

Robert J. Klassen

Mediation/Arbitration in Family Cases in British Columbia under the new Family Law Act

Currently, the *Commercial Arbitration Act* in British Columbia does not specifically permit any family matter under the *Divorce Act* or under the former provincial *Family Relations Act* from being handled by way of the arbitration process.

The *Commercial Arbitration Act* applies to commercial transactions and the new *Family Law Act* amends the *Commercial Arbitration Act* to specifically allow for such cases under the *Family Law Act* or the *Divorce Act* to be handled by a family law arbitrator who meets the qualifications under the new *Family Law Act*.

If the parties have chosen mediation, and I have been a mediator since 1985, this process involves the participants entering into an agreement whereby the family law mediator cannot give legal advice to the parties but can provide legal information in an attempt to facilitate an agreement. This agreement would take the form of a binding and legally enforceable Separation Agreement with each party to have the right to have independent legal counsel throughout the mediation process.

The mediation process is one that is private but does not prevent the use of the Court should the mediation process fail.

If the mediation process does fail it is open to the parties to have the mediator act as an Arbitrator who would make an award which would be legally binding on the parties and subject to review only in certain circumstances by the Supreme Court of British Columbia.

Initial half-hour consultation is complimentary

Office Hours: 8:30 a.m. to 5:00 p.m., Monday - Friday

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