

# Marital Mediation

A New Application of Mediation



# How I Got Started

- Divorce lawyer experiences
- Collaborative Divorce
- Checking to see if marriage is over
- Do divorce lawyers promote divorce?
- Throw-away marriages
- Fixable problems
- Reverse engineer the divorce
- Why do people divorce after marriage counseling?

# What is Marital Mediation?

- What's in the name?
- Mediation to Stay Married?
- Marital Mediation?
- Couples Mediation?
- Committed Couples Mediation?
- Do people know any of the terms?
- If people don't know about it, then how can they find it?
- People in divorce mediation comment that it might have worked for them to preserve their marriage.

# What is Marital Mediation?

- How can we help get the word out to the public ?

# Why People Want to Keep Their Marriages

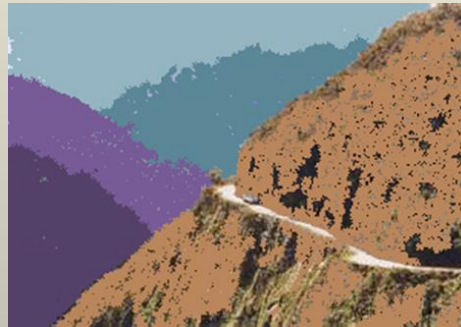
- Their problems travel with them into their subsequent marriages
- Why should love turn into hate?
- Life-long marriages are very special
- Serial marriages are destabilizing
- Financial instability is detrimental
- People feel good about surmounting problems
- Couples benefit and their relationship grows stronger by surmounting problems together.



Overcoming obstacles burnish a marriage.

# What is Marriage?

- A set of personal and family relationships
- A story, a history
- Financial sharing
- Disagreements
- Conflict
- Moral support
- Sharing
- Overcoming difficulties
- Remembering and experiencing good times.
- Remembering and sharing bad times.
- Being each other's "protector" or "protectress".



# Is Marriage Important?

- Why marriage is important
- Why marriage deserves your attention
- Do you treat your spouse better than you treat anyone else?
- Foster and encourage your spouse's dreams and goals
- If possible, try to understand your spouse's interests or at least respect them



## The “Bee in the Bonnet” Syndrome

- People unhappy in their marriages don't know where to turn
- They become obsessed with thoughts of divorce
- The thoughts become a self-fulfilling prophecy
- Positive psychology as a tool
- The Relationship Handbook, by George Pransky.
- Dissatisfaction is a mental illness.
- Moods are temporary.
- Wait till your partner is no longer in a negative frame of mind.

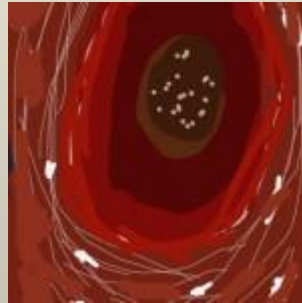


## Taking the War Out of Our Words

- Seminal work by Sharon Strand Ellison
- Asking “disarming” questions
- The innocent question
- Our assumptions interfere
- Open, neutral questions
- Open-ended, inviting
- Gathering information
- Any information is important

# Mind Games

- Distorted thinking
- We should never have conflict
- My spouse should meet all of my needs
- Getting into mental ruts
- Getting into behavioral ruts
- “ I can change my spouse”
- Monkey mind
- Banana wars



## Corrosive Events & Circumstances

- Existence of a Prenuptial Agreement
- Lack of a Prenuptial Agreement
- Illness of a child
- Behavioral issues of a child
- Illness of spouse
- Death of spouse's parents
- Loss of money or job

## We Thought We Were So Compatible...

- Differences in spending
- Different interests and hobbies
- Different concept of vacations
- Differences in how you wish to spend free time
- Differences in religion/spirituality
- Differences in child rearing methods



## How Mediation Can Help a Marriage

- Mediation is conflict resolution
- Gives a couple a skill set to use
- Models good behavior for couple
- Neutral third-party, honest reaction to couple's interchanges



