



# The Family Law Review

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## Master Checklist for Military Retirement Benefits

# Making Every Mediation Count

by Andy Flink

With every domestic case I mediate I believe that there is always room for progress regardless of where in the process the mediation occurs. Many times cases are ready to settle but sometimes they are not. If this is an initial mediation in the case then it can be a great first step just getting the parties together in the same place.

Since I don't know all of the dynamics and facts pertaining to the case before I begin (typically in court ordered mediations) I don't place expectations on an outcome. My first job is to make sure the parties become comfortable with me. I need to know what they want to accomplish and I have to establish trust as they tell me their story. I'm not there to discuss who has a greater advantage or more leverage. I am there to help the parties move through the very difficult process known as divorce.

While I never thought I would say this at the time, fortunately I have been through my own divorce with children. Clients seem to identify with that. I have never encountered anyone in a domestic mediation that was happy to be there. Since the climate of the room is always somewhat "difficult" creating a less threatening environment is important. Your mediator needs to stay focused 100 percent of the time to maintain this. We want to get people talking and communicating. Sometimes we try to reach accord on smaller items because it doesn't always make sense to solve the big issues first. I'll try to outline where parties agree so that each side can see some progress. It doesn't matter if it happens through caucus or joint session. Good mediators know when people need to be where.

The process of mediation and the session itself should always be viewed as an opportunity for progress. Even if you go into mediation knowing nothing is going to

happen, a great mediator will surprise you and be creative enough to achieve movement. Making the session count and utilizing your hours constructively should always be their goal. Perhaps we reach settlement, perhaps not. Yet maybe this session is what got your case moving in the right direction creating that initial catalyst for settlement.

I never know if and when a case will settle. Sometimes I don't believe there is a chance it ever could and it does... that day. In one particular case I began to believe that there was no chance of settlement since the parties insisted on meeting together but argued every time they did. Realizing this is how they preferred to communicate I stayed with them knowing that this was how they would settle. Eventually they argued their way to settlement.

Everyone's time is valuable. No mediation session should ever be a waste of it. *FLR*



*Andy Flink is a contributing author on post divorce and trained mediator and arbitrator. He is familiar with the aspects of divorce from both a personal and professional perspective. He is experienced in both business and divorce cases, and has an understanding of cases with and without attorneys. Flink is founder of Flink*

*Consulting, LLC, a full service organization specializing in business and domestic mediation, arbitration and consulting. At One Mediation, Andy serves as a mediator and arbitrator who specializes in divorce and separation matters and has a specific expertise in family-owned businesses. He is a registered mediator with the state of Georgia in both civil and domestic matters and a registered arbitrator.*

*Plan now for the 2012 Family Law Institute at the Ritz Carlton, Amelia Island, from May 24-26, 2012*

