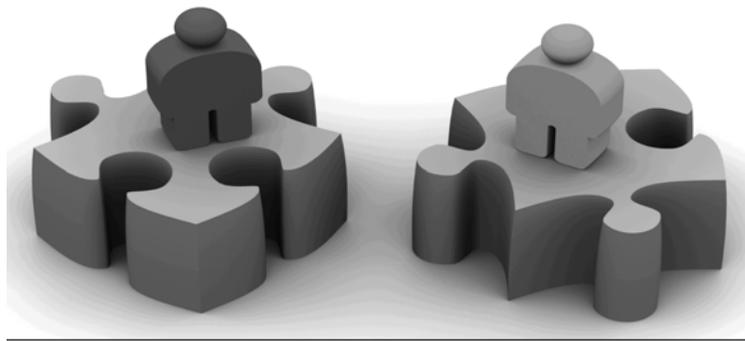


THE FAMILY-LAW AFFORDABLE MEDIATION PROJECT



A COMMUNITY SERVICE OF THE
CONFLICT RESOLUTION CENTER
OF SANTA CRUZ COUNTY

~ MAKING AN ALTERNATIVE TO COURT AFFORDABLE FOR ALL FAMILIES. ~

**CALIFORNIA CONFERENCE ON SELF-REPRESENTED LITIGANTS
JUNE 2011**

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THE FAM PROJECT: PROGRAM OVERVIEW

Mission Statement

In the field of family law, finding a financially sustainable, effective and replicable model to provide family law mediation has been a challenge. This program has done just that.

The Family-law Affordable Mediation Project, or the FAM Project, is helping to fill a rapidly growing unmet need: low and middle-income couples with a simple divorce that need more help than self-helps center can provide. FAM uses a law clinical model where one supervising attorney oversees a team of volunteer mediators, trained in the FAM mediation method. Mediators use a structured, 6-stage process, with handouts for parties and attorney supervision. This method allows mediators to provide effective divorce mediation, reaching a broad segment of the community for the resource of only one attorney.

The Family-law Affordable Mediation (FAM) Project:

- 1) Provides effective, low-cost divorce mediation for low- and middle-income families;
- 2) Empowers low- and middle-income families with thorough information and tools;
- 3) Reduces divorcing families' need for court using a financially sustainable service model; and
- 4) Acts as a pilot for replication in other counties and states.

The Need

The Elkins Family Law Task Force, 2010 reported that “[m]any litigants involved in family law cases would prefer not to be litigants. They would prefer to be able to sit down with the other party and resolve the issues in their case without the necessity of appearing before a judicial officer. They prefer to avoid the stress of hearing, want more control over the decisions made regarding their family, want to discuss issues that may not be legally relevant but which are important to them...” Elkins also noted that “[t]oday too many people find themselves in family court without the assistance they need.”

Going to family law court without attorneys is often the most affordable option, and it can be the only option for low- and middle-income families. Many of these families cannot afford the rates of private mediators. Most courts do not offer financial family law mediation to address property, pension, debt and child and spousal support. Recently, self-help centers throughout the state have had hard hiring freezes, cutbacks and furloughs cutting down the already limited services for self represented parties. This program helps to fill this gap.

The Program Overview

The FAM Project uses a law clinic model whereby one supervising attorney and team of trained, volunteer mediators provide divorce mediation to low-and middle-income couples. Mediators are trained in the step-by-step, family law mediation method that combines nationally proven divorce mediation techniques and input from experts in the field. The process fully informs parties and helps them reach their own agreement by gathering information, sharing neutral, legal information, and using mediation skills. The mediators use a manual, which includes a step-by-step 6-stage process and legal information handouts for parties. The method usually takes 2-4 sessions. The supervising attorney on site oversees mediators, as multiple mediations occur simultaneously in various meeting rooms.

The 6-Stage Method Overview:

- 1) The Divorce Basics:
 - Filing information and the next steps (option of Document Assistant or Self-Help Center)
 - Temporary Legal Agreements (includes Automatic Temporary Restraining Orders)
 - Optional outside resources (individual consulting attorneys and custody mediators)

- 2) Assets and Debts:

- Parties bring completed Assets and Debts forms, and share the information in session
 - Basic legal information handouts are provided (similar to Nolo Press legal information)
 - Attorney provides relevant law/characterization for parties
- 3) Co-parenting Information and Resources:
- Basic information about custody law and guidelines are provided
 - Custody is not mediated (parties referred to custody mediators if not already in agreement)
- 4) Income and Expense:
- Parties bring completed Income and Expense forms with paystubs and share cashflow information in session
 - Basic information on child and spousal support law is provided
 - Attorney runs Dissomaster guideline calculations for child and spousal support with parties
- 5) Negotiation/Options
- 6) Final Agreement checklist/Contract Preparation
- Option of MSA draft prepared through supervising attorney, with optional consulting attorney review

Through the FAM Project, the Conflict Resolution Center has successfully provided low cost, legal mediation services to divorcing families since June 2010. Parties are screened through an intake process screening out non-qualifying cases, such as domestic violence, child safety issues, or asset/income maximums. A sliding fee scale ensures maximum access for parties. FAM collaborates with document assistants, consulting attorneys, and custody mediators offering reduced FAM rates. The FAM Project provides training for new mediators annually.

