

PRACTICE HINTS: THE INITIAL CONTACT

Few parties will know to ask directly about mediation or even know the term. Many will only generally understand that they can settle their dispute in a different way than usual. Mediation will typically be confused with arbitration, counseling or even meditation. You will need to sufficiently explain mediation over the phone so that the party understands enough that they are willing to find out more in the initial consultation session.

SPECIFIC POINTERS:

- Send material and brochures to both parties.
- Be willing to talk to the other party on the phone as you have done with the person who has originally phoned.
- Make sure to inform the parties that there is no way for either of them to compromise or lose any legal right they may have in coming to mediation.
- Do not become over involved in the discussion of substantive issues on the phone; the parties only need to decide *how* they want to do things (two attorneys or mediation), *not what* to decide about the issues.
- Explain that they are coming to the consultation session only for two purposes:
 - to decide if mediation makes sense;
 - to determine if they are comfortable with the mediator.
- Stress that in the consultation session you will not let them decide "on the spot" to mediate—attendance carries no obligation to mediation or to even proceed with a divorce.
- Suggest how to discuss mediation with a spouse, if necessary.
- Make sure to mention the consultation session fee.

The materials that follow in this section are available for your use, unless specifically noted otherwise. The brochures can be purchased in bulk from the Academy of Family Mediators and the Association of Family and Conciliation Courts.