

professional malpractice claims (other than medical malpractice), toxic tort and construction litigation claims.

Litigation of a matter is an exhaustive, expensive and life-consuming endeavor. Mediation is an excellent alternative to the rigors and expense of litigation. It allows the parties to work together to find acceptable solutions that courts sometimes otherwise cannot provide or may be only able to provide after years of work.

The New Jersey Supreme Court on Complementary Dispute Resolution developed the mediation program for use in Civil, General Equity and Probate cases. Charles Z. Schalk, Esq. of Mauro, Savo, Camerino & Grant is an experienced mediator who appears on the State of New Jersey roster of qualified and court-approved mediators.

-Charles Z. Schalk, Esq.

Mr. Schalk is a partner who mediates cases among many other areas of his practice.

Our Firm Provides Both Business Services and Individual Services:

In our Business Services Section, we handle the following types of matters:

- Banking and Financial Services*
- Business and Corporate Collections*
- Community Associations*
- Commercial Real Estate*
- Construction Litigation*
- Employment Law*
- Environmental Law*
- Insurance Defense*
- Land Use, Zoning and Environmental Law*
- Litigation*
- Mediation*
- Municipal and Government Law*
- Products Liability*
- Shareholder and Partner Disputes*
- Workers Compensation*

In our Individual Services Section, we handle the following types of matters:

- Accident and Personal Injury*
- Civil Rights*
- Construction Litigation*
- Criminal Defense*
- Divorce, Child Custody and Child Support*
- Employment Law*
- Immigration Law*
- Litigation*
- Medical Malpractice*
- Mediation*
- Minority Shareholder Actions*
- Municipal Court - Drunk Driving, Traffic and Drug Violations*
- Residential Real Estate*
- Social Security Disability Appeals*
- Sports and Entertainment Law*
- Wills, Trusts and Estates*
- Workers Compensation*

LEGALLY SPEAKING

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Beware of Lending Scams

An article in the New York Times recently reported on new schemes that prey on desperate homeowners. Financial predators are finding yet another way to take advantage of people who fall behind on their payments.

The schemes take various forms and often involve promises to distressed homeowners of cash up front, free monthly rent and a chance to retain their houses in the long run. But in the process, someone else takes the deed, borrows as much as possible against the value of the house and pockets the cash. And, almost always, the homeowners still end up losing their homes.

The situations that create financial problems include: excessive purchases through catalogs and television home buying, charitable contributions through mail solicitation, offers for high interest or profit returns for investments, chain letters, unnecessary insurance policies, illness, loss of employment, and death of a family member.

Loans that can create problems include: loans for home improvements arranged through the contractor, adjustable rate or high interest rate loans, loans closed without the assistance or advice of an attorney, unsolicited loans, reverse mortgages, loans for stock investments or quick get rich schemes.

These lenders prey on people when they are most vulnerable, especially senior citizens and other people who are at risk. The feelings are compounded because of embarrassment, humiliation, and feelings of fear, helplessness and hopelessness. There is a failure to seek legal, professional or family help and assistance.

You should be especially vigilant for your family members who may be in these situations. We are representing homeowners who are victims of these lending scams, and are available to provide our clients and their friends or family members with advice and counseling. SEEK LEGAL HELP EARLY. DON'T WAIT OR DELAY.

Contact us if you believe that you, your family members or friends are the victims of predatory lending or other lending schemes. There may be legal defenses, rights and remedies to foreclosure actions and lawsuits filed by the lenders.

-Michael V. Camerino, Esq.

Mr. Camerino is a partner with Mauro, Savo, Camerino & Grant who represents victims of predatory lending, among many other areas of his practice.

Changes to Divorce Statute Makes a Difficult Process a Little Easier

A husband cannot desert his wife because she is extravagant or lazy or swears or is sickly, fretful or possesses a violent temper, or fails to cook meals. Julian v. Julian, 127 N.J. Eq. 77 (1940).

It is difficult to imagine a time when the requirements were so onerous and divorce so stingily granted, that the above litany of faults would not entitle the poor husband to divorce his wife. Lest you think that such a state of the law provided fine protection for women, no matter their shortcomings, the wife who wanted to divorce her husband had no less heavy a burden to establish the necessary quantum of fault. In Germain v. Germain, a 1952 court found that “proof of habitual drug use...gambling and extravagant spending” did not entitle a wife to a divorce. Drunkenness, vile language and constant quarreling were similarly insufficient. Lehmann v. Lehmann, 7 NJ Super. 232 (1950).

