
Divorce By Mediation Handbook

Presented By Karima Muhammad

Divorce By Mediation

Client Handbook

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The Karima Muhammad Firm LLC™

A Mediation and Conflict Management Firm

******Legal Disclaimer: We do not provide legal or psychological advice.******

"A conflict occurs when ideas clash. A dispute is a result of a failure to communicate mutual interests."-Karima Muhammad

Karima Muhammad certified in 1994 New York City (New York State Unified Court Systems Prescribed Mediation Training) has many mediation hours in her career.

Mediator Muhammad is a volunteer civil court mediator, recipient of the 2009 "Mediator Courage Award". Currently a Volunteer paralegal at Atlanta Volunteer Lawyers Foundation.

In 1994, Karima started her journey in mediation and conflict management as a result of street violence. Many children were killed by drive-by shootings and gang activity. Becoming a trained mediator was a way of release from the pain of loss and helplessness brought on by community violence.

"The Karima Muhammad Firm had covered a wide range of mediations and has helped transform lives by helping clients through an orderly process to making better decisions about their disputes. I call her the "Mediation Doctor" because beyond the tense situation you may feel, once you are with this firm you will feel welcome and have professionals working with you to help resolve your conflict "- Lydia W.

Legal Disclaimer: The Karima Muhammad Firm does not provide legal advice. The scopes of services offered are alternative dispute resolution and conflict management of disputes.

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*Divorce by Mediation**Client Handbook*

Divorce mediation is a process of dissolving the marriage in a non-adversarial way. The framework provides you with the opportunity to negotiate your own settlement on the assumption that the decision to separate and or divorce has been made.

You may decide to consult with a lawyer at the beginning of the mediation process to ensure that you know your legal rights, even though you will negotiate directly with your spouse in the mediation process. You are free to consult with a lawyer at any time during the mediation process; and you will need to have a lawyer prepare legal documents based on the mediation, as more fully described below.

This is not an avenue to resolve conflicts of the past. You may begin to understand some of those past problems in a different light, but we will be working to resolve them. Rather, we shall, through the process of mutual negotiations, attempt to define a new life with new options for each of you. To do this, there must develop a sense of mutual respect among the three of us.

Too often divorce is placed in a win/lose framework. Given that situation, compromise is difficult, since it is seen as a loss. A smart, if less than honest, tactic is OK because it means a win. However, the result is a loss for both of you, since winning in this situation denies a part of each other's humanity. The divorce mediation process is designed to eliminate the win/lose atmosphere. Since the process is mutual, you can't win at the other's expense. Neither can you lose. You must come out of it with a settlement acceptable to both of you and controlled by you. We call that a "win/win" solution.

With control over the outcome, you also experience a sense of power over life decisions. The important aspects of divorce mediation are that:

- You emerge from these negotiations with a new sense of dignity and a clearer sense of self and what the future holds for you.*
- You can place the past behind you and concentrate on the future.*

My function is to assist you to reach a settlement. I do not represent either of you individually. My

commitment is to a settlement you can both live with. I will use my mediation skills to help you identify those areas of agreement and those substantive areas of disagreement to reach a settlement. I will also manage the conflict between you so it becomes productive rather than destructive.

The Process

In the first phase, I will help you to identify the parameters for negotiations. I will be working with you to define your short- and long-term goals. Obviously, you have given this whole matter considerable thought and you have any ideas on what the ultimate settlement should include. You can “sound out” ideas before proposing them. I can help by sharing my experiences with you on what worked in the past for other couples and what the norms are.

I cannot define the settlement, and I cannot impose an agreement. My role is to assist you to reach your agreement. I will not take sides on the issues.

I am interested in the settlement as a principle, and I am interested in you as people. I feel for your pain and want to help you through this difficult process and help diminish this pain. Finally, I hope to help you use these negotiations to place the past behind you. That new life can be marred by holding onto anger of the separation, or the new life can be an exciting opportunity to redefine you.

I'm working for and with both of you to help you reach a settlement that permits you to concentrate on the future and the potential it holds.

