



In Some Cases We Can't Just All Get Along

by ADMIN on APRIL 9, 2009

While I agree with my esteemed colleague's post below that for many divorcing couples mediation is a less expensive, more efficient option that assists spouses in making informed choices and empowers them to create equitable agreements, **mediation is not for everyone.**

In some cases, either collaborative law or divorce litigation is the better option. In my own practice, I have seen several divorce cases where mediation would not have been the best choice.

So, is mediation right for you? Mediation is **not** a good choice if you or your spouse:

- **Cannot be objective or cooperate.** Mediation is valuable when the two parties are able to manage their anger or hostility toward each other, and sit in a room together to work through their issues. If either spouse comes into mediation with an agenda or to hurt the other, mediation will not work.
- **Have feelings of intimidation, or a history of domestic violence.** No one should feel that they have to agree to anything because they are afraid of what will happen if they don't agree. In collaborative law, each

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spouse has their own lawyer that has received specialized training in the collaborative method. In divorce litigation, each spouse has their own lawyer who represents their interests exclusively.

- **Think the other spouse might hide assets.** Divorcing spouses are required to provide one another with full financial disclosure, including statements of their property, debts, income and expenses. If a spouse might try to hide assets or has a goal of financially harming the other spouse, either collaborative law or divorce litigation is a better option.
- **Have different goals.** Mediation requires that both spouses are engaged in the process. If one spouse is unwilling to accept that the other wants to divorce, or if one spouse blames the other for the failure of their marriage and wants vindication, mediation is not a good choice.

So, before you jump off the couch and run straight to mediation, have a cup of coffee and spend some time considering whether it is the right choice for you.

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