

Toward a Kinder, Gentler Divorce

An Introduction to Mediation

By Todd Lyon

Divorce, American-style, has been depicted in song, story and film as a punishing process in which both sides ultimately lose. “You’d better keep her/I think it’s cheaper /than makin’ whoopee” is the final kick in one ditty; for a newer generation, the film *The War of the Roses* says it all. In it, a once happy couple fights a long, expensive and violent battle that ends in tragedy.

Saturated with such negative images, it’s not surprising that many people avoid divorce; they fear the process itself. Such fear can blind one to the fact that, although the decision to end a marriage is never easy, a successful divorce can liberate spouses who have suffered quietly in unfulfilling relationships. The sense of new beginning and freedom to grow can be exhilarating as well as rejuvenating.

But does divorce have to be fought on a bitter battlefield? “Not at all” says Michael Becker. “Getting divorced doesn’t have to be horrible.” Becker is a lawyer and an accountant who left his traditional practice to open a divorce mediation practice in Norwalk. Divorce mediation is designed to cut the cost, conflict and delay of typical divorce. “The focus is always on developing an agreement everyone can live with, not re-fighting old battles,” explains Becker, “Mediation never pits one spouse against the other. It’s quite different than the situation in which each spouse is goaded by an attorney to go for whatever they can get, at any cost.”

Here’s how it works; Divorcing spouses meet with a mediator for about eight joint meetings to work out a fair settlement. Becker says that meetings take about two hours and are always scheduled at the mediator’s office, a neutral site.

At the first meeting, the mediator outlines the issues and sets a course to resolve them. Each subsequent meeting focuses on resolving a separate issue, such as property division or support. “Issues are resolved in small, bite-sized pieces,” says Becker, “One per meeting.”

Mediators are impartial, and never impose a settlement. Instead, he or she helps divorcing couples develop and evaluate solutions meeting both their needs. The mediator guides the process, making sure that both spouses have complete legal and financial information to make well-reasoned choices.

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In mediation, both spouses are protected from the strong-arm tactics, coercion and manipulation that are sometimes exerted in typical divorces. Additionally, the mediator insists on complete honesty and doesn’t except in emergencies, meet with either spouse separately. This assures each party that no secret deal or agreement has been worked out with the other. “These measures insure a safe, constructive environment, according to Becker.

Throughout the process, the mediator notes points of agreement. When both spouses are satisfied, all papers are drafted and filed, many mediators ask clients to wait one week before signing their finished agreement, just to be certain that they are truly comfortable with it. Once this is done, the uncontested divorce moves quickly through the courts.

Mediated divorces take only a few months to complete; compared with typical divorces which can drag on for well over a year. And, while a litigated divorce can easily cost \$50,000 - \$100,000* just in professional fees, a mediated divorce usually costs [significantly] less, "You pay one mediator, not two lawyers," explains Becker, "and you use that mediator's services for less time."

Sometimes, individuals may use the service of both an attorney and a mediator. "It's not unusual for couples to choose mediation after having seen separate lawyers," says Becker, "nor is it unusual to use an attorney at the end of mediation to review the agreement before it is filed."

Not every couple is suitable for mediation. Couples who have had a history of domestic abuse or couples with one strongly dominant partner should avoid mediation. Still, according to Becker, spouses don't have to be best friends or even on very good terms to mediate. The only requirement is an ability to be civil toward one another and have the common purpose of working out a mutually satisfactory agreement. "Spouses often agree to mediation for very different reasons," Becker notes. "One may want to save money, while the other may want to reduce conflict and save time."

* Figures updated.

As our population increases in longevity, there is more to live for in later years. In our grandparents' day, late-life divorce was often an exercise in futility; today a 60-year old divorcee may look forward to 20, 30 even 40 years of freedom from an unworkable marriage. Mediation is an option that can remove the fear of the divorce process and become the key to a more fulfilling and enriching future.

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