



BFLG'S TIPS FOR YOUR MEDIATION

Success at family mediation takes much more than just showing up. There is significant planning that must go into achieving a successful divorce settlement in mediation. Here are BFLG's 10 tips to achieve a positive outcome at your upcoming mediation:

TIP 1: *Be prepared.* Carefully consider all important issues and objectives that are important to you. Then rank them in order of importance. Then create all the arguments in favour of each objective, and all arguments that your spouse will make against each objective. Then create a rebuttal to each counter-argument. Then build a digital brief that contains the raw evidence that supports your arguments and outcome. Be sure that the mediator and your spouse (and their lawyer) have all the information you will be relying on in advance of the mediation. Mediation is most effective if everyone knows the facts, have the evidence in advance and have a chance to digest it all before mediation.

TIP 2: *Consider your options.* Think about a range of settlements that will meet your needs (not your wants). Think about a spectrum of outcomes. Do not set a bottom line. Arrive with an open mind. Plan to do more listening than talking. Mediation offers the opportunity to be more creative and flexible than divorce court.

TIP 3: *Know your lawyer's role.* In mediation, your lawyer has a different job than in divorce court. Your lawyer is attending mediation to partner with you, your spouse's lawyer and the mediator to collaboratively problem-solve. Your lawyer is not attending mediation to convince the mediator, your spouse or their lawyer that you are right and they are wrong. Give your lawyer the help, information and support that will cause them to be a team-player with the goal of a divorce settlement.

TIP 4: *Participate.* In mediation, every person has a role. The mediator's role is to understand the facts, the issues and the law and use them to create opportunities for a settlement. The lawyer's role is to advise, educate and support you in the mediation. Your role is central. You need to actively listen, consider what you hear, weigh your options and participate in the dialogue. The outcome in mediation is primarily led by you and your spouse. So be ready to roll up your sleeves and engage in the heavy lifting of making concessions and reaching consensus.

TIP 5: *Focus.* Be clear about your concerns, your needs and your objectives. Be prepared to discuss them openly and authentically. This information assists the mediator to better understand your interests and needs.

TIP 6: *Trust the mediation process and the mediator.* The process will seem foreign to you. It is different than other negotiations you have been part of. It will be emotional. You will be anxious, frustrated and exhausted. Remember that the mediation process is a proven way to resolve family disputes. The mediator is a trained dispute resolution expert. Allow them to control the process and lead you to a settlement.

TIP 7: *Really listen.* Actively listen, and demonstrate that you are listening. Let your eyes and body language tell the others that you are really listening. If you listen respectfully, then it is likely that others will also listen when you speak.

TIP 8: *Be Polite.* Be courteous, respectful and kind. Avoid language that will antagonize your spouse (eg. bottom line threats, accusations, sarcasm). You will be more persuasive if you are hard on the problem but easy on the person. Communicate in a way to achieve what you want -- a settlement.

TIP 9: *Know your legal costs.* Know what further legal costs may be incurred by you if you do not settle your case in mediation. Ongoing negotiations, mediations or divorce court can be very costly. Measure what you want against what it will cost to get you to that result so that you can determine if it is worth it. Then ascertain the likelihood of that result if you did spend the money.

TIP 10: *Know your case.* Be sure that you fully understand what the possible outcomes are in mediation, divorce court or if there is no settlement. If you do pursue litigation, consider the strength of your case. Ask your lawyer and the mediator to give you a realistic assessment of risk, and to advise you of the possible outcomes (good and bad) of not achieving a settlement in mediation and the cost of next steps.

By following these 10 tips, you increase the chances that your mediation will lead you to the end of your divorce and the beginning of the next chapter of your life.