



What Mediation Can Do For You

by STEPHEN MCDONOUGH on MAY 1, 2009

Mediation, like collaborative divorce, can empower couples facing divorce to reach their own respectful resolution without going to court. The process is guided by a neutral mediator who meets with the parties to discuss issues that need to be resolved. In divorce mediation, the goal is to reach an informed and lasting agreement that is then filed with the court. Divorce Mediation in Massachusetts is a voluntary, confidential process. This post is not intended to address time spent with family service officers at the Probate and Family Courts in Massachusetts as part of a litigated divorce or other family law matter.

So, who can benefit from Divorce Mediation?

Well, I can for one since I am a mediator and I make my living assisting people through divorce. But seriously, mediation is an attractive option for people that want to maintain control of their conflict and not turn the outcome over to a third party (like a judge). It is a good choice for parents who realize that although their relationship is certainly changing, maintaining a respectful relationship post-divorce has many benefits when it comes to their children and their own inner-peace (think “less stress”). Couples without children or with adult children also

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choose mediation as a respectful way to conclude their marriage and prepare for new beginnings. By taking ownership of the conflict and looking to the future, the parties can develop solutions with the mediator that will actually work, since any conflict that is finalized by an order that one or both parties does not want is likely to fail. This translates into additional court appearances for contempt actions and modifications. That gets expensive.

Benefits of Divorce Mediation

1. High-conflict divorce rips families apart and is damaging to children. Couples in mediation are much less likely to entangle children in painful conflict. This is a good thing.
2. Client Value – Some people are initially attracted to mediation as a way to save money over a traditional court-based divorce. It is true that mediation is usually much less expensive than litigation. One of the most obvious reasons for this is that a single mediator is retained instead of individual attorneys. Even if one person or both retains a lawyer to review the final negotiated agreement, my mediation clients still spend much less money. Another reason is that the process is very efficient. My mediation clients come to my office so there are no fees billed to the clients for travel time or for me to wait around at court. With some things that are less expensive, we may have lower expectations. I think my mediation clients actually get better results while spending fewer marital assets.
3. Pace – A traditional court-based divorce can be very slow. As cases linger, people tend to get more frustrated and spend more money.
4. Unlike discussing the personal details of your marriage and family in an open court, mediation is private.
5. Options to customize the process – I support a client's desire to use an outside professional in conjunction with mediation. Allied professionals such as divorce coaches, parenting specialists, or financial experts can play an important role in

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mediations, especially when people are experiencing very strong emotions. For example, I have an experienced divorce coach attend the first mediation session for clients that opt for my Comprehensive Mediation Package. Additionally, some mediators offer evening and weekend appointments. I also offer clients a flat fee option or traditional hourly billing.

6. Mediation is respectful of the human emotions present in every divorce case. Although mediation is not therapy, it does provide the parties a safe place to display feelings such as sadness, anger, understanding, and empathy.

7. Mediation recognizes human intelligence and assumes people are capable of resolving their own disputes. The mediator should provide information to help clients make reasonable decisions. I think most parents can decide what type or child custody plan is best for their families as opposed to a stranger deciding.

8. A skilled mediator will help clients “expand the pie” or consider options not previously explored.

9. If your divorce mediator is also a lawyer, the mediator can draft your final divorce agreement.

10. ***So, what do you think the last item on this list should be?*** Even if you have never experienced mediation, I expect there was a time you worked out a conflict with someone. Let me know what you think.

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