, and is also a Divorce Attorney with 42 years of experience. He was the first attorney in Staten Island to become a Divorce Mediator and is generally regarded as the most experienced Divorce Mediator assisting Staten Island through the Divorce Mediation process. The mediator's job is to assist both of you to discuss each of your own goals, your desires with regard to rearing your children, support, division of assets, etc. The Divorce Mediator has no decision-making power. Thus, the Divorce Mediator cannot order one of you to pay child support to the other or to transfer title to a house to the other person. Rather, the Divorce Mediator helps promote communication and cooperation between the two of you so that the two of you can control the decisions that will effect your lives.

If one spouse goes to a regular Divorce Attorney, the attorney will frequently advise the client to institute suit for divorce and, usually, to make application to the Court for interim child support, interim alimony, etc. The other spouse, upon being served with Court papers, will then hire his or her own matrimonial attorney. At this point, most attorneys will advise their clients not to discuss the case with their spouse, but rather allow all negotiations to be handled through the respective attorneys.

The Divorce Mediator seeks, on the other hand, to develop various settlement options and to discuss them with both parties in an effort to get both parties to agree on a "win-win" settlement.

# WHAT ARE THE BENEFITS OF DIVORCE MEDIATION?

The first and most important goal of Divorce Mediation is to reach an agreement between the parties. However, experience has shown us that Divorce Mediation also helps promote communication between the spouses and a spirit of cooperation between them. It also lets both of you control the decisions that will effect your lives in the future, rather than divorce attorneys, or a Judge. Divorce Mediation generally costs between \$2,500.00 and \$6,500.00 (total for both parties) if an Attorney Divorce Mediator is used, although sometimes fees can be lower or higher in unusual cases. Divorce Litigation, on the other hand, frequently results in each party paying lawyers' fees of \$10,000.00, \$20,000.00, \$30,000.00 or even \$50,000.00 or more!

Another benefit of Divorce Mediation over the traditional Divorce Court procedure is that Divorce Mediation is totally confidential. If one or both parties has been or are presently working "off the books", or they have sources of income which they have not reported on their income tax returns, Divorce Mediation is often preferable to Court Litigation because the entire Divorce Mediation process is confidential and the Divorce Mediator is under no obligation, unlike a Judge, to notify the IRS about unreported cash income.

If children are involved, Divorce Mediation is often extremely useful since it will substantially reduce the conflict between parents. Divorce Court tactics, such as making a demand for custody not out of love for the children, but as a negotiating ploy to reduce child support payments, are totally foreign to the concept of Divorce Mediation where both of you put your children's needs first.

Lastly, Divorce Mediation can often be much quicker than traditional Divorce Court litigation. To obtain a contested divorce in Staten Island generally takes somewhere between 12 and 24 months. With Divorce Mediation, on the other hand, the parties generally reach a settlement agreement with 4 and 8 weeks. It then usually takes about 3 months thereafter for the divorce to be obtained, but generally neither party has to appear in Court.

## ARE ANY CASES NOT GOOD CANDIDATES FOR DIVORCE MEDIATION?

Generally, Divorce Mediation is not recommended in two cases. First, where there has been a history of physical or severe emotional abuse of one spouse by the other. In such cases, the possibility that one spouse will be intimidated by the other

party is simply too great to recommend Divorce Mediation. The second instance where Divorce Mediation is generally not a good idea is where one party lacks substantial financial information about the other party's personal or business affairs and that party does not trust their spouse to be completely honest and candid with them. For example, if your spouse runs a large cash business and you believe there may be hundreds of thousands of dollars of unreported cash and you simply have no trust that your spouse will admit what his or her real income is from that business operation, then Divorce Mediation will not be suitable. Another example would be where you believe that your spouse has a Swiss bank account with hundreds of thousands of dollars in it, but you have no definite proof of same and you do not believe that your spouse will admit the truth. In these examples, Divorce Mediation is generally not recommended and you should consult an experienced divorce attorney.

## **HOW DO WE BEGIN DIVORCE MEDIATION?**

If after reading this information, you and your spouse both feel that Divorce Mediation makes sense to the both of you, then you should call our office and advise our receptionist that you wish to schedule an initial orientation session for Divorce Mediation. Mr. Leininger is generally available for mediation between 10:00 A.M. and 4:00 P.M. Monday through Friday and on Saturdays from 10:00 A.M. to 2:00 P.M. and one evening per week between 7:00 P.M. and 8:00 P.M. This orientation session takes approximately one-half hour and is free. At the conclusion of that orientation session, the two of you will then have three choices. First, if either of you decides that Divorce Mediation is not for you, that ends the matter and neither of you has any further obligation to our law firm. On the other hand, if both of you wish to proceed to Divorce Mediation, we will then schedule your initial Divorce Mediation session, generally within a week to ten days after the orientation session. You will be given a Retainer letter and will be asked to sign it along with a Retainer Deposit of \$2,500.00, total for the two of you. While most couples agree to each pay \$1,250.00 towards the \$2,500.00 deposit, some couples agree differently, e.g. \$2,000.00 and \$500.00 or even one party paying the entire \$2,500.00 deposit. This Retainer Deposit is refundable to the extent not used. The third option is for the two of you to simply advise us that you wish to think over the whole process, which is also fine. Once the two of you do decide to proceed, you will then call our office and advise our receptionist that you now definitely wish to hire us for divorce mediation and they will schedule the first regular Mediation session with Mr. Leininger.

We hope this brief explanation will help you and your spouse to decide whether or not you wish to utilize Divorce Mediation Services.