

Successfully Employing Mediation to Settle Issues in Your Divorce

By: [Mitchell Reichman](#)

Getting [divorced](#) can be both emotionally exhausting and financially devastating. Couples may consider mediation as one method to transverse through the dissolution of their marriage with less acrimony and potentially at lower cost to the divorcing couple.

We often attempt to resolve divorce cases through mediation and in most cases we achieve that goal. Generally, there are strategies that help increase the probability of not only a successful mediated resolution but also a fair result.

Prior to commencing the mediation, there needs to be complete disclosure of all relevant information. Some assets may need to be valued or appraised by independent third parties having the proper expertise. Any appraisals or valuation reports need to be disclosed and exchanged and in some cases having the valuation or appraisal completed by an independent third party prior to the mediation is extremely helpful. Both parties need to agree on certain components of the valuation methodology or each party should obtain his or her own independent valuation.

Often some of the less contested issues are resolved prior to mediation, leaving the mediator with the more difficult issues. Taking some of the less contentious items off the table will allow the mediator to focus on the important issues - and generally - will save both parties money in legal fees. It is important to exchange at least a written list of the issues that need to be resolved prior the mediation so that they may be incorporated into the settlement document.

Knowing what issues are left open will determine what mediator is selected. For example, some mediators are particularly adept at helping to resolve financial issues while others are better at issues relating to custody or parenting time. Very complex financial issues will require a mediator that is well versed in business and property valuations.

In our cases, both parties are represented by lawyers throughout the process, including all meetings with the mediator. However, in mediation, there is no requirement that either party have their own attorney. It is standard practice for both parties to share the cost of hiring the mediator and all of the mediator's fees. Typically, cases that are resolved take one full day or less of mediation. Either the mediator or one of the attorneys prepares a settlement document.

While the steps outlined above are often the most cost effective approach to mediation, there are parties who approach the mediation process differently. They start in mediation before any disclosure has occurred or valuations agreed upon. Their expectations are that the mediator will direct what needs to be disclosed - similar to what a judge might direct divorcing parties to do. They may have meetings with the mediator without lawyers or again, only one party may have an attorney. Typically, there are several meetings to gather and exchange information before there is a possibility of resolution. Because of the increased amount of time that the mediator is spending, this approach to mediation is usually more expensive.

Before you consider mediation, determine which method is best for you and whether or not you want an attorney to represent you and your interests. The contested issues need to be defined so that the mediator selected will have the requisite expertise. If your divorce is acrimonious and contentious, mediation may not be a viable solution. On the other hand, if both parties are prepared to make reasonable, or even difficult, compromises mediation can be a win/win solution.

About the author: [Mitchell Reichman](#) is an attorney with the Phoenix law firm of [Jaburg Wilk](#). He is a Certified Specialist in [Family Law/Divorce](#) by the State Bar of Arizona Board of Certification and a Super Lawyer in family law. Mitch is experienced lawyer in representing clients in high conflict divorces with substantial assets. He can be reached at 602.248.1000 or mxr@jaburgwilk.com.

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