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Mediation Combination

Mediators can also be attorneys, therapists, or even accountants. Which combination is right for you?

by Diana Shepherd

You may have heard about some of the possible benefits of mediation: it can be easier on the kids and the pocket book, reduces conflict, is faster than bitter litigation, teaches more effective communication and parenting, creates more control of the process, and encourages self-generated solutions. But did you know that two mediators can be different as apples and avocados -- that their professional training and experience as well as personal style and beliefs can make them just-right or all-wrong for you? In general, most mediators have professional training and accreditation in either legal or therapeutic areas: lawyers, therapists, social workers, and clergy. Mediators with financial training -- such as accountants or financial planners -- are also becoming more common.

Here are a few examples of the possible combinations:

Attorney-Mediator: Choosing a mediator who is also an attorney or who has a legal background can be very beneficial in divorce cases. "An attorney would be able to advise clients about the law and what would happen if they went to court," says Genell Greenberg, an attorney-mediator practicing in San Diego. "In mediation, he or she is in a situation to guide the parties into equally informed decisions. Most people need to know what their legal rights are, and they should be knowledgeable about what would happen in certain situations. Whether or not they choose to do what the law provides is up to them, but they at least will have that information."

Lawyers don't always make the best mediators, however. Some may have trouble getting out of the adversarial mode they'd normally use in court. If you have serious issues in your divorce, look for an experienced, qualified mediator who's also a lawyer -- rather than a lawyer who has taken a short course in mediation.

Just some of the advantages to hiring a lawyer-mediator are that they can more accurately define legal issues, and that they know court procedure and the structure of court settlements. Attorney-mediators are familiar with prevailing standards in their jurisdiction and are aware of limits that lawyers and courts find acceptable.

Therapist-Mediator: Therapists are trained to help people understand themselves and better their lives. Their extensive training and client-centered approach can make them excellent mediators by allowing them to use therapeutic techniques and skills -- such as defusing anger and improving communication -- in mediation.

Robert A. Simon, Ph.D., a licensed psychologist practicing in San Diego, believes a therapist-mediator may be a good choice for a couple who wants to work with someone with who understands the dynamics of a relationship. "The key advantage of having a mediator who's also a therapist is that the individual has expertise in human behavior," he says. "He or she has the ability to understand the dynamics as well as the communication strengths and weaknesses of each partner. A mental-health professional will be focused on facilitating communication with the dynamics of each individual in mind." Some advantages of choosing a therapist-mediator are: they can help improve communication between the involved parties, which can be tremendously useful if there are children to raise together; and they can also identify and help the parties articulate their needs, and then use these insights to mediate a fair and workable agreement.

Unless your mediator has legal training, though, you may have to look elsewhere for help with property division and to draft your legal separation agreement. Make sure your lawyer looks at any document drafted by your mediator before you sign it.

Accountant-Mediator: If your finances are complicated, consider hiring a mediator with a financial background. "It's important to have good financial counseling, because of the tax impact of property division, and to help you settle your long-range goals," advises Jane Schooler, a lawyer, mediator, and real-estate broker in San Diego. "Whatever settlement you make, you're setting up the next one-third of your life financially."

Male-Female Teams: A divorcing couple may be well served by choosing a team composed of a man and a woman. Their different perspectives may help to break through barriers to reach a settlement. Each spouse sees one of the mediators as a gender ally, and being validated by mediators of both sexes is reassuring and empowering for those involved. The balancing of sexes also helps balance power within the session.

"If you have a male and female mediator in a divorce case, each of the clients may initially feel that somebody on the team is on his or her 'side' and sees things their way," explains Elizabeth Allen, an attorney-mediator who works as a team with her husband, therapist-mediator Don Mohr, in Encinitas. These partners are the authors of *Affordable Justice: How to Settle Any Dispute Including Divorce out of Court* (West Coast Press, 1998). "This would provide an initial feeling of comfort. But as the mediation progresses, it should become clear to the couple that neither of the mediators is taking sides. Ideally, all mediators are neutral. So the clients should say to themselves, 'Hey, this other mediator seems to be on my side as much as the one that I was already comfortable with.'"

Therapist-Attorney Teams: When two mediators with different professional backgrounds work together, each can focus on the areas best-suited to their strengths and training, and avoid overstepping the limits of their experience and knowledge.

"An attorney-therapist team is a huge advantage because it provides an interdisciplinary balance," says Allen. "One person on the team knows the law, and if the mediators are writing up the paperwork, at least one of them should know what will be required to get through the court system, while the mediation is still free to be creative in its solutions.

"The therapist would have less of an understanding of what's required by law. But a therapist is extremely important, because clients bring many emotions to the table. The therapist can see what's going on under the surface -- such as recognizing when a client says 'yes' but really means 'no', or when they're depressed."

These teams can work together in the mediation sessions, or divide up the issues (lawyer-mediator works on the property and the therapist-mediator works on the visitation). Remember, though, that hiring two professionals instead of one may be more costly. Make sure you call around and ask for rates before choosing a team.

Clergy-Mediator: Most clergy see the resolution of marital conflict as an integral part of their job. More and more clergy are being trained in mediation of family disputes -- particularly separation and divorce -- not only by the church but also in programs in which lawyers, therapists, businesspeople, and others also participate.

The bottom line

In the final analysis, experience, conflict-management skills, knowledge, sensitivity, and personal style can be more important than whether or not a mediator is also a lawyer or a therapist, so don't get too hung up on his/her profession of origin. You might also ask your mediator whether he/she ever uses a co-mediator from a different discipline and/or of the opposite gender.

The author of *The Heart Of Conflict* (G.P Putnam's Sons, 1996), Brian Muldoon has been a Chicago-based divorce mediator and organizational trainer since the early eighties. "A good mediator has to have a profound sensitivity to the goals of his or her clients as well as a working knowledge of both law and therapy," he says. "To be the best mediator, you have to listen to your client, learn something new, and allow the power of the process to shift to your client." After all, the client is an "expert" when it comes to his or her own life.