

ATTACHMENT A

Introduction to Family Law Settlement Conference

What is a Family Law Settlement Conference?

A settlement conference is an opportunity for the parties in a case to discuss issues and make their own decisions as to how to resolve these issues, while meeting with a judge who will not preside over the trial in their case if a trial is still required. The judge will allow the parties to present their side of any contested issues. The judge will advise the parties of the law and considerations a court must consider in rendering a decision on this issues at a trial. The judge will offer suggestions to the parties to consider in reaching an agreement on contested issues. The discussion during a settlement conference may not be used as evidence during the course of a trial. Parties may ask questions to help them understand the issues and process more clearly. Sometimes the settlement conference is the first opportunity to talk directly with each other, talk issues through and to be heard on the issues. Many times new information is shared during a settlement conference. There is no settlement unless all parties agree.

Many parties have doubts about settlement, yet a majority of the parties who participate in the settlement conference process reach an agreement. When people reach an agreement, they save money, time and they have input on the final resolution of the issues. Even when individuals do not reach an agreement during a settlement conference, they often find they have a clearer idea of the disputed issues or reach settlement shortly after the settlement conference.

What are the advantages of a settlement conference?

- Decision-making remains with the parties. When the parties have input and direction on the ultimate agreement, they are more likely to cooperate with its terms.
- It is less formal than a trial, potentially quicker resolution of the issues, and less costly than taking your case to court.
- In cases involving children, the parties work together to solve disputes regarding their children as opposed to having a judge decide. Children's emotional well-being is greatly improved when parties cooperate and maintain a relationship with their children.

What does the judge do during a settlement conference?

The judge provides a setting for parties to discuss issues freely and facilitates discussion towards resolving these issues to be incorporated in a settlement agreement to be approved by the Court, thereby avoiding a costly trial. A judge cannot force anyone to settle. It is for the parties to decide for themselves and relying on the advice of their attorneys.

What issues may be addressed in a settlement conference?

Any issue which may be disputed between parties and subject to being decided by a judge can be discussed during a settlement conference. Settlement negotiations are generally not available as evidence during the course of a trial.

How long does a settlement conference last?

In most cases, a settlement conference will last approximately two hours. The parties and/or their attorneys meet to discuss issues before meeting with the judge assigned to the settlement conference. However, a session may continue so long as the parties agree, progress is made and the availability of the judge.

What role do attorneys play in the settlement conference?

Your attorney can prepare you for the settlement conference, answer questions and continue to represent your interests during the settlement conference.

What are the chances of a settlement conference being successful?

A settlement conference is successful when the parties cooperate to reach an agreement on their own terms. Parenting plans work best when both parents participate and agree to the co-parenting arrangement. In addition, settlement conferences additionally settle many property division issues and identify options that may be available to resolve property disputes.

What if we can't agree on everything (or anything) during a settlement conference?

If a settlement conference does not result in an agreement to resolve all issues in a pending case, the matter will then proceed to trial and a judge will make the final decision in their order resolving the disputed issues.

What if we settle all issues during the settlement conference?

If the parties settle all issues at the time of their settlement conference, the parties may have the agreement documented by having all of the terms of the settlement recorded by the Court's court reporter. This will be the final agreement of the parties once approved by the Court. After approved by the Court, the parties will present the written stipulation to the Court for approval and there a trial is not necessary.

How should I prepare for a settlement conference?

If you are afraid to be with the opposing party, if there is a protective order in place or won't be able to speak up or disagree with him/her during the settlement conference, tell your attorney and the Court. If this is the situation, it can be addressed to allow a settlement conference to occur.

Complete a document outlining the stipulated and disputed issues. Prepare updated financial affidavits and child support calculations. From this information, make a list of all the issues you would like to discuss or decided during the settlement conference. This list can help you clarify what's important to you and why. During the settlement conference, it is helpful to start by focusing on what's important to you — not the final decision you believe you want.

If you are represented, consult with your attorney about your list and ask your attorney what additional issues you need to discuss and add those to your list. (Your attorney can tell you if there are additional issues you need to consider based on what the law says needs to be decided in cases like yours.)

Then, for each issue on your list, consider or discuss with your attorney:

- Are there any legal, financial, tax or other long-term ramifications of this issue? For example, the parenting schedule affects how the child support is calculated. Legally, some issues are related to others, and you need to know about them.
- What is the range of what the court might decide and why? If you can't decide on the issues, the court will. It is useful to know the range of what might happen if you two can't make the decisions.
- If we need to go to court, how soon will we be able to go to court and about how much will it cost? This helps you understand your options.
- What are the range of possible solutions? Then, add these to your own list.
- Make a record of your monthly budget (your income and expenses.) Gather information on your assets, debts, personal property, etc. Bring this to mediation.

Be sure you understand and have copies of any other information you may want to discuss during the settlement conference. You can bring your notes and any work sheets, correspondence, or any documents you believe to be useful.

You already understand the personal aspects of your situation. It can be very helpful to understand the legal aspects of your case as well. To use your time and money effectively during a settlement conference, if you are represented it's best to talk with your attorney before and during the settlement conference, so you are fully informed as you talk and make decisions during the settlement conference. Your attorney is an important resource.

What are possible issues we can discuss during a settlement conference?

A. Parenting Issues

1. Time Sharing

- a. Day-to-day schedule (school year and summer)
- b. Vacations
- c. Holidays
- d. Birthdays
- e. Transportation between parents
- f. Time with extended family members
- g. Making changes in the time sharing schedule
- h. How specific does a schedule need to be

2. Parental Decision Making

a. Health

1. Who provides insurance coverage
2. Payment of non-covered medical expenses
3. Notification of major medical emergencies
4. Decision making during emergencies

b. Education

1. Extra-curricular activities
2. Parent/teacher conferences
3. School related expenses
4. Paying for college

c. Religion

B. Child Support

1. Child Support Guidelines: who pays and how much
2. How long will child support last
3. Specific plan for child support payment
4. When to review and modify child support

C. Communication Between Parents

1. Decision-making process between parents
2. What to do when parents disagree
3. Updating the parenting agreement

D. Financial Issues

1. Real estate: family home and other real property
 - a. To sell or not to sell
 - b. How to value
 - c. When to sell
 - d. Sharing selling expenses
 - e. Division of equity
 - f. Tax implications
2. Division of Other Assets
 - a. Furniture, household, and personal property
 - b. Motor vehicles
 - c. Checking and savings accounts
 - d. Stocks and bonds

- e. Retirement accounts
 - f. Profit sharing plans
 - g. Life insurance
 - h. Business and other miscellaneous property
 - 3. Division of Liabilities and Debts
 - a. Credit cards
 - b. Personal loans
 - 4. Spousal support (alimony)
 - a. Permanent or temporary
 - b. Method of payment
 - c. Tax implications
 - 5. Taxes
 - 6. Current year filing and refunds
 - 7. Who will take deductions
 - a. Dependent
 - b. Child care
 - 8. Overall tax implications of your agreement
- E. Any other issues you wish to resolve