



TC Mediation

Facilitating Negotiation and Communication

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TERMS

YOUR understanding of the terms blanketed around **YOUR** situation is key to **YOUR** knowledge which will serve **YOU** well. If someone mentions a term you are not familiar with take the time to request an explanation in layman terms. Below is a list of many terms that you may encounter during the process (*note these are interpretations and are not exact definitions*).

THESE DESCRIPTIONS ARE NOT LEGAL OR FINANCIAL DEFINITIONS, BUT ARE FOR YOUR OVERALL UNDERSTANDING OF THE CONCEPTS.

Adjusted Gross Income-This is commonly defined as the amount of a person's income before all deductions or any taxpayers income, except that which is specifically excluded by the Internal Revenue Code before taking deductions or taxes into account.

Alimony- Financial payments made to help support a spouse or former spouse during separation or following a divorce. Also called "spousal support" or "spousal maintenance".

Allocation of Parental Responsibilities- Formerly referred to as "legal custody", the term now pertains to how parental decision making is allocated between a child's mother and father. The major areas of decision making are educational, medical, religious or spiritual, and extracurricular. If parties agree on how decision making should be allocated then (*and the current trend is in favor of joint decision making*) this will be spelled out in the stipulated

Alternative Dispute Resolution (ADR)- Methods of resolving legal disputes in a less adversarial manner, without going to trial, such as through *Arbitration, Mediation, or Collaborative Law*.

Arbitration-A form of *Alternative Dispute Resolution (ADR)* utilized for resolving legal disputes without going to trial where a trained and impartial third party arbitrator, chosen by the parties and acting like a private judge, conducts a hearing on the disputed issues and enters an award or judgment after both parties have had an opportunity to present their case much like they would in court. Arbitration is a binding process which differentiates it from *Mediation*, which is a voluntary process.

Arrearage-The amount of money past due for unpaid child support or spousal maintenance.

Assets-Anything of material value or usefulness that is owned by a person or company.

Beneficiary-An individual you identify to receive assets at death or from a Trust.

Cohabitation-The act of living together emotionally and/or physically in an intimate relationship.

COBRA-Continuation of benefits under a previous employer's plan after an employee leaves.

Co-Parent Relationship or Co-Parent Partnership-Is the "New" relationship you enter into if you have children together, yet live in separate homes due to separation or divorce.

Community Property-States the general division of community property by splitting assets 50/50.

Child Support Calculator-Is a formula developed in which data is input to a system that calculates a parent's child support obligation.

Child Support Guidelines-Statutory guidelines established by the State that set forth the manner in which child support is calculated generally based on the income of the parents and the needs of the children.

Residential Parent-The parent with whom the children reside the majority of the time.

Child Support-Money that is paid from one parent to another as determined by the child support guidelines.

College Savings Plan-Savings account whereby various parties (*parents/grandparents, etc.*) can contribute to a college education fund (*Section 529 Plan, etc.*).

Custody-To have legal rights to your child. That term is being replaced more and more by "allocation of parental responsibility". **Legal custody**- you have the right to make important

decisions about your child's educational, religious, medical, or extracurricular welfare.

Physical custody- where the child physically resides the majority of the time.

Decree-The Court's written order or decision finalizing the divorce often issued in conjunction with the Court's judgment.

Debts/Liabilities-Amounts owed to third parties. Examples: home mortgage, home equity line of credit, auto loans, credit cards, personal loans, uninsured medical bills, and income taxes.

Default-Failing to answer or file a response to a petition for divorce. Failing to file an answer or appear in court as required can result in the court awarding everything requested by the filing spouse.

Deposition-Part of the discovery or information exchanging process of a legal proceeding in which the attorney for one party asks questions of the other party under penalty of perjury, in the presence of his or her attorney and a transcript of the proceedings is prepared by a court reporter. Your attorney may also "depose" the other party, as well as potential witnesses (*accountants, daycare providers, employers, etc.*) who may have information relevant to the case.

Disclosures-The divorce process requires in most states that each party make a full and fair disclosure to the other party of their income, assets, liabilities, and all other relevant financial information, including information which may bear on their parental rights and privileges.

Discovery-The information exchange process of a legal proceeding, including the serving and answering of interrogatories and requests for production of documents, and the taking of depositions. Discovery is not required in all cases, but it can be invaluable in complicated cases, or in a situation where a party is attempting to hide assets or to be untruthful about important facts.

Dissolution-Another word for divorce, which is the legal termination of a marriage relationship

Domestic Violence-Physical abuse or threats of abuse occurring between members of the same household.

DOS-Abbreviation for "**Date of Separation**".

Equitable Distribution-A division of marital property which is deemed to be fair in view of all the relevant circumstances. Equitable does not always mean equal.

FMV-Abbreviation for **Fair Market Value**.

Gross Income-The amount of income before any deductions or taxes owed by the taxpayer (*except that which is specifically excluded by the Internal Revenue Code*).