# What is the Difference Between Marital Mediation and Marital Counseling

- The first question I am always asked
- Deductive reasoning – it is not therapy (but can be therapeutic)
- A mediator doesn't "counsel" or give advice
- However there may be some overlap
- Mediation tends to be more focused on addressing concrete conflicts
- Tends to be less "deep" than therapy or marital counseling which can be good
- Develop practical solutions
- Helps couple move forward in their marriage
- They can solve deeper problems later
- Couple may find that deeper problems actually disappear

# What is the Difference Between Marital Mediation and Marital Counseling/Therapy

- Therapists expand psychological exploration.
- Therapists look at pressing internal or intra psychic issues.
- Therapists look at emotional needs and emotional behaviors.
- Therapists expand psychological exploration.
- Therapists analyze the relationship between an individual's emotional needs and the quality of his or her relationship.
- Therapists explore family history and personal history.
- Therapists look to explore longstanding personality or relationship problems.
- Therapists use extensive case history.

## Marital Mediation Uses Mediator's Toolbox

- Use of standard mediation techniques
- “Traditional” mediation or “transformative mediation
- Helps couple generate options (brainstorming)
- Helps couple generate and evaluate solutions
- Looks at underlying interests
- Identifies positional interests, and find underlying interests
- Identifies miscommunications, which are surprisingly common



## Marital Mediation Uses Mediator's Toolbox

- A mediator helps couple generate and evaluate solutions
- Mediator's knowledge base (especially as a divorce mediator) provides good background for helping a couple solve financial issues, which are so prevalent in marital disputes.

# Useful Mediation Techniques in Mediation to Stay Married

- Active Listening
- Mirroring
- Reframing
- Recasting
- Re-emphasizing
- Brainstorming
- Evaluating proposed solutions

# Useful Mediation Techniques in Mediation to Stay Married

- Communication analysis
- Powerful Non-defensive Communication
- Identifying, Testing and Understanding Assumptions
- Elevating the positive
- Clearing up miscommunications
- Overt and covert messages
- Validating both parties

## A Mediator is . . .

Neutral

Honest

This is very important

But can you be always truthful to the clients?

## A Marital Mediator can Work with a Couple on Listening and Speaking Skills

- Have people take turns
- Have people talk without coming to solutions
- Let it go on until a person is finished
- Squeeze it dry
- Don't rush



## A Mediator . . .

- A mediator works with couple on listening skills
- A mediator works with couple on speaking skills
- Lets couple talk without coming to a solution, but guides into productive areas
- Monitors reaction, clarifies reactions for couple
- Work on identifying and limiting “hot speech”
- Work on improving clients’ skills in analysis/ deconstructing / unpacking

## A Marital Mediator . . .

- Is a marital mediator different from any other mediator?
- Is marital mediation different from other types of mediation?

# Deconstructing Marital Arguments

- Mediator as river coach
- Mediator as referee
- Mediator as process analyst
- Have the couple talk for 20 minutes, take notes
- Possibilities: Video session, Tape session
- Divorce Tourism – go on a trip with a struggling couple



## Marital Mediator as “Witness”

- What is a “witness”?
- Definition – to see the execution of, as in an instrument, and subscribe it for the purpose of authenticity.
- Attesting of a fact, statement, evidence.
- Yes, I see it and understand.
- (The other spouse is *not* understanding.)
- Validation.

## Marital Mediator as “Witness”

- Clients are able to speak about difficult issues  
better in front of third party
- Third party is not a friend, relative
- Third party mediator is trained as a neutral
- Third party is trained to identify conflict, and find underlying interests, concerns

## Gender & Same-Sex Issues

- What if the spouses have “classic” roles?
- What if the roles are switched?
- Unemployed husbands
- Stress of two-worker family
- Belief that a spouse should be employed
- Difference between legally-married and cohabitating
- Different cultural expectations & values in same-sex relationships

# “Contribution” to Marriage

- What is contribution?
- Why is contribution important?
- Differing perceptions of contribution
- Probably the biggest problem in marriage



## Children Create Problems

- Sharing the chores
- Different parenting styles
- Close relationship with child cuts out the spouse
- Children play into it



## What Issues can be Dealt With

- Communication
- Bickering
- Understanding each other's views
- Financial behavior
- Perception of other party's contributions
- Driving disputes
- Children
- In-laws
- Time
- Sex (?)

