

MEDIATION MYTHS

Myth #1: Mediation is not for complicated cases.

Critics contend that divorce mediation should only be used in simple scenarios in which couples are seeking a totally amicable divorce and basically agree upon all of the issues they're negotiating. In the critics' view, not surprisingly (and very conveniently), all but the most simplistic cases are considered "complicated" and thus need to be handled in litigation. The "facts" that make cases complicated are often not the objective numbers and assets, but rather the underlying feelings of each partner as to why a particular outcome is more desirable. A litigation approach only serves to highlight differences, rather than bring a couple closer to amicable agreement.

Mediation often provides the most effective platform for divorcing couples, whether your situation is complicated or simple. It allows a platform for not only identifying objective information, but also for exploring underlying interests of each partner in an effort to find common ground to reach settlement. It's quicker, more cost effective, and allows you to make your own decisions rather than conceding that power to lawyers or a judge.

Myth #2: Mediation is not for high-net-worth couples.

Mediation is effective for couples at all income levels. The same basic issues, financial and otherwise, need to be addressed in mediation no matter how much money a couple has. Duty of each partner to disclose all financial data is an essential requirement in mediation just as it is in litigation. The difference lies only in how that information is obtained. In mediation all information is brought to the bargaining table, as opposed to litigation, where documents often need to be subpoenaed.

When we schedule our first session with a couple, we advise them that they may need to consult with a financial expert, if their circumstances require it. With high-net-worth couples, finances are usually more complicated. In those cases, it often makes sense to bring in a financial expert, such as a:

- Certified Divorce Financial Analyst (CDFA®); and/or
- CPA/Accountant.

These experts will help couples explore their financial options and explain the ramifications of various decisions.

Myth #3: Mediation is not for high-conflict couples.

When conflict is high between couples, it is certainly more challenging, whether in mediation or litigation. Too often these are the divorce actions that drag on for years as they wend their way through the court system.

As experienced mediators, we can help a high-conflict couple reach a settlement. It will likely take more time, due to the degree of discord in the relationship. However, by going through the process of mediation, you may learn more effective ways of communicating with each other. Litigation tends to

only escalate the degree of conflict as it is an adversarial process, pitting one side against the other in a “win-lose forum”. Mediation seeks to new teach couples “new scripts” rather than relying on ones that proved ineffective in the past. Mediation is especially beneficial if you share children together. Parenting plans tend to be more lasting and effective when couples mediate than in litigation, when an arrangement may have been foisted upon them by the court.

While there are some divorces that may not be effectively handled through mediation, such as those where people fear for their physical safety, we firmly believe that divorce mediation may be the first and best choice for many couples, one that leaves them with Results, Not Regrets..