



Dissolving a marriage through mediation

Divorce without court battle

BY SARAH YERRINGTON

After 20 years of marriage and the birth of three sons, one Fairfield couple learned that although they can work together as a team to rally around their children, as a couple they no longer shared the same goals, and found getting along difficult.

Marriage counseling helped them realize that after years of marriage they were two different people whose love for their kids, in the end, was not enough to keep the family together.

The couple, seeking to maintain a "friendly divorce," enlisted the services of a divorce mediator instead of two separate divorce lawyers.

"The ultimate goal for my ex-wife and I was for our children not to see us fight," said the local resident who asked not to be identified.

According to divorce mediators, there is an increasing number of divorcing couples who are using divorce mediation instead of traditional, more costly, divorce litigation. Divorcing couples are seeking mediation to avoid court and the threat of litigation to reach settlement of their cases.

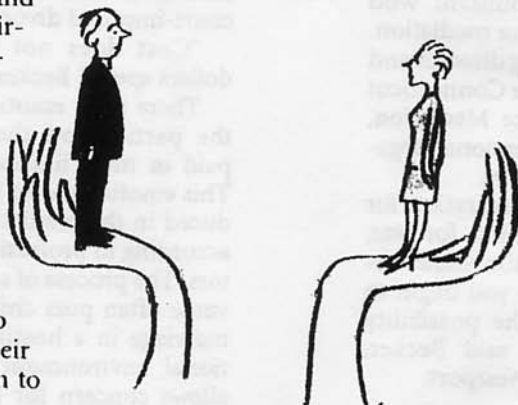


Illustration by John LaPick

MEDIATION

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"Having seen divorced friends hire lawyers which pit the couple against one another wasn't what my ex-wife or I wanted," the divorcing dad said. "The decision to separate is hard enough without becoming enemies."

Divorcing couples face a medley of complex emotional, financial and physical issues in which a sense of security is lost, impacting everyone involved.

Enter in two divorce litigators and fur starts to fly.

"Mediation helps people cushion these blows," said Michael Becker of Fairfield, an attorney and accountant who specializes in divorce mediation. Becker is a founding director and past president of the Connecticut Council on Divorce Mediation, the statewide professional-organization for mediators.

"Litigation is preparation for trial. It is preparation for war, hoping peace will simultaneously break out. Once you begin to prepare for war, the possibility for peace is nil," said Becker, whose office is in Westport.

Cheaper and easier

Mediation cuts the cost, conflict and delay of divorce, said Becker.

In mediation, divorcing spouses meet with a neutral professional, the mediator, to work out a fair, legally binding out-of-court settlement.

It allows the parties to remain in control of the process as they work together with their lawyers and expert advisors to come to a mutually acceptable agreement, Becker said.

Mediation is usually less costly and quicker than the adversarial approach where lawyers act as expensive intermediaries, he added. Additionally, it offers privacy rather than the public exposure associated with a trial and court-imposed divorce.

"Cost does not only mean dollars spent," Becker said.

There is an emotional cost to the parties and their children paid in most litigated divorces. This emotional cost is greatly reduced in the mediation process, according to professional mediators. The process of a litigated divorce often puts children of the marriage in a hostile and emotional environment. Mediation allows concern for the children to remain the focal point for both parties, he said.

Becker estimates the cost of mediation to be half that of divorce litigation, because couples only need to hire one professional versus two.

But divorce mediation is not a substitute for the services of a qualified attorney, according to

several experienced mediators. Mediators recommend that couples enlist the services of a lawyer who will act as an advisor and not adversaries during mediation to okay settlement/separation agreements.

"Mediation isn't for everyone," Kahn Stark said.

A skilled divorce mediator ought to have knowledge of family law and psychology, as well as negotiation techniques, Becker said. He also suggests inquiring about the number of years of mediation experience; the number of mediations done in the past five years; and the names of the professional organizations the mediator is associated with and in what capacity.

Reaching a settlement

Mediators never impose settlements, but instead help clients work out a plan meeting both parties needs, as well as their children's.

The settlement agreement is then submitted to the court as an uncontested matter to dissolve the marriage.

"Divorce is tough stuff," Becker said. "Divorcing couples need someone to help them come to a fair agreement so they can move on; that's where a mediator comes in."

Michael Becker, Attorney Mediator

ACR Advanced Practitioner Member

One Kings Highway North
Westport, Connecticut 06888

Tel 203.454.4270
Fax 203.454.4467
michael@michaelbecker.net

Admitted to CT and NY Bars