

Psychology and Family Law

By Mark Baer, Esq.



In my last article, I discussed the use of mediation in resolving family law matters. At this time, I would like to begin a two part article on selecting the right mediator. Once the parties agree to or are otherwise ordered to participate in mediation, the process begins with the selection of a mediator. This aspect of the selection process addresses the cost of the mediator and various options available.

The most economical selection process would begin with a review of the list of mediators on the Court Panel with the Alternative Dispute Resolution Department of the Los Angeles Superior Court. That list includes a Pay Panel and a Pro Bono Panel. I would like to point out that the Court Panel relating to Family Law excludes child custody matters.

A mediator must have achieved a specified level of experience *in court-connected cases* to be on the Party Pay Panel. In other words, the required experience excludes mediation work that resolved an entire case outside of court. In any event, a mediator selected from that Panel cannot charge more than \$150.00 per hour for the first three hours *of hearing time*. The term "hearing time" is not defined and is therefore subject to interpretation. I narrowly define that term to mean the actual time that the mediator is mediating. Any additional work conducted by the mediator is based upon the rates established by the particular mediator. This additional work might include the mediator's travel time to and from the mediation, time spent reviewing any mediation briefs submitted by the parties, and time spent hearing the matter at the conclusion of the first three hours of hearing time.

Mediators on the Pro Bono Panel consist of those individuals who either lack the experience required for inclusion on the Party Pay Panel or who otherwise avail themselves on a pro bono basis as a way of supporting the judicial system. As with the mediators on the Party Pay Panel, the mediators on the Pro Bono Panel may charge the parties for work time spent outside of the first three hours *of hearing time*. If the parties use a mediator from the Pro Bono Panel, the mediator who meets the case criteria will be assigned on a random basis. While the mediators on the Pro Bono Panel may be free, I am uncomfortable with the fact that I am not involved in the selection of the particular mediator.

Obviously, parties may hire a private mediator. Please note that a person acting as a mediator is not required to obtain any type of license or certification. In fact, there is no such thing as a certified mediator, although some individuals hold themselves out to be certified mediators. As a result, there is no minimum training needed to become a mediator. Therefore, parties should familiarize themselves with a mediator's training and experience during the selection process. The market rate for a private mediator ranges from \$300.00 to \$1,000.00 per hour.

The next factor to consider in selecting a mediator is the particular style of mediation practiced by any given mediator and whether that style is appropriate for the needs of the particular case. I will be covering that aspect of the selection process in my next article.

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