There is a typical process we will use to reach a settlement; however, your individual needs may cause us to depart from strict adherence to it. During the process we will:

- develop current and future income information*
- develop budgets*
- inventory of marital assets*
- begin to define each of your short – and long-term goals*
- define general areas of agreement*
- define substantive areas of disagreement*
- identify symbolic and emotional issues*
- work through the parenting arrangements*
- negotiate money differences*

-
- *develop a settlement*

Divorce mediation sessions normally last two hours. There may be three to four or more sessions depending on the issues. However, we do not limit ourselves. Rather, we attempt to complete the business scheduled for that session.

My role as a mediator is to help you retain your power over the decision-making process that affects your lives. My focus is on the future and helping you define new options for you.

Budgeting Guidelines

The purpose of this guide is to assist you in defining what it will cost for you to live separately.

Obviously, your total expenses will increase. However, in developing a budget you may also identify areas of expenditure that can be reduced without significantly changing your essential standards of living. In addition, the process of budgeting helps you to develop a relational database from which to begin negotiations.

Budgeting is difficult for most people. Some see it as penny-pinching, others as bookkeeping; Few of us like either of these activities. Yet, budgeting is financial planning, which enables us to make intelligent decisions and rational choices.

We will not try to account for every dime as we prepare your budget. Doing so will drive you to despair. Use your checkbook records as general guidelines to fill in the categories supplied here. Do not try to reconstruct your every expenditure. Our purpose is to enable you to establish broad outlines, and by drawing on experience, to project future needs, recognizing that your future needs will be different from the past.

As part of this process, I will share some averages with you when a particular item is way out of line with general norms. This will enable both of you to develop budgets you can live with.

The assessment is in four parts:

- 1. current income*
- 2. future budgets*
- 3. assets*
- 4. liabilities.*

There are forms at the end of this booklet that will help you to complete this assessment.

The Budget

The budget session deals with anticipated expenses. They will differ for each of you depending on certain variables. For example, who will be primarily responsible for the children? Will one of you continue to live in the family home? Often, the parent with prime responsibility for the children also remains in the home. The other, therefore, needs to calculate a budget based on an apartment rental or whatever another living arrangement is planned. These expenses are best calculated on a monthly basis. If your information is weekly, multiply one week's figures by 4.3 to get a monthly figure.

The prime purpose of completing this budget information is to provide you with a database with which to make decisions. I will work on these with you and we are looking at broad guidelines, not precise documentation. So, do not be overly concerned if you can't provide a specific figure—we'll work it out together.

In many marriages, one spouse has assumed responsibility for budgeting and handling the finances. This leaves the other "in the dark" when it comes to preparing this database. Doing the budgets provides both of you with the same data and enables you to make rational decisions about your future.

There are times when the person who has the most control over the money finds it difficult to share this information because knowledge is often equated with power. However, if you don't share this knowledge with your spouse now as the basis for reaching a mutual decision, you may have to share it later with a judge who will make a unilateral decision, thereby giving up all your power. By sharing all of the information now, you assure that you will both keep and be able to exercise your power.

So, in a real sense, we are working together to provide you with the power to make your own decisions about your own lives. That means sharing data at this point so those decisions can be mutual.

Child Support

The Child Support Guidelines mandate that all child support be based on your actual income. It is assumed that you, as parents, will spend a specific percentage of your combined income on your children as follows: (this may vary by state)

one child 17%

two children 25%

three 29%

four 31%

five+ 35%

The percentage is based on your gross income before deductions less money paid for FICA (social security) in the previous year.

It is assumed that each parent is contributing the same percentage to the children's expenses. In addition to the cash child support, parents are expected to share in the cost of child-care expenses incurred by the resident parent while working and uncovered medical expenses. (You are expected to cover your children under and employer-provided health insurance.) The ratio for sharing these expenses is the ratio of the two incomes less FICA.

We will start the process by reviewing the future needs as indicated by the budget and then we will calculate and apply the child support guidelines. If you have a deficit following this part of the process, closing the deficit will be a subject of negotiations.

As you collect all the data together, you begin to define the parameters of any agreement. You cannot divide what you don't have. You will begin to see that living separately costs more than living together. Therefore, there may have to be some reduction in the standard of living of both of you once the separation begins.

This leads to uncertainties and a sense of insecurity in you. That insecurity is as integral a part of these negotiations as are the emotional issues that led to the decision to divorce. Security will be sitting at the negotiating table with you, and you won't be able to leave until you settle its needs.

