



Episode 063
Avoiding Economic Devastation through
Divorce Mediation
with Alex Jacobson

In this episode, we discuss:

- Family law matters can be resolved amicably through mediation
 - The process of divorce does not need to be economically devastating
 - Mediation provides an opportunity to minimize your children's exposure to the divorce process
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Rhonda: Thank you so much for joining us for another episode. I am so excited to be able to introduce you today to Alex Jacobson. She is the founder of [Jacobson Mediation Group](#) out of the Greater Chicago area and she's a former divorce lawyer turned divorce mediator. What a mouthful that is. Thank you so much for joining us today.

Alex: Thank you. Thank you for having me.

Rhonda: Well, let's talk a little bit about what prompted you to move in the direction of building your practice around mediation. Give us a little backstory on what led you to where you're at today.

Alex: Certainly, so I was a divorce lawyer for the past 12 years. I practiced at one of the premier divorce firms in Chicago doing all matters related to divorce and matrimonial issues, so that included child custody, property division, child support, spousal support, premarital agreement, postnuptial agreements, all the above. And as my practice grew, it became increasingly apparent that even in the highest complex situation, matters can be resolved outside of the courtroom. And I just found that after practicing at that level, that once you are in the courtroom, you really can't unring that bell. **Once people start slinging the mud, it's difficult to go back to co-parenting or to reach an agreement that is reasonable for both parties. And once the judgment is imposed upon you by a judge, it may or may not meet the needs of your family.** It may or may not be narrowly tailored to the needs of your family. And so, I just simply found that alternative dispute resolution was just a better way to resolve these types of cases.

Rhonda: Yeah, yeah, absolutely. So, talk to us a little bit about, I mean obviously there's a lot of different ways that mediation can be used throughout the divorce process. Are you, tell us a little bit about what you're seeing as far as trends? Are people moving in the direction of mediation only? Meaning you've got that neutral third party who is facilitating the conversation between the parties? Or are you, and or are you also seeing where people have attorneys and then they're utilizing mediators to be able to close the gap on our particular issue?

Alex: So, I'm seeing both, in fact, depending on the issues that are being addressed. So in the first instance, I would, I would say that **parenting issues often can be resolved with the parties without their attorneys being present because quite simply they are the key people that know what their children need and how to craft an agreement that meets the needs of their children, their extracurriculars, the extent that their child has a special need. They are the two people and the two people primarily who know what those needs are and who can speak to those issues and in the best way.** When it comes to financial issues, **they're oftentimes one or both parties who really are not equipped to handle the financial issues on her own and really look to their attorneys to provide them with the guidance that they need.** And my role is to facilitate the discussion and help navigate that conversation.

Alex: And, and whether attorneys are involved also depends on what phase in the case mediation comes in. So for example, cases may or may not begin sort of with a bang and there are some temporary issues that need to be resolved immediately. So, who's going to pick up Tommy from soccer practice? Who's going to pay for school tuition this month? Who's going to pay the mortgage bill? These are immediate issues that the people need a band-aid for immediately while they're working on a more global resolution of all the issues in the case. So those immediate issues may be addressed with just the parties present without attorneys involved. And then once everyone has done their discovery and they're prepared to address all the issues in the divorce case, that is when the attorneys may come in and participate in the process.

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Rhonda: So I love one of the things that you said, I just want to touch on, because I see this in the women that I'm working with, which is, there are some of those immediate things that do need to be resolved or taken care of the day-to-day stuff. Like you said, who's going to pick up so-and-so from soccer practice and let's talk about who's going to pay the bills, you know, or which bills they're going to pay. So, if somebody is listening today and they're feeling frustrated because they perhaps feel like, you know, people aren't listening to them like, hey well we'll get to that later, we'll get to that later. Cause I mean the divorce process in and of itself, there are certain kind of key milestones and sometimes those things don't get talked about traditionally until later. What are some of the things that women could say, "Hey listen, this is an important concern or issue for me," so they can really get or bend the ear of their attorney and or mediator?

Alex: Well, I mean and certainly in Chicago and I believe in many other courts, all parenting issues must be mediated before a judge will provide a hearing or a trial date. And judges also it's permissive for them to send financial matters. So, I would impress upon these women to, or anybody, to seek the opportunity, typically in mediation from the outset. So, they can address the immediate issues without going through the periods of frustration, without having them be resolved. And you know, the uncertainty is really unnerving for all people and quite frankly, that spills over to the children. And so, it's best for everybody involved if you can avoid that uncertainty and sort of assign these tasks as the process is going along.