IRA-Individual Retirement Account whereby an individual not participating in an employer sponsored plan (*401K*) can contribute to a retirement fund. Funds are not readily accessible until retirement age without penalty and tax consequences. (*Types: SEP, Traditional, or Roth*).

Interrogatories-Written questions served by the opposing attorney or party that must be answered in writing and under penalty of perjury as part of the ***Discovery Process***

Intangible Property- An asset that is represented by a piece of paper such as Stocks and Bonds. The paper itself has no value; it is what the paper represents that is valuable.

Joint Legal Custody-(*Now often referred to as "allocation of parental responsibility"*) The sharing by both parents of the right to make important decisions about a child's welfare.

Modifiable or Non-Modifiable- Refers to whether some portion of your agreement terms or monies outline therein can be modified or not.

Marital Property-Generally all property acquired during the marriage together with the appreciation in value of a party's premarital or separate property.

Mediation-A form of ***Alternative Dispute Resolution (ADR)*** utilized for resolving legal disputes without going to trial whereby a trained and impartial third party mediator, chosen by the parties, attempts to bring the parties together in areas of mutual agreement. Mediation is a voluntary process.

Net Income-Income received after subtracting cost and expenses from the total revenue.

Net Worth-Assets minus liabilities

Non-Custodial Parent-The parent with whom the child(ren) do not reside a majority of the time.

Non-Marital Property-Generally property owned by either spouse prior to marriage or acquired by a party individually, such as by gift or inheritance, during the marriage.

Parenting Plan-The time or schedule of time that a non-residential parent spends with his or her children. Also referred to as "shared time".

Pension Plan-Employer sponsored plan whereby only the employer makes contributions and certain vesting restrictions generally apply.

Petition-The legal document which, with the Summons, is used to initiate the divorce process. The Petition contains basic information about the parties, the specifics of their marriage, their children, if any, and any temporary arrangements made as to the allocation of parental responsibilities. The Petition also sets forth the relief requested by the Petitioner.

Petitioner-The person who initiates divorce or dissolution proceedings (*also may be known as the Plaintiff*).

Power of Attorney-A legal document in which you assign decision making authority. (*Financial, Legal, and Medical*)

Premarital Agreement-An agreement entered into before marriage that sets forth each party's rights and responsibilities should the marriage terminate by death or divorce. Also called a **Prenuptial Agreement**.

Prenuptial Agreement-An agreement entered into before marriage that sets forth each party's rights and responsibilities should the marriage terminate by death or divorce. Also called a **Premarital Agreement**.

Property Taxes-Taxes due to city and county government based on the value of your home or automobile. These are due on an annual basis. (*home taxes are generally included in your mortgage*).

Qualified Domestic Relation Order (QDRO)-Pronounced "kwah-dro", an order issued by the Court to divide a party's retirement benefits, most often involving a defined-benefit pension plan, or to transfer monies from one plan to another (*i.e. from a 401(k) to an IRA*). This is beneficial in transferring money without having to pay penalties or taxes when taking money from an investment account.

Respondent-The person against whom legal papers are filed or who answers the Petition in **Dissolution** proceeding (*also may be called the Defendant*).

Response-The legal document filed with the Court by the Respondent. The purpose of which is to answer or respond to the statements and information contained in the Petition.

Restraining Order-An order issued by the Court requiring the subject of the order to refrain from doing something, often in conjunction with domestic violence or in order to protect at risk children.

Requests for Production of Documents (*also Known as Discovery*)-A form of discovery served on a party by the opposing attorney or party that sets forth documents or categories of documents which must be produced to the requesting attorney by a given date (*usually within 30 days*).

Separate Property-Separate property is the stuff you owned (*tangible or intangible*) before you got married, or received as gift or inheritance during the marriage.

Tangible Property-Tangible property is the stuff you can touch-(i.e., houses, cars, pots and pans).

Separation Agreement-A written document, contractual in nature, signed by the parties and their attorneys, which sets forth the parties' agreement as to all issues in their divorce including: division of marital property and debts, allocation of parental responsibilities, parenting time, child support, spousal maintenance, insurance issues, tax matters, and any other relevant provisions which may be necessary due to the particular circumstances of the case. The Separation Agreement is reviewed by the Court and, if accepted, becomes an order of the Court, and is usually attached to the Court's final decree.

Settlement Conference-A settlement meeting, often Court ordered and usually held at one of the attorney's office, during which the parties and their lawyers attempt to negotiate a settlement of all or some disputed issues before the case goes to trial. Sometimes referred to as a "Four-Way".

Shortfall- Where expenses exceed income creating a cash flow problem.

Stipulation- A written agreement, entered into by the parties and their attorneys, settling an issue or issues between them. A Stipulation, once signed, is filed with the Court and is often incorporated into the Court's final order or decree.

Will-Document outlining your wishes for your personal belongings and assets.

401(k)-A deferred retirement plan offered by an employer where employee makes voluntary contributions. Funds are not readily accessible until retirement age without penalty and tax consequences.

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