

What Clients Should Know: Is Mediation Right for Your Divorce? The Cost, Timeframe, and Emotional Benefits Compared to Traditional Litigation

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For families in New Jersey and around the country, commencing the divorce process often raises questions such as how much will the entire process cost? And how long will it take to get divorced? While traditional divorce litigation may be necessary in certain matters, today, less than 10% of all divorce cases actually go to trial. Alternate Dispute Resolution (“ADR”) provides an avenue for parties to settle their conflicts outside of Court litigation. Specifically, mediation as a form of ADR has become an increasingly popular method for parties to take advantage of.

Divorce mediation is where both parties can voluntarily elect to work with a neutral third-party to resolve issues surrounding equitable distribution, custody and parenting time, alimony, etc. In New Jersey, mediation can occur by way of the Court referring the parties to attend mediation with one of its mediators, or the parties may elect to attend private mediation with a mediator of their own choice, all while having their attorneys present to ensure their interests and rights are protected.

One of the most significant differences between choosing mediation over litigation is costs. By litigating through the Courts, spouses will typically get caught up in wanting their “pound of flesh”. As such, litigation fees can get out of hand quickly by arguing over issues via motion practice, several appearances in Court, potentially significant discovery and possible expert fees. On the other hand, mediation involves the parties sharing the costs for the mediator and incentivizes a collaborative effort to resolve certain issues.

While mediation may not be perfect for every situation, it offers a pathway for parties to engage in a more efficient, affordable and less emotionally taxing process than had the parties elected to litigate every issue before the Court. It is a tool anyone going through a divorce should at least attempt to avail themselves of, as it is far better to reach a predictable compromise dictated by the parties, rather than leave it up to a Judge who may not be as familiar with the needs of your family and order an unpredictable outcome.

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