Rhonda: Yeah, absolutely. Absolutely. Well let's, let's transition into talking about a couple of key things related to mediation. And the first thing that I know that you wanted to share was around the fact that family matters can be resolved through mediation. So, talk to us a little bit about that. I know we've kind of highlighted that a little, but let's take a little bit deeper. From your experience, and now the good news is you kind of have been on both sides of the litigation side and now you've moved into more of the mediation side. You know, talk to us about how those are, how some of those things are getting resolved.

Alex: Certainly. So, I mean, there are very few cases in the family law realm that are so clearly black and white and there are many shades of gray. And it's just a matter of appealing to what's important to the two people who are crafting the agreement. And even people, we're, we're taping this on a Monday. So even people who couldn't agree that today is Monday after working through the issues in their particular case, can ultimately reach an agreement that it's Monday. It's possible and it's possible to do it in an amicable way. It's possible to do it in a way that, through the process or sitting in the same room together or alternatively they're sitting in separate rooms together and the mediator is shuttling between them and, going through all of the terms that need to be addressed in a way that is productive with, avoiding the mudslinging and it's, and it truly is possible.

Rhonda: Yeah. So, what role would you say, I mean, so the parties, right? I mean, if they're using mediation as their primary method, need to be organized and come to the table with, completing assignments or conversations or whatever that the mediator's kind of helping them to kind of work through. Who is kind of identifying the agenda? I mean, so the, for the people that are considering going through mediation, what kinds of things should they doing to make sure that they're as prepared as possible for those mediation meetings?

Alex: Certainly, that's a very good point. I mean, **the mediation can only be as productive as the party preparation for the process.** So, at the outset, I as a mediator find out what issues are being discussed, whether it's only parenting issues, whether it's financial and parenting issues. And in order to make the process most productive, the parties need to complete their financial affidavits. They need to know what their income situations are, what their, what their other spouse's income situations are, what assets exist, what are their expenses, what are their expenses now, and what are their expenses likely to be in the next few years. I mean, the goal is to anticipate as many possible contingencies as you can so you can address them in agreement, in the agreement to avoid litigation down the road. So, I set the agenda, I give the homework and timelines for the homework to be completed in order for the process to be the most productive possible.

Rhonda: Yeah, I love that. And I think, just having some clarity right, on you whose role is helpful through this process because people don't know what they don't know. Right? They don't know what they don't know and if they've never been through that course before, and/or if they're considering mediation as an option then I think those are some of the things that are helpful for them to know.