The data you have prepared enables you to consider some of the broad choices you need to make.

Your final agreement will probably consist of maintenance and/or child support. There are pros and cons to each of these and how payments should be divided. We will also consider the possibility of changing incomes and changes in the cost of living.

If you've been shopping lately for a new car or to replace furniture, you know just how expensive these items are. If you are just making ends meet and the washing machine breaks down for good, no amount of wishing will get you a new one.

So, think about the cars, appliances, furniture and other high-cost items you have that need replacement in the next two years and include them in the worksheet.

Your Assets

Marital assets (everything you have accumulated during the marriage except for gifts and inheritances) need to be identified, and equitable distribution of these must be part of a mediated settlement. By and large, inheritances and gifts to an individual are considered non-marital assets. This is an "equitable division" state, which means it may be equitable to divide property other than equally.

However, the decision of how you divide the assets is up to you: you know needs. We will work on the identification of marital assets and how to divide them.

Considering your children

So far we have concentrated on the economic issues. But, what about the kids? In our society people generally think about children in three ways:

- 1. As chattels- "They belong to me." "I've invested all I have in them. I see in them my hopes for the future."*
- 2. As weapons- "If he thinks he's going to see them whenever he wants, he's nuts." If I'm paying for them, I'm going to decide who visits with her and when I see the kids."*
- 3. As people are afraid about the future, divide in loyalty, having feelings and needs and need independent from either of you and dependent on both of you.*

Most of us have a combination of these feelings and sorting out which of the feelings are valid is difficult. The reality is that your children need both of you and you both need the children. You are the only parents they will ever have, and they need you to cooperate in the future as parents. I will help you keep this in mind as you negotiate an agreement that provides for a parenting role for both parents in the best interests of your children.

One family court judge has developed a Bill of Rights of Children in Divorce Actions. Among those rights are:

- The right to be treated as an interested and affected person and not as a pawn, possession or chattel of either or both parents*
- The right to grow to maturity in that home environment which will best guarantee an opportunity for the child to mature to responsible citizenship*
- The right to day-to-day love, care, discipline, and protection of the parent having custody of the child.*
- The right to know both parents and to have the benefit of such parents' love and guidance through adequate access*
- The right to a positive and constructive relationship with both parents, with neither parent, permitted to degrade or downgrade the other in the mind of the child*
- The right to have moral and ethical values developed by precept and practices and to have limits set for behavior so early in life the child may develop self-discipline and self-control*

-
- *The right to the most adequate level of economic support that can be provided by the best efforts of both parents*
 - *The right to the same opportunities for education that the children would have had if the household had not dissolved.*

Neither of you wants to put the children at a disadvantage. You both want the best for them. However, if the children are viewed as bargaining tools or are ignored during the negotiations, then there is a danger of harming them.

For these reasons, it is important to determine how children can be involved in the decision-making process. They are entitled to some input on the issues affecting their lives. The precise nature of that input should be decided in the ways you make family decisions. You would not admit a six-year-old to the bargaining table as an equal. On the other hand, a sixteen-year-old won't accept placidly a living arrangement that (s)he had no role in shaping. Part of the negotiations is about how to involve the children appropriately in those parts that have a direct bearing on them.

There are many options open to you regarding your children.

They include:

Joint residency: In this arrangement you continue to live in close proximity (usually within the same school district) with the children spending part of each week or month in each household, coming and going according to some comfortable arrangement.

Joint parenting: Here you agree to share all parenting decision-making even though the children live primarily with one of you.

Single custody: The children live with one of you who makes all the decisions with either an "open" arrangement regarding access rights of the other parent, or you make specific arrangements detailing when the other parent has access to the children.

The joint custody might prove to be outside your realm of expectations. But if you plan to live close by and you can tolerate the essentially unstructured nature of this arrangement, then you should give it serious consideration.

The important thing to remember is that you will always be parents to your children even though you decide no longer to be husband and wife. There are some well-written, easy-to-read, and helpful books that address

this issue. Ask me about them.