Since that time, it has become much easier to obtain a divorce. Parties have frequently proceeded on one of two grounds, extreme cruelty or 18 months separation. Extreme cruelty seldom had to be particularly extreme or cruel to establish a cause of action and parties who had been living apart for at least 18 months could obtain a divorce simply by alleging that there was no prospect of reconciliation. Although unquestionably easier to plead and prove than in days of yore (i.e. the 1940s and 50s), the law remained inadequate. Many people continue to reside together while contemplating divorce, usually for family or financial reasons. Parties who had succeeded in maintaining a common residence despite their differences had no choice but to plead a fault ground such as extreme cruelty, if they wanted to

proceed in a timely fashion. More than one fragile peace was shattered as a result. Husbands and wives who were residing apart for nine months, or even a year, were unable to proceed unless they pleaded fault or waited until the full eighteen months had elapsed.

Fortunately, New Jersey has caught up with many other states, who have long had a true no-fault divorce statute. On January 20, 2007, this new law went into effect. The statute provides that a divorce may be granted where there are “irreconcilable differences which have caused the breakdown of the marriage for a period of six months and which makes it appear that the marriage should be dissolved and that there is no reasonable prospect of reconciliation.” The statute does not require the separate residence of the parties.

So, why is this a good thing?

The new law benefits families facing divorce in several important ways. Many divorcing couples are forced by their financial circumstances to remain in the same home until they are divorced and the property, including real estate, is divided. Others remain in the residence so that their children can continue to have close contact with both parents, or attend the same school. It is a situation fraught with tension.

The receipt of a complaint detailing the marital offenses often makes it impossible for the parties to continue residing together, even if to do so temporarily would substantially benefit them and their children. Even if the parties have separated for a short time, the receipt of an insult laden complaint often destroys the tenuous cooperation between them. Unfortunately, the need to plead fault drives a wedge between parties just when cooler heads should prevail. It is when cooler heads prevail that issues, including division of assets, custody of children and support, are settled. In matrimonial law, settlements between the parties are strongly

Mediation - A Great Alternative to Litigation

Mediation is a dispute resolution process in which an impartial third party, the mediator, facilitates negotiations among the parties to help them reach a mutually acceptable settlement. The parties and their attorneys, with the assistance of the mediator, work toward a solution with which they are comfortable. The purpose of the mediation is not to decide who is right or wrong, but rather the goal is to give the parties the opportunity to express feelings, clear up misunderstandings, determine interests or concerns, find areas of agreement, and ultimately incorporate these areas into solutions.

A mediator proceeds with the understanding that mediation is based on the fundamental principle of self-determination by the parties. The primary role of the mediator is to facilitate a voluntary resolution of the dispute, allowing the parties to consider all options for settlement.

A mediator shall always conduct mediation sessions in an impartial manner. The concept of mediator impartiality is central to the mediation process.

To protect the integrity of the mediation, a mediator shall not disclose any information obtained during the mediation unless the parties expressly consent to such disclosure. A mediator does not communicate any information to the court about the mediation.

Many types of litigation lend themselves well to the mediation process. Although not an exhaustive list, the following types of matters are particularly well-suited to mediation: employment and discrimination claims, civil rights claims, environmental litigation, real property disputes, contractual and commercial claims, torts,

urged. Settlements save the parties money and enable them to move forward with as much of their dignity intact as possible. More importantly, they spare children much of the anguish which would only be exacerbated by a contested divorce. No matter how bitter the circumstances, the health and well-being of children requires that divorcing parents find a way to cooperate with one another. Requiring them to engage in a round of name calling to initiate what is becoming an increasingly collaborative process is cruelly ironic.

The use of other causes of action, such as extreme cruelty, may be necessary in some cases. But, for those parties anxious to preserve some semblance of peace and cooperation during a trying time, the pleading of irreconcilable differences is a long overdue option.

-Laura J. Genecki, Esq.

Ms. Genecki is an attorney with Mauro, Savo, Camerino & Grant who concentrates her practice in family law, divorce, child support, custody, property settlements, domestic violence and visitation.