Unique Benefits of the Program

1) FAM is Financially Sustainable

Due to lengthy and ongoing family law matters, nonprofits and courts have faced a challenge to provide financially sustainable, low-cost family law resources. The FAM Project's structured model has built-in time limits, making it sustainable for low-cost services. The mediators and the supervising attorney

follow the 6-stage process leading parties to resolution. By the end of the process, the majority of qualifying parties reach agreement on all matters. Furthermore, using a law clinic model allows the resource of one supervising attorney to reach a large population through trained, volunteer mediators. As mediations occur simultaneously, the attorney is used as the ‘expert’, while the mediators gather information, provide basic information to clients, and help parties navigate emotions through mediated dialogue. The program’s structure and legal information handouts for clients removes the burden of the law from the mediators. Like a doctor, whose nursing staff has prepared the patient, the attorney comes in to present any legal application to their case for concentrated, expert help. This makes the attorney’s time highly cost efficient.

2) FAM is Easily Replicable

The program is easily replicable with the 6-stage method, including a written, step-by-step manual for mediators and legal information handouts for parties. The program is easily teachable to new attorneys, law students, therapists, as well as mediators in community mediation programs. A 4-day training teaches mediators the process. This pilot program is currently in the process of expanding to other counties. Self-help centers, community mediation centers, legal aid organizations, and law schools would all be able to utilize this program to provide low-cost divorce mediation in their community.

Summary and Thank You

In sum, while few courts have attempted to provide financial mediation, no such program exists in the nation that uses a structured method for divorce mediation. Using a structured method is the missing piece that would allow financial divorce mediation to be offered in every courthouse in the nation.

We thank the Superior Court of Santa Cruz County, the family law community in Santa Cruz and Monterey County, the Mandell-Gisnet Center for Conflict Management, the Monterey College of Law, The Conflict Resolution Center of Santa Cruz County, the Santa Cruz Community Foundation, the Nicholson Foundation, and the Steering Committee for the FAM Project for your generous and ongoing support of the program.

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6 STAGE MEDIATION PROCESS:

- 1) Stage 1 – Contracting (Mediation Agreement)

- 2) Stage 2 - Assets and Debts

- 3) Stage 3 – Co-parenting Information and Resources

- 4) Stage 4 - Income and Expense (“Cashflow”)

- 5) Stage 5 - Negotiation/Options

- 6) Stage 6 – Final Agreement Checklist/Contract Preparation
(Marital Settlement Agreement: MSA)

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OVERVIEW OF 3 PROCESSES

- 1) **Gather information** about each topic
 - following script instructions

- 2) Have a **mediated conversation** about their interests and needs
 - use reflection/open questions/reframing skills

- 3) **Give legal information**
 - provide legal information handouts to clients

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SUMMARY OF FAM PROJECT'S DIVORCE MEDIATION PROCESS

Phone Intake/screening:

Screen out cases; follow phone intake procedures

1) Stage 1: Contracting (Mediation Agreement)

- 1.0 Intake Form
- 1.1 Contracting Script with Handouts:
- 1.2 Mediation Agreement
 - *Filing Flowchart*
 - *Mediation Process Chart*
 - *1.3 Fee Waiver Instructions*
 - *1.4 Fee Waiver*
 - 1.5 Petition
 - 1.6 Petition Instructions
 - 1.7 Assets & Debts for homework AND
 - 1.8 Assets & Debts instruction sheet
 - 1.9 Income & Expense for homework AND
 - 1.10 Income & Expense instruction sheet
 - 1.11 Coparent Mediator Handout
 - 1.12 Referral to Collaborative Attorneys Handout
- End Session

2) Stage 2: Assets and Debts

- 2.1 Assets & Debts Script:
- Gather Real Property information:
 - 2.2 Valuation of Real Property Handout
 - 2.3 Basic California Law Handout
 - 2.4 Property Options Handout
 - Mediated Conversation
- Gather Vehicle information:
 - Mediated Conversation
- Gather any Retirement Information:
 - 2.5 Retirement Law Handout (if retirement)
 - Mediated Conversation
- Gather and Business Information:
 - 2.6 Business Law Handout (if business)
 - Mediated Conversation
- Gather Debt Information:
 - 2.7 Liability Law Handout
 - Mediated Conversation

3) Stage 3: Coparenting Information

- 3.1 Coparenting Script:
 - 3.2 Coparenting Handout
 - 3.3 Age Appropriate Parenting Plans
 - 3.4 Coparenting Plans
 - Mediated Conversation

4) Stage 4: Income & Expense

- 4.0 Income and Expense Script:
 - Gathering Income and Expense:
 - 4.1 Gather expenses -- post it 1 Template
 - 4.2 Give Health Insurance Handout
 - 4.3 Gather income-- post it 2 Template
 - 4.4 Combined cashflow-- post it 3 Template
 - Mediated Conversation
 - Child Support and Spousal Support Law
 - 4.5 Child support law handout
 - 4.6 Spousal support law handout
 - Dissomaster calculations
 - Mediated Conversation

5) Stage 5: Negotiation

- 5.1 Negotiation Script:
 - Summarize interests
 - Brainstorm Options Exercise
 - 5.2 and 5.3 proposal description and sheet
 - 5.4 Share Proposals/Negotiate

6) Stage 6: Contract Checklist and Preparation

- Contract checklist/Contract preparation