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- Alex: Certainly, and, and **knowledge is power, and knowledge is being more informed certainly allows somebody to participate in a more meaningful way in the process.** And that's critically important, especially for a spouse who, may not have been well versed in the finances of a family prior to the process beginning. And look, there is no shame in that. I mean, when you're living together and you're married, there's a division of labor in the home and the fact that one parent may not have been responsible for paying the bills or knowing what their savings, where their savings was even located, let alone how much existed. That's, that's a normal arrangement in a, in a family. And that by virtue of a divorce, you know, changes. Everybody needs to be informed.
- Rhonda: Yeah, absolutely. Well, and I have said on many of the previous podcast recordings **the formula for having financial confidence is the knowledge plus the experience** because you can't have one without the other. Right? And so, if they maybe have the knowledge but don't have the experience, that may impact their confidence. But as they go through this process and ask questions and they take an interest, hey, you know what? You can gain the knowledge; you can gain the experience. Ultimately at the end you're going to come out having more confidence as you step into that role because not only will you be forced to do it, I guess is the bottom line. I mean, whether you want to or not, you're going to have to step up and, and take ownership of the finances. And so, we can use that divorce process as a great way for women to navigate through that and kind of gear up for having to take some of those things over on their own.
- Alex: Right. Absolutely. And I would also point out that for the most part, **mediation is a voluntary process.** So, whereas in litigation, you might be in a circumstance where you feel like one party may feel like they're being shielded from obtaining the necessary information to be informed. And in mediation, the documents are being produced voluntarily. The financial information is being exchanged voluntarily so that everybody is armed and prepared to participate in the process. And you avoid that. Ideally, you're avoiding the feeling of being in the dark.
- Rhonda: Yeah, yeah, absolutely. So, let's move on to talk about, I always say divorce isn't free. So, the question becomes **how people want to spend dollars to go through the process.** And one of the things that you had mentioned was that **divorce does not have to be just economically devastating for people.** And so, talk to us a little bit about that.
- Alex: Certainly. So, I mean, when you're in the courtroom a whole host of things happen. At a minimum, each party is more likely than not represented by counsel. There are court appearances that are meaningful and court appearances that are less meaningful, but nevertheless you're incurring fees for all of them. Court appearances can be delayed, they can be canceled, they can, and every single time your attorneys need to prepare and get up to speed in order to, to be productive in, in the courtroom. In the context of mediation, you are streamlining that process. You may or may not have your attorneys present. Everybody is prepared to proceed on a set day. And ideally because the process is being streamlined, you are avoiding significant fees that would, that are associated with the litigation process.
- Rhonda: Yeah, absolutely. Well and I know that, you know, depending on what part of the country people are in, the range in which the divorce process on average, the cost on average, the duration on average. Again, we've got some national statistics around that, but each state or region or area may have may differentiate a little bit amongst you know, those areas. But on average, you know, the average cost for divorce is \$15,000 and the average duration is a year. So that much we know.
- Alex: Which is absolutely wild. I mean, I could have a case referred to me, this week have their task list set out for the next two weeks, have mediation session the following week. And when it's all said and done, if we've reached anywhere, but you know, north of \$3,500 to \$4,000 just for the mediator, I would be shocked. You can wrap it up within. And that doesn't include attorney's fees to the extent that attorneys are being involved. But I mean, you can see that the process can be so slimmed down in a, in a major, major way.
- Rhonda: Yeah, yeah, absolutely.

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Alex: And by the way, you know, there's also a range of mediators' fees. You know, certainly in Chicago there are former judges that are doing this that can command, you know, a significantly higher rate and they're tending to cases where perhaps their hourly rate doesn't necessarily factor into the analysis. Mediation isn't just, isn't just for wealthy people. And there are plenty of other professionals. I, for example, practiced for 12 years, I have significant experience, but I'm not commanding the hourly rate that a former judge does.

Rhonda: Yeah, absolutely. Well, and I think too, it's for people to look at the different options and ask themselves a couple of questions. So, like as I'm working with clients and coaching them through, ultimately, it's up to them and in working with the attorney or mediator to figure out what process is best. But I can take them through a simple exercise that says, okay, here's pro se, here's mediation, here's litigation, here's collaborative. Let's just talk about the definition of each of those and then what are the pros and cons? What do you see as the pro or con of each of these areas? And what ends up happening is they come out of there and like, okay, I have a little more clarity on what really seems to resonate with me knowing my husband and how he might respond, what seems like the best option.

Rhonda: And then they can start kind of exploring that because they have a lot of choices on what they feel like might be best. Now they're also, I think there's value in getting input from the professionals as well. But to be able to take some time and just think through all those options I think is good. And for some people, you know, it isn't as much about the finances. Sometimes it is. I mean it just; each situation is so different. But I think being able to look at, look at the options, I believe that women always make good decisions when they have all the information.

Alex: Certainly.

Rhonda: And so, there's some what I would call kind of pre-divorce work that women can be just kind of thinking through, taking some time to ponder to see if this is a good fit for them or not. You know, so that's why I love doing these types of having these types of conversations specifically around the different options of the process. So, I appreciate your input on that as well.

Alex: Certainly.

Rhonda: So, the other thing that I want to chat with you about is the fact that mediation can be a good way to minimize children's exposure to the divorce process. So, I find this really fascinating and I look forward to hearing what you have to say about this talking point.

Alex: Certainly. So you know, when there is a parenting issue, and I'm obviously speaking from my experience with the, with Cook County in Chicago, but it's almost immediate that if the parties are unable to resolve whatever the parenting issues are in mediation, that a judge will uniformly appoint a child's representative who's an attorney that's going to represent the needs of the child. That child's representative is and will then the children will be involved in the process. He or she will interview them, will observe them with each parent. We'll make recommendations to the court, and his or her interaction with the child may not just be on one occasion. It may be on multiple occasions, depending on what the issues are.

