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Ethically Managing Power Imbalances in Divorce Mediation

Divorce is a life-changing, often emotional time. Some couples desire compassion and kindness that is lacking in a competitive, adversarial justice system. Alternative dispute resolution processes, like collaborative law and mediation, are alternatives in practice and taught in law schools. Ideally, divorce mediation is a process where two parties work out mutually beneficial agreements for their divorce. However, power imbalances (which could stem from gender, wealth, and other variables) could allow the more powerful party to influence the negotiation unfairly. Mediators elicit the parties to communicate with each other and practice active listening, but also need to direct the conversation at times for the session to be constructive. I researched how a mediator can ethically manage power imbalances in divorce mediation and I applied the tactics to a hypothetical case study.