



# court as a last resort

MEDIATION EMERGES AS A KINDER ALTERNATIVE TO LITIGATION

## MEDIATION TRENDS

In 1993, there were 959 divorce/domestic cases in Cobb County, with a 60 percent settlement rate. In 2002, there were 1,061 cases with an 84 percent settlement rate.

The attorney drew a deep breath before greeting his clients. He thought that their embittered divorce case might never settle. However, just two hours later, the couple left his office, relieved and satisfied with their outcome. The attorney didn't wave a magic wand to make them forget their conflicts, he simply used an approach called mediation. Now, his clients and their children could move forward with a workable plan.

What is mediation? "Mediation is an alternative to litigated divorces which create a good guy/bad guy situation. It uses court as a last resort so that people retain control of their lives. It's a win-win approach to a difficult situation," explains Mark O. Shriver, IV, a Woodstock-based attorney and mediator. Shriver, a graduate of the College of William

and Mary in Virginia, and Emory University, has practiced law locally for 22 years.

## HOW DOES MEDIATION WORK?

According to Shriver, mediation is confidential and generally follows these steps:

1. A neutral mediator meets with the two parties and allows them to individually air their issues. The mediator focuses on the facts and tries to diffuse emotion. "Each person gets the chance to speak without any interruptions from the other party. For some, this is the first time they've had that opportunity. They emerge feeling like they've had their 'day in court' and a chance to speak their mind," Shriver says.
2. After reaching consensus, the parties bring the agreement to a separate attorney to have it typed up. (Seventy percent of mediations take less than three hours.)
3. This attorney presents the agreement to a judge as an uncontested divorce. Usually, one person (known as the plaintiff) appears in court for the hearing.
4. The agreement is incorporated into the final order of divorce.

**FINDING A MEDIATOR**

Generally, a mediator is an attorney, but could also be a social worker or someone trained in mediation that doesn't have a law degree. A mediator is not an arbitrator or judge. Their goal is to

flicts with their ex-spouse. In recent years, attorneys have become more accepting of mediation. Cherokee and most other metro Atlanta counties require mediation; Cherokee County judges encourage it."

*"Court is a win-lose situation . . . families are not."*

—Mark O. Shriver, IV

assist the parties in reaching an agreement. Although an attorney/mediator may cost slightly more, there are advantages to using one. For instance, Shriver's 22 years of courtroom experience make him "an agent of reality" for participants. "If a parent doesn't want to pay as much child support as the court mandates, I know from experience what judges will demand and can explain this." Ultimately, this saves clients time and money.

Shriver often sees people who are emotionally and financially stressed. His personalized service makes their situations less stressful. "I help people through this process. I return phone calls promptly and discourage e-mail because it's less personal and not private." His ultimate goal is helping people retain control over their lives. "You have to live with your decision . . . do you want to let a judge make that decision?"

Shriver helps create customized solutions. In one case, a father decreased child support but spent more time with his child, which was the mother's true concern. Some parents agree to pay for extracurricular activities or follow a flexible visitation schedule. "Mediation is an informal, flexible process," Shriver notes.

*Mark O. Shriver, IV, is a partner at Shriver & Gordon, P.C., in Woodstock. He can be reached at 770-926-7326.*

*Nancy Moreland is a Woodstock-based freelance writer. She can be reached at n\_moreland@yahoo.com.*

**Shriver suggests three factors to consider when seeking a mediator:**

1. Find someone with experience in divorce or family law mediation.
2. While a non-attorney mediator may charge around \$100-150/hour, an attorney mediator's courtroom experience may be worth the extra \$50/hour he or she may charge.
3. Most mediators offer initial brief consultations at no charge.

**ADVANTAGES OF MEDIATION**

Mediation costs, which are generally shared between the parties, may range from \$500—2,000 and can be spread over a couple of sessions, if desired. In contrast, if each person uses their own attorney, they usually pay a retainer of \$1,000+ each and can spend thousands. Mediation can also lessen the destructive effects of divorce.

"Mediation is becoming more accepted—people can't finance contested litigation and they want to avoid future con-

**Shriver & Gordon P.C.**

**ATTORNEYS AT LAW**

<p><b>DIVORCE</b></p> <p>Family Law</p> <p>Mediation</p> <p>Child Support</p> <p>Modification</p> <p>Collaborative Law</p>	<p><b>BANKRUPTCY</b></p> <p>Personal</p> <p>Business</p> <p>Chapter 7</p> <p>Chapter 11</p> <p>Chapter 13</p>	<p><b>BUSINESS</b></p> <p>Corporations</p> <p>Partnerships</p> <p>Collections</p> <p>Leases</p> <p>Contracts</p>
--	---	--

Also Practicing

• Social Security • Estate • Probate • Elder Law

Mark O. Shriver - R.T. Gordon

770-926-7326

Highway 92 at I-575 in Woodstock

Shriverandgordon.com

*Serving Cherokee County Since 1981*