



Mediation: The Hottest New Speciality in Trusts & Estates

By: Irina Shea, Esq.



Our clients have traditionally come to us needing many services: designing new estate plans, carrying out estate administrations, setting up business and charitable structures and so on. As estate planners we thrive on helping families achieve their family and financial goals with our careful advice and expert writings. It is enormously satisfying to guide a family through a process where they finally organize their affairs, implement tax savings and protections for their dependents and achieve peace of mind about the future. As attorneys we are well compensated for our guidance both financially and spiritually.

In order to continue to serve our clients well, we must evolve and adapt to current trends and one of the biggest wealth transfer trends will be managing family conflict.

You may already have clients calling you about problems with their trustees, with their executors or with other beneficiaries.

What will you tell them when they call?

“Well, your husband left you everything in a marital trust so there is really nothing you can do about it other than appeal to the trustee for greater distributions and hope for the best. If that doesn’t work, we can sue the trustee for removal but we’d have to show cause and the entire cost of the lawsuit would come from the trust assets.”

“Well, your mother was technically allowed to leave her entire estate to your brother and not you so unless you think you can show undue influence, there is not much we can do here. We can challenge the will in probate court but that will be very costly in terms of money, time, and your relationship with your brother.”

Or will you tell them,

“Yes, we can do something called mediation, which is a voluntary, private process between you and the other person in the conflict. As a mediation attorney, I would not represent either of you but

rather facilitate a discussion about solutions that would benefit both of you. The mediation process would be confidential, fast and friendly. Is that something you’d be interested in?”

How can mediation benefit your law practice and your clients at the same time?

1. Mediation will be a huge growth area as baby boomers inherit and then fight over it.
2. Mediation is the preferred dispute resolution method by women, who will control much financial wealth in the coming decades.
3. Mediation is already main stream in family law. Many clients have experienced or know someone who experienced a mediated divorce that fared better than a litigated one.
4. Mediation will provide you with a new and powerful stream of income to complement your existing work. Mediation is a high value-added service. It commands premium pricing and cannot be easily outsourced or automated like drafting.
5. Mediation can be sub-specialized into your particular area of expertise such as family business succession, estates, bank trusts, foundations, etc. for even higher premiums.
6. Mediation is a learned skill that can be offered by you or by trained associates.
7. Mediation is a way for you to keep new business within your firm or practice group, rather than referring out the business to litigators and losing valuable revenue.
8. Mediation is the “green” alternative to litigation. Our clients are already living more consciously with respect to the environment. They will be looking for simpler, safer ways to deal with legal problems as well.
9. Mediation is a way to authentically align with our profession’s mission of guiding families to financial and family peace of mind.

If you would like to learn more about adding mediation to your practice, please go to www.irinasha.com for a free report entitled: “Mediating Family Conflict: A 10 Step Guide for Attorneys.”

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