During the divorce process, some people feel that whatever child contact they are granting the other parent is a concession. Such an attitude ties a stone around that parent's neck. In addition to normal access, each parent should consider the other parent's obligation to care for the children. For example, if a brother is sick in another city and you want to visit him, the children's need to stay at home for school may interfere. If you have a tight, carefully specified arrangement, you won't be able to ask the other parent to care for the children for a few days while you visit your brother.

You are both the parents, and while you may no longer be able to share the day-to-day responsibility of care for the children, you can share the week-to-week responsibility.

Such an open arrangement also means that the children do not become a total burden on the freedom of one parent. This arrangement extends the parenting partnership theory of marriage into the post-marriage relationship.

The following points should be considered in determining parenting arrangements: the age and sex of a child, together with the interaction and interrelationship with both parents and siblings; the child's adjustment to home, school, and community; the mental and physical health of all involved. So, in planning the future, think about these points. Your children have rights, and you have rights to frequent contact with them or relief from day-to-day burdens of child-rearing. They have needs. You have aspirations for them.

How you work out the parenting issues will have a significant impact on the emotional life of your children and their future relationship with you as they mature.

THE NEGOTIATIONS

Preparation

Preparation is the key to successful negotiations. That is why we spend so much time preparing an adequate database from which to start. As we get ready to negotiate here are some good ground rules to follow:

Know Your Case and Your Rights

You should be fully aware of your rights and, if necessary, consult with a lawyer to ensure that you are. This does not mean that a lawyer should negotiate for you. You should define what it is you need in the settlement. Once you have a broad idea of what you need, begin to think through why you need it. Separate out each piece and develop in your own mind your reasons for it.

Review the Other's Position

Having prepared your case, try to review the other's case. What is his/her response likely to be your proposals? What argument is (s)he likely to advance in opposition to your proposal? What is she or he likely to advance to support these claims?

Identify the Constraints

As you are thinking these points through you will also begin to identify those external constraints that must be recognized and factored in. For example, you cannot divide more than is totally available.

You can't ask for \$15,000 and expect your partner to live on \$10,000 if the total income is only \$20,000. Or, if there is only one auto, and one income producer and the only way to get to work is by auto, then this places a constraint on who gets the auto.

If you think these points through in preparation, you won't be surprised in the actual negotiations.

List Your Points

List the points you want to raise in each session; define your goals into an order of priority to help you decide what to emphasize in the session.

As you prepare for the negotiations, the task will often seem formidable. You will worry about not doing it correctly and many aspects of it will rekindle anger as it touches on some of the reasons for the divorce.

The Role of the Mediator

My role at this point is to help each of you develop your case. I do this by focusing on what is in your best interests without regard to the other party since the give and take must come from each of you in negotiations.

Guidelines for Useful Behavior

There are some useful guidelines for behavior at the meetings. I will start the discussion from areas of common agreement, rather than from an obviously controversial area. Once you have secured a beginning

base of agreement on which to build, you will find that subsequent favorable accommodations are more easily reached on disputed issues.

As you reach agreements, I make a note of them, and we remove those issues from the table. That does not mean we can't reopen those issues later, and obviously, nothing is finalized until the actual settlement is signed.

During the talks, my focus is on reaching a settlement you can both live with. Therefore, I will always be looking for the yes and trying to avoid reaching a premature no. However, each of you has the right to say no to demands that are totally unacceptable to you.

In mediation, I help you to make a good effort to see the other's point of view without losing sight of your own position. At the same time, you should be well prepared enough to explain the reasonableness or acceptability of your proposals. To help you do this, I will ask you to state your proposals and then explain why they are beneficial to the other party as well as yourself.

It is often difficult to decide, and the more important the decision, the more difficult it is to reach. One way of easing the burden of making a heavy decision is to offer a "forced choice" of two alternatives. Think about situations where you can suggest two alternatives of approximately equal value.

Be careful not to offer a choice between something and nothing. Always remember the goal you have set can be reached in many ways. Be open to alternative plans or routes to your goal. Try also to determine which goals can be "traded" for the goal of your partner. Negotiating is the art of compromising – that means giving and taking.

When tensions are high, as they must inevitably be in this situation, it is important to work at minimizing them. Thus, if you win a point in the debate or if the other concedes an item, be gracious. Credit the other with sincerity. It will make it easier for both of you to make other compromises.