Alex: And again, talk about, you can't unring that bell. I mean, once your kids are being interviewed by professionals and, and then by, by the way, if that doesn't result in an agreement, there may be, a child custody evaluation that's performed by a mental health professional and that involves multiple interviews with your child. And I think that, for the most part, what people can agree on is that they don't want their children involved in the process because it's not good for anybody. And in mediation you can avoid all of that.

Rhonda: That, that's awesome. And I think obviously, I mean there may be times when people can't agree, and they are going to have to maybe go and utilize some of those other processes that that the court system has in place. But I love, you know, for people to be able to consider mediation for the reason that you just mentioned because I think of all the things that they can agree on, wanting the best for their kids is usually an easy one.

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Alex: Right. And the, the fact is that people are getting divorced, so they are not necessarily speaking in a kind way to each other. It's not necessarily a productive mode of communication between each other. And oftentimes they just need somebody, a third party to help them navigate the conversation. And that's what the mediator's there for.

Rhonda: Mm-hmm (affirmative). Yeah, that's, that's really great. Well, we have covered a lot of ground in a really short period of time and as we wrap up our time together, I always end with two things. One is a quote and the other is a client success story. So, go ahead and share with us your favorite quote.

Alex: So, I recently read this, the quote is, "**Focus on divorce as a problem to solve instead of a battle to be won.**"

Rhonda: Mm-hmm (affirmative).

Alex: It resonates and in a very significant way for me, I have, **once people come down to earth, and realize that they're getting divorced or have accepted it or are ready to move forward with the process in a productive way and, and are not looking to sabotage their spouse or really just want to reach a resolution and focus it, focus on it as a problem to be solved, that's when they're able to reach a, a meaningful agreement, a lasting agreement that will serve the needs of their family going forward.**

Rhonda: Yeah. Oh my gosh, I love that. Oh, and it takes, I mean, divorce is emotional, right? And I think there's certainly a time to deal with the emotions, but it helps really to just kind of frame what the goal is. Right? And so, that's a great quote. All right, so let's end with the client's success story.

Alex: Certainly. So there's, there's really nothing so magical about it other than the fact that for these two individuals, they had been in the litigation process for over a year and had been engaging in discovery that was not relevant to their case, multiple court appearances that was really just causing more and more of a rift between them rather than bringing them together to reach an agreement. And one of them had been referred to me as a mediator. The other interviewed me and we sat down together at about nine o'clock in the morning and by two o'clock had reached a comprehensive agreement on everything that needed to be addressed in their marital settlement agreement.

Alex: When we concluded for the day, the husband looked at the wife and, and said to her, "That is the most productive conversation we've had in over five years." And, it really, I believe, set the tone for how these two individuals are going to be able to move forward in a productive way as divorced parents and co-parents effectively. And, and it was just a very positive way to, to start down with new road for them, for their new normal.

Rhonda: I love it. I love it. I think that it also depends too on finding the right mediator, right? Being the mediator is not an easy job.

Alex: Definitely not.

Rhonda: I've sat in on plenty of mediations. I'm like, okay, they, you know, the mediator's got to be the tough cookie in the room, right? Because you must hold people accountable and encourage them to have those conversations. Think outside the box, get people talking, manage emotions. I mean, there's a lot to it. And so I think that's a fantastic success story. And just again, giving people the opportunity to say it. Listen, there may be times when you get to a point where, yeah, it's time to mediate and get everybody in the same room and make sure you've got the right mediator and hash things out and leave there with a result. Right? Some clarity, some concrete solutions. And I love the fact that, yeah, love the fact, that they were able to leave there feeling a lot more positive.

Alex: So yeah, it was great success.

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Rhonda: Yay. I love it. Well, I want to thank you so much, Alex, for your time today.

Alex: Certainly, thank you for having me.

Rhonda: And I want to encourage people to check out Alex's contact information in the show notes, as well as the transcribed audio notes, and hopefully as people are listening to this, we've given them some really great things to think about as far as the direction that they may want to go as they're navigating through their divorce process.

QUOTE: "Focus on divorce as a problem to solve instead of a battle to be won."

CONTACT INFORMATION:

Alex Jacobson
Founder
[Jacobson Mediation Group](#)
212 West Superior Street, Suite 203

Chicago, IL 60654
ajacobson@jacobsonmediationgroup.com
(312) 877-5092
[LinkedIn](#) | [Facebook](#)

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