

Law & Mediation Office of Alayne Katz

76 Greenway Drive, Irvington, New York 10533

Tel (914) 591-3278, Fax (914) 591-8514

Dear _____ and _____:

You have asked me to mediate an Agreement. In addition to the mediation agreement, I must advise you of some additional points.

First, in acting as your mediator, I will not be acting as an attorney. I will not be representing either of you. Rather, my role will be to provide information about the topics you need to discuss, to facilitate your discussions, and to keep notes as to any tentative agreements. Based upon the information you supply to me, both orally and in writing, I will try to help you work out alternative solutions. I will try to alert you to problem areas and possible future conflicts. In general, your expressed desire to reach a fair and reasonable settlement in a conciliatory manner for the benefit of the family as a whole, will govern my approach to mediation. At the conclusion of a successful mediation, I shall draft a written document (hereinafter "Memorandum of Understanding"), which describes in lay terms the terms that you have agreed upon.

Second, mediation is a service that calls for one person to serve two possible opposing parties. It is not what lawyers have historically done. As a result, it is not what clients have traditionally learned to expect from a lawyer. As noted above, I am not serving as an attorney, but rather as a mediator, who is also an attorney. I am not representing, or serving the individual interests of either one of you against the other.

Third, because there is no attorney-client relationship with anyone, I cannot promise to keep one party's secrets from the other. Therefore, you have to agree that I will proceed using only the information made known to me in joint sessions. This means you cannot tell me separately something you do not want the other to know. It also means that we may proceed on incomplete information if either of you is not fully cooperative in giving all relevant information.

Mediation is largely a compromising process. You should not look to me to see that your individual interests are advanced or protected against compromise. For such protection, you should retain a lawyer for yourself. Your lawyer can advise before or during the process of mediation about what compromises it would help or hurt your interests to make, about what the courts might do if you seek a litigated solution, and about the effect of any written agreement you would enter. Your individual lawyer should also review the Memorandum of Understanding,

which contains a summary of the terms agreed upon in mediation before you retain counsel to draft a Settlement.

Next, because there is a chance of a dispute over legal entitlements, the law assumes that your interests are in conflict on most points. Any lawyer who tries to serve both of you is, therefore, presumed to have a conflict of interest. By agreeing to go forward with one mediator, you are consenting to the provision of services despite any conflict of interest there might be.

Finally, with respect to fees, the drafting of a Separation Agreement is not a part of the mediation. It is a legal service, which if I were to agree to undertake, would have to be evidenced by the execution of an Attorney/Client Retainer Agreement. I would only consider such retention if I believed that you were firmly committed to the mediated terms, that the mediated terms were faithful to both of your objectives, and that there were no remaining points of contention. The fee for drafting is _____ dollars per hour. The drafting of divorce papers is also not a part of the mediation. The fee for drafting uncontested divorce papers is _____ dollars including approximately five hundred (\$500.00) dollars court costs and disbursements.

Very truly yours,

Alayne Katz

UNDERSTOOD AND AGREED:

(NAME)

Date

(NAME)

Date