

## **NORTHWEST OHIO COURT MEDIATION SERVICES**

TELEPHONE: (419) 592-5105

### **WHAT IS MEDIATION?**

Mediation provides disputing parties with an opportunity to settle their differences outside of the traditional courtroom setting. Mediation is different from a trial. In a trial, the judge or jury decides the outcome after hearing both sides of the case as argued by an attorney. In mediation, the parties have the opportunity to decide the outcome, rather than having a judge or jury decide for them. The mediator is not a judge, but rather a trained individual employed by the Court, whose goal is to help disputing parties effectively communicate their side of the story to each other and identify the issues relevant to the dispute. The mediator is there solely to assist the parties in exploring possible solutions to the problem, not to decide the case.

Some of the advantages of entering into mediation include: active participation by the parties, which often results in a more satisfying outcome and an agreement in which the participants are more likely to follow, a less intimidating atmosphere than going to court because the process is less formal and there are no strict rules of evidence to follow; a greater understanding of the other party's interest is often accomplished because openness and honesty are encouraged during mediation session; a reduction in the length of time in which a matter is pending before the Court; no pressure to reach a settlement because mediation is a voluntary process in Ohio and although you are required to appear you are not required to reach a settlement and finally, mediation offers an opportunity to lower the costs associated with the legal action.

If you are represented by counsel and your case is set for mediation, you should discuss with your attorney whether or not they will attend the mediation session with you. In general, attorneys do not attend domestic relations matters, as the clients are generally well versed with the facts and the issues are usually more personal than legal. However, this is a personal decision between you and your attorney and should be considered fully before a decision is made. In other civil matters, it generally depends upon the nature of the case as to whether or not attorneys will attend. Please note that attorneys are always welcome in mediation before the Northwest Ohio Court Mediation Services.

When you come for the mediation session, you should bring with you any information, which you believe will be beneficial in assisting you and the other party in reaching an agreement on the issues you have. In the event, you elect not to bring your attorney to the mediation, please consult with your attorney prior to attending in order to be aware of your attorney's thoughts towards various settlement positions. Further, even though your agreement will be subject to your attorney's review, please enter the mediation with the understanding that once you reach an agreement, it will be your agreement and you will accept the agreement absent advice from your attorney to the contrary.

Mediation communications are covered by certain privileges as set forth in the uniform Mediation Act (UMA Section 2710.01 O.R.C.) They may also be confidential by written agreement of the parties. Under this program, the Mediator will not disclose any information to the court other than whether or not an agreement was reached and who attended, unless required to do so by statute or upon the consent of the parties. You should also be aware that during the mediation, matters that are disclosed to the Mediator may be disclosed to the other party unless the mediator is told that these matters are to be held confidential.

Upon the conclusion of the mediation, the Mediator will assist you in the preparation of a document known as a Mediation Agreement, which will be submitted to the Court for filing. In the event, you are represented by an attorney; the Mediator will submit a letter to your attorney outlining the details of your agreement which you will then have an opportunity to review with your attorney. In the event that there are any unresolved issues after the mediation, those issues will go forward to the Court for trial/hearing.

Should you have any questions concerning the process of mediation, please contact your attorney or the number above and the Mediator will attempt to answer questions for you. Please note, however, the Mediator will not discuss any facts or circumstances surrounding your case without the other party present.