## Use of a Divorce Mediator

- Divorce mediators can give information on divorce law
- This can clear up and clarify many misconceptions
- With knowledge, people can plan better
- What happens if they stay together
- What happens if they divorce
- What are their concerns? Can any be addressed?
- Divorce mediators are experts in financial issues

## What divorce mediators can do for your marriage?

- Divorce mediators are good for financial issues
- Divorce mediators are sensitive to marriages and their problems
- This is not about therapy, but about behavior
- They are mediators skilled in helping people coordinate needs
- They are dispute resolution specialists
- They are not therapists -- could be a good thing sometimes
- Their knowledge of divorce law helpful for clients at the brink
- Divorce mediator can identify behaviors and interactions which lead to divorce
- I call that “reverse engineering”.



# Should Marital Mediation Result in a Written Agreement

- Are post-nuptial agreements enforceable?
- Does that matter?
- Difference between prenuptial, postnuptial agreements and separation agreements.
- Written Memorandum of Understanding
- Unwritten agreement
- What happens when reviewing attorneys be involved?
- Marital mediation as transformative

## Marital Mediators work with other marriage-helping professionals.

- Use of concurrent marital counseling
- Use of concurrent individual therapy
- Referring to marriage counselors and individual therapists
- Financial Planners
- Tax specialists
- Estate planners
- Real estate specialists
- Insurance specialists

## When is the right time to see a Marital Mediator?

- Not progressing in arguments
- Arguments giving recurrent thoughts of divorce
- Marital counseling “not helping”
- Spouse doesn’t want to see a “therapist”

## Other Resources Available

- Marital counseling
- Individual therapy
- Workshops
- Books on marriage
- Internet materials on marriage
- CDs & DVDs on marriage
- Joint consultation with divorce lawyer
- Joint consultation with estate planner
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## How to start and market your Marital Mediation practice

- Add it to your website
- Add it as a practice area to websites where you are listed
- Write articles and put them on your site
- Add other peoples' articles to your websites
- Facebook page for your business
- Twitter, Linked-In for your business

## How to start and market your Marital Mediation practice

- Respond to others' articles (e.g., on blog sites, Huffington Post, etc.)
- Use Google alerts.
- Search terms: “postnuptial agreements”, “marital mediation”, “mediation to stay married”
- Talk about it in the mediation groups you belong to
- Talk about it to clients, even though who do not come for divorce
- Work on your elevator talk
- Give presentations to the public, use PowerPoints
- Refer to other marital mediators in other states or geographical areas.

## The two “Elevator Talks”

- What do you do?
- I’m a marital mediator.
- What’s that?

And the follow up question:

- How is a marital mediator different from a marital counselor or marital therapist?

## About the Presenter

Laurie Israel is a lawyer and mediator practicing in Brookline, Massachusetts. Her many years of divorce law and divorce mediation practice led her to work with clients who wished to preserve their marriages. She is a frequent presenter on the topic of marital mediation at professional conferences in Massachusetts and elsewhere in the U.S.A.

Laurie is a member of the Massachusetts Council on Family Mediation (MCFM) and the Massachusetts Collaborative Law Council (MassCLC) and is a former board member of both organizations.

Her writings appear on her websites and in [www.mediate.com](http://www.mediate.com) and other internet sites. She is currently a writer (blogger) with The Huffington Post [www.huffingtonpost.com](http://www.huffingtonpost.com) , writing about marriage, divorce, mediation, relationships and prenuptial agreements.

