

FAMILY LAW MEDIATION



"Conflict is inevitable, but combat is optional."

— Max Lucade



WHAT IS FAMILY LAW MEDIATION

Family mediation is a way of helping people resolve issues relating to parenting, separation, and/or divorce.

A trained family mediator helps people identify issues and work out their own solutions.

You can try mediation before you start a court case or at any time during your court case.



What is the family mediator's role?

- The mediator's role is to assist the parties to reach a fair and lasting settlement.
- The mediator does not take sides or make decisions for the parties.
- Mediators cannot give legal advice.

“Win/win is an attitude, not an outcome.”
— Don Boyd

Do we still need lawyers?

The mediator does not take the place of a lawyer. Each party is encouraged to get independent legal advice before and throughout the mediation process.

It is very important for you to know about your legal rights and obligations and how the law affects your issues.

Each party should review the final mediated agreement with his or her lawyer before signing.

You can start or continue with a court case if you do not reach agreement during mediation.



Is family mediation appropriate for us?

- Be willing to try to work out a solution with the other party.
- Feel safe to meet with the other party to discuss the issues.
- Be able to communicate your needs and listen to the other party's concerns

“Are you really listening . . .
or are you just waiting for
your turn to talk?”

— R. Montgomery

What types of issues can we mediate?

- Divorce and Separation.
- Parenting issues (including custody and access - parental rights).
- Child Maintenance.
- Spousal/Partner maintenance.
- Division of property and assets.
- Other important issues.



How do we choose a family mediator?

Everyone involved in the mediation must agree on who the mediator will be.

It is important that you ask questions to ensure that the mediator is right for your situation.

You should be aware that mediators are not regulated but accredited by Organisations such as SAAM and FAMAC.

“When anger comes, wisdom goes.”

– Hindi Proverb

Things to consider include:

- Type and amount of family mediation training relating to your issues.
- Professional background (for example: law, social work, education, psychology).
- How mediation fees are set and how they can be paid.
- Times and dates that mediation sessions can be scheduled.



The difference between Mediation and Litigation

Mediation

- Cooperative, Amicable.
- You are in Control of process.
- Private & Confidential.
- You Control Length of Time.
- Expense: You Control.
- Fair, Objective, Compassionate.
- Give and Take.
- See Both Sides.
- Compassionate, Empathetic.
- You are Educated & Guided.
- Concern for Children's Best Interests.
- Less Stress.
- Work Together.
- Comfortable Environment.
- Addresses Future Issues, Relationship
- Sensible & Responsible Negotiation.
- Ongoing Working Relationship with Spouse and Children.

Litigation

- Adversarial, Confrontational.
- Attorneys/Judge Control process.
- Public (cold, intimidating courtroom).
- Attorneys Control Length of Time.
- Expense: Attorneys Control.
- Biased, Partisan, One-Sided.
- Fight to the finish.
- Combative, Confrontational.
- Attorney Dictates.
- Children may be used as Pawns.
- Stressful.
- Work Against Each Other.
- Unfamiliar, Intimidating Courtroom.
- Get the Most You Can Now.
- All-or-Nothing Mentality.
- Often Results in Hurt Feelings and Irreparably Damaged Relationships with Spouse and Children.



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BERTUS PRELLER

Bertus Preller studied at the universities of the Free State and Johannesburg. Bertus is also an experienced mediator and arbitrator. He is the author of *Everyone's Guide To Divorce and Separation*, published by Random House (2013) and he writes regularly on news24.com. He is also the founder of Divorcelaws, South Africa's premier website on Family Law.

He is also a member of reunite International Child Abduction Centre, recognised as the leading UK charity specialising in international parental child abduction and the movement of children across international borders and IACP the International Academy of Collaborative Professionals, an international community of legal, mental health and financial professionals working in concert to create client-centered processes for resolving conflict.

Bertus has earned a deserved reputation as a leader in the family law legal industry in South Africa and was named in 2015 by ACQ5 as Family Law Attorney of the year in South Africa. He has been quoted on Family Law issues in various newspapers such as the Sunday Times and Business Times and magazines such as Noseweek, Keur, Sarie, Living and Loving, Longevity, You and Huisgenoot, and also appears frequently on the SABC television show Espresso and 3 Talk. He also appeared on the Morning Live Show of SABC2, on RSG, SAFM, Cape Talk and the 5FM Breakfast Show with Gareth Cliff. His clients include artists, celebrities, sports people and high net worth individuals. He is also qualified to appear in the High Court, the same as an Advocate. His areas of expertise are:

- Divorce Law and Family Law
- Divorce Mediation
- Parenting Plans, Custody (care and contact) of children)
- Parental Responsibilities and Rights
- Same Sex Marriages
- Unmarried Fathers Rights
- Family Violence Interdicts
- International Child Abduction and Hague Convention Cases
- International Divorce Law
- Collaborative Family Law
- Maintenance and Rule 43 Applications
- Cohabitation Law and Universal Partnerships



CATHERINE COX

Catherine studied at the University of South Africa and obtained an LLB Law Degree and a Diploma of Paralegal studies at the The South African School of Paralegal Studies College. Her legal career started when she was appointed as a Litigation Secretary at Van Der Spuy and Partners a law firm in Cape Town.

She later became a Candidate Attorney at Van Der Spuy and was admitted as an Attorney in the High Court in 2015. Catherine joined Bertus Preller & Associates Inc., 2015 as a Senior Associate and specialises in wide range of Family Law issues. Her speciality fields are:

- Contested / Opposed Divorces
- Uncontested / Unopposed Divorces
- International Divorces Cases
- Divorce Mediation and Collaborative Divorce
- General Family Law Matters
- Parental Responsibilities and Rights
- Custody (care and contact) of Children
- Same Sex Marriages - Gay and Lesbian
- Unmarried Fathers Rights and Access to Children
- Domestic Violence Matters and Protection Orders
- International Child Abduction (Hague Convention Applications)
- Care and Contact disputes concerning Children
- Child and Spousal Maintenance Law
- Antenuptial Contracts and Pre-nuptial Agreements
- Surrogacy Applications and Adoption Law
- Cohabitation Agreements
- Universal Partnerships
- Rule 43 Applications and Urgent Monetary Relief Applications