



From the Roundtable:

MEDIATION BASICS:

Toward a Kinder Gentler Divorce

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Does divorce have to be fought on a bitter battlefield? “Not at all” says Michael Becker, a lawyer and accountant, who advocates for divorce mediation as a less costly and contentious way to divorce. “The focus is always on developing an agreement everyone can live with, not re-fighting old battles.” Mediation seeks mutually agreeable solutions rather than pitting spouses against each other.

Divorce mediation involves joint meetings, typically at the mediator’s office, a neutral location. The mediator outlines issues and helps clients resolve them, one at a time, such as property division or support. Mediators guide the process, creating safe space and ensuring both partners have complete information to make informed decisions.

Mediation protects spouses from coercion and manipulation. The mediator requires complete honesty and typically meets with both parties together, avoiding secrets. Becker adds that the mediator notes agreements throughout, and clients are given time to review their agreement before signing to be sure they are truly comfortable with it. Some clients use ‘review counsel’, an outside attorney, to consult with during the mediation or to review the final agreement before signing it. This approach creates a safe environment and allows for an efficient uncontested divorce in court.

Mediated divorces typically take three to eight months to complete; compared with litigated divorces which can drag on for well over a year or more. And, while a litigated divorce often cost tens of thousands of dollars, 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.”

While mediation isn't suitable for couples with a history of domestic abuse, partners don't need to be on very good terms. They just need to be able to be civil 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.”