



Dina Haddad



# Families First

## Mediation, P.C.

*After a decision has been made to legally separate or divorce, often fear, uncertainty and concern about the financial future follows. For the party that is the out-spouse (the spouse with less financial control), the concern is basic. Moving forward, how will I support myself?*

FOR THAT REASON, CALIFORNIA PROVIDES THE OUT-spouse (the spouse without the financial control) a right to temporary spousal support so she can pay for her living expenses during the divorce process. (We will use female pronouns for simplicity.) Although each county may have unique guidelines to calculate temporary spousal support, each court will evaluate the out-spouse's need for support and the payor's ability to pay. For example, is the out-spouse currently working and earning income? Was she reliant on the payor's income to meet her living expenses? Although the intention of temporary spousal support is to enable the out-spouse to pay for her living expenses, this has its limitation. The courts recognize that the family income is insufficient to support two separate households (both the out-spouse and the payor's homes) and still maintain the same standard of living during the divorce. Thus, support is limited by the income (cash

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flow) that is available.

Temporary spousal support can be requested in two ways. The first would be through a court-issued order. The out-spouse would file a motion with the court to request temporary support. She can do this with the help of an attorney or as a self-represented litigant. This can be costly and poorly position a divorce case. See my prior articles as to why. Alternatively, she can reach an agreement with the other spouse without going to court. This can be done directly between the parties or with the assistance of a mediator or attorneys. The temporary spousal support agreement can be filed with the court to have the same legal authority as a court-issued order. It will be better for out-spouse to pursue the second option because it will preserve the relationship with the payor, keep the parties in control of their family dispute, and is more likely to result in a better support award for both parties in a more cost-effective and quicker manner.

There is one other option. Rather than have a formal support agreement, the parties can continue the status quo as they work through the divorce process. For example, the payor might continue to deposit his salary checks in the parties' joint account and continue to give the out-spouse 100% access to those funds to pay her living expenses. This may cost more financially for the payor, but results in invaluable benefits such as an amicable and respectful dissolution, maintaining one household during the pendency of the case to save money before separating, and other personal goals.

To help the out-spouse choose among the methods available to her, she might ask herself:

**1. How should I introduce the divorce to my spouse?**

How she approaches the divorce will set the tone for the case, and the ease for receiving temporary support from her spouse. If her spouse's perception of the divorce is amicable, he will be more open to providing her support or using alternative dispute resolution meth-

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# Home & Auto News

## Prevent Wind Damage With Tree Maintenance

*Heavy storms and the heavy winds they can bring, in all seasons, may potentially cause extensive damage to homes and personal property. To avoid the problems that wind damage can cause, follow these preventive maintenance tips before the next storm hits.*

- Trim back tree limbs that brush up against windows or roofs, or against fences. Make sure they are trimmed at least two feet away, if not more, because branches can sway in heavy winds.
- Make sure trees are pruned so that no branches leave the trunk at acute angles. These kinds of branches are more likely to split under stress.
- If you have old, brittle or shallow rooted trees on your property, consider having them removed. Check with your local forestry department to find out what trees in your area are most at risk.
- Weak or old trees planted too close to a house or fence can pose potential problems, particularly if they become

**“Weak or old trees planted too close to a house or fence can pose potential problems, particularly if they become uprooted in a storm. Consider having these trees removed, too.”**

uprooted in a storm. Consider having these trees removed, too.

- Keep trees thinned and with a canopy that is proportionate to the trunk.
- If you have trees with nuts, keep the trees harvested of their fruit to prevent damage caused by falling nuts.
- Check your roof for loose tiles or shingles, and repair or replace as recommended by professionals.
- Make sure your gutters are cleaned out.
- Additionally, keep storm drains near your property clear of debris, to avoid another problem – flooding. □

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ods such as mediation to resolve the support issue.

### 2. What divorce process will meet my needs?

She should think about the various forums available to her: litigation, collaborative law, mediation and kitchen-table divorce. If she is concerned about immediate support, which of these will provide her support in the quickest way? To which method will her spouse be most responsive?

As she works through these issues, she can rest assured that there are viable options for her and the right profes-

sionals to assist her. □

**Editor’s Note:** *Dina Haddad, Esq., LL.M., is the founder of Families First Mediation, P.C., a family law mediation boutique, and provides family law mediation services in San Jose. She is a panel neutral for Agency for Dispute Resolution, headquartered in Beverly Hills, and sits as judge pro tempore for the Santa Clara County personal property arbitration program. You may reach Dina at 408.357.3486, dina@ffmediation.com, or at her website, www.ffmediation.com.*