Try to maintain your own sense of dignity. Don't plead your case. You have invested as much in this marriage as your partner has. Explain your position, discuss the issues, try to persuade, but don't plead you have rights too.

The real art of negotiating is listening. You know your spouse very well. Listen closely for clues as to when and how concessions are likely. Don't talk more than necessary. Many times an agreement has been lost because one person kept on talking past the point when the other was willing to agree. Remember that you can't give anything away when you are listening.

If you are not ready to commit yourself at any point, don't get pressured. Say you need time to think it over. I will be watching this point and will help you to avoid reaching a premature decision.

Always try your best to keep the discussion problem-oriented. Don't let it become personality centered. If it does, I will try to reorient the discussion to the issues. If that cannot be done, we will terminate the session,

since a personality-centered discussion is detrimental to problem-solving.

If a session becomes too difficult, feel free to ask that we end early. Your mediator will do that and you will only be charged for the time actually used.

Negotiating is a systematic search for solutions that will lead to a settlement you can both be comfortable with. It requires patience and some measure of goodwill. Even at its most successful, it cannot solve the problems that led to your decision to separate. However, it can help you implement this decision with less pain and with a sense of dignity and control over the process. Hopefully, it will also help you place the past behind you and help you focus on the future – a future you have helped determine, rather than one defined by a settlement imposed from the outside.

How to implement your settlement

When you have arrived at a settlement, I will prepare your memorandum of understanding. Each of you then takes that memorandum of understanding to your respective lawyers, who incorporate your agreements into a legal separation agreement. Sometimes a lawyer will suggest minor modifications to your agreement that you feel change the intent rather than clarify an ambiguity. If this happens, you should check with each other and the mediator. This is important because the agreements reached in mediation represent a total package, carefully balancing your mutual and self-interests.

If your lawyer suggests substantial changes, you should consider the changes in the context of a continued mediation. That is, you know what you've given and what you got in the negotiations in mediation. Weigh the overall outcome and, if you feel the changes are warranted, return to mediation to complete the negotiations.

The more complicated your financial situation, the more likely your lawyers will contribute to the final structure of the memorandum of understanding. You should not attempt to convert the memorandum of understanding into a legal agreement without the advice of a lawyer since it is not intended to be a legal document.

Fees

We ask that you share the cost of mediation sessions in a manner that is appropriate for both of you. The sessions are two hours each. Generally speaking, investment for online divorce mediation ranges from \$1950.00 an uncontested divorce with children and/or property, \$950.00 for an uncontested divorce without children or property. Single issues mediation sessions are at \$375. We offer no-interest deferred payment plans.

**When scheduling an appointment please be sure to keep your appointment as you are charged for the*

reserved time.

Payment Plans

Some of our clients may be eligible for our interest-free deferred payment plans. Clients will need to speak with an account manager for more information.

Billing Policy

Professional services will be billed in five (5) minute increments rounded to the nearest five (5) minutes. Billable hours include telephone time and time necessary to read, consider, and respond to emails, and put memorandums to file. There is no charge for time spent answering questions about the process of work to be performed, even if that time in the office, on the telephone, or in emails.

To become a client, you will need to schedule an appointment at the "[Client Portal](#)" and complete a client intake form. Your investment for a consultation ranges from \$150.00-\$300 depending on your specific needs. We also offer value-based [pricing plans](#).

We communicate with our clients primarily via email and phone. Therefore, clients must have a valid email address and check their email for updates from us regularly.

Consultations are available by phone and online chat. Clients must have an [appointment](#) to be serviced. We have appointment scheduling available online 24/7.

Clients have access to support services from 9 am-6 pm seven days a week via live online text/voice/video chat.

Links

Website: www.thekarmuhfirm.com

Client Portal: <https://Vcita.KarimaMuhammad.com>

Email: Info@thekarmuhfirm.com

Appointments

Clients are seen by appointment only. Consultation can be conducted online via voice and video chat.

Other Services Offered

Child Visitation Mediation

Workplace Conflict Resolution

Conflict Management

Pre-Litigation Mediation

Independent Affiliate: 0221
Karima Muhammad

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NOTES

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface. There is no handwriting or other markings on the paper.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.