
LEGALLY SPEAKING™

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“Legal-ese Speaking”

Negotiation: An exchange of ideas for the purpose of resolving disputes.

Mediation: A negotiation conducted by an impartial person for the purpose of resolving disputes.

Collaborative Divorce: A procedure whereby parties and specially trained attorneys work together for the purpose of resolving disputes.

THE INFORMATION YOU OBTAIN IN THIS NEWSLETTER IS NOT, NOR IS IT INTENDED TO BE, LEGAL ADVICE. YOU SHOULD CONSULT AN ATTORNEY FOR INDIVIDUAL ADVICE REGARDING YOUR OWN SITUATION.

Divorce, Modern-Style

Barbara Ann Mohajery, Esquire

Mohajery & Associates, PC

Divorce is painful. Marriage is a contract between two individuals but, unlike other contracts, it is not an “arms’

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Where In the World

Barbara Ann Mohajery, Esquire

Mohajery & Associates, PC

No one should visit Australia without spending a few days on the Great Barrier Reef. Our choice was Heron Island, a Great Barrier Reef World Heritage Area, and a 45-mile boat ride from the Australian mainland.



True to its name, both white and grey herons abound



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length” arrangement; *i.e.*, divorce involves intense emotions which are often difficult to conceal. A break-up of the family unit is particularly hard on the children. Children who have always thought of their parents as all one word -- “Mom-n-Dad” -- are now compelled to think of them as individuals; *i.e.*, “Mom, Dad”; or, even worse, led to believe that they must choose; *i.e.*, Mom **or** Dad.

In Pennsylvania, the rules relating to the three major areas of family law are based upon principles of fairness. Support calculations take into consideration the net monthly incomes of both parents; the standard in custody determinations is the best interests of the child. The law allows for divorce without attributing blame (*i.e.*, “no-fault”), and distributes marital assets and liabilities *equitably*, not necessarily equally (*i.e.*, again, based upon principles of fairness – assuming, that is, that the court must become actively involved in support, custody, equitable distribution of marital property and/or divorce battles between the parties).

More importantly, court battles take a *huge* toll, both financially and emotionally. There are, however, several options available to separating / divorcing parties who truly wish to lessen this toll and, above all, keeping the children out of the fray.

Divorce: The Negotiated Agreement

This method works best if each party is represented by legal counsel. Each attorney is, of course, an advocate for his/her client. Familiar with the law and the court’s “thinking”, family law attorneys are in the best position to advise their respective clients as to the likely outcome of a court battle and can, therefore, negotiate an agreement approximating this outcome without the expense of litigation.

Try to keep extreme emotions out of the process as much as possible. Individual counseling can assist you with the emotional skills and tools you need to see you through to conclusion. *Never* go to court because “it is the principle of the thing.” If you *must* go to court, limit your expense by choosing your battles wisely.

Divorce Mediation

If your goal is to remain amicable throughout the divorce process, divorce mediation may be a viable option. The mediator is a *neutral* party trained to assist couples with the issues particular to their divorce. The mediator is *not* an advocate for, and will not “side with”, either party; rather, the role of the mediator is to assist communication between the parties. The mediator does this by assuring that each party is allowed to speak without interruption. If the mediator picks up on a key issue, he or she may ask to have the statement repeated or explained for the benefit of both parties, or may ask questions so that the point being made is clarified.

Like family law attorneys, a mediator trained in family law issues is familiar with the law and the court’s “thinking” and can, therefore, assist the parties with good decisions reached by mutual agreement. The result of successful mediation is a Memorandum of Understanding (“MOU”). This is neither a contract nor a court order, and is *not* enforceable by itself. At the very least, the terms of the MOU must be put into an agreement signed by both parties and, in some instances, consent orders may be required.

Collaborative Divorce

Collaborative divorce is a fairly new concept in Pennsylvania. In a “collaborative divorce”, each party must retain a lawyer specially trained in the collaborative divorce process. The divorcing parties agree, in writing, to do everything collaboratively and cooperatively, and that the lawyers must withdraw if no agreement is reached. The parties and their attorneys then commence a series of “four-way meetings” in a good faith attempt to reach reasonable resolution of the parties’ differences. Other professionals, such as therapists or financial experts – also specially trained – may be brought in to help the parties work through impasses. Absolutely no court intervention is allowed. In fact, if either party goes to court, or even threatens to do so, the process comes to an abrupt halt and both attorneys are disqualified from any further involvement in the case.

CALENDAR OF EVENTS

SEPTEMBER 17, 12:00 P.M – 1:00 PM

TOPIC: BASIC ESTATE PLANNING ISSUES

LUNCHEON AT DUQUESNE CLUB

326 SIXTH AVENUE

PITTSBURGH, PA 15222

PRESENTED IN CONJUNCTION WITH HUDSON-MARSICO-SPANOS GROUP/MERRILL LYNCH

RESERVATIONS REQUIRED

FOR RESERVATIONS PLEASE CALL: 1-866-916-7384

NOVEMBER 21, 8:30 AM

SMALL BUSINESS BASICS WORKSHOP

TOPIC: LEGAL ISSUES IN STARTING A BUSINESS

DEVRY UNIVERSITY

210 SIXTH AVE., STE. 200

PITTSBURGH, PA 15222

PRESENTED BY: SCORE PITTSBURGH

RESERVATIONS REQUIRED

COST: \$45 PER PERSON

REGISTER ONLINE AT www.scorepittsburgh.org

QUESTIONS AND ANSWERS

Q. Anticipating that it may become an issue, I included a request for shared custody in my divorce complaint. I was not permitted to file my complaint until I had signed up for “Generations”. What is *that* about?

A. Allegheny County’s Generations Program is a mandatory two-part process for those engaged in a custody dispute. “Generations” is an alternative dispute resolution program requiring the involved adults to attend both a 3-hour educational seminar *and* a two-hour mediation session. Children ages 6 through 15 years are required to attend an interactive group program.

You can learn more about Generations by visiting the following website:

www.alleghecourts.us/family/childrens_court/child_custody/generations_program.asp



It was a little too cold for snorkeling, but we went on a reef walk at low tide and got “up close and personal” with sea cucumbers and other interesting marine creatures. We cruised lazily above the Great Barrier Reef in the underbelly of a boat called a “reef viewer”, walked around the island on sandy beaches, and crisscrossed its interior on paths bordered by island flora and trees teeming with tropical birds.

Each evening brought a glorious sunset and the promise of another perfect day.



Heron Island was truly one of the highlights of our trip!