

MEDIATION vs. LITIGATION

YOUR ATTORNEY ALTERNATIVE

Mediation vs. Litigation - Divorce Mediation

LITIGATION: THE ADVERSARIAL PROCESS

Divorces are part of our adversary process. By design, the legal system pits one party against the other. The theory is that as a 'good' attorney, you must have the most persuasive argument and then attack by cross-examination to reveal the weakness of the side's position. Though this may be an effective way to make decisions in civil or criminal cases, we believe it certainly is not an appropriate resolution for a family in crisis. Litigation typically creates oppositions of husband against wife, mother against father, resulting in severely damaged relationships.

Divorce attorneys are, first and foremost, advocates. They are, by training and duty to their clients, hired to "win" the case, to "defeat the other side." The tactics that are used to obtain those results can be expensive and destructive.

Divorce attorneys clearly understand that divorce is as much a psychological war, as it is a legal war. They collect information by taking depositions (examinations before trial) of friends, family and business associates, requesting production of tons of documents, scrutinizing personal activities, and evaluation and criticism of each spouse's role as parent. This data gives attorneys the tools with which to attack the opponent and to gain psychological, as well as legal advantage.

All of that warfare is expensive. Attorney fees vary and may often exceed \$350-\$500 per hour. Keep in mind that the fees and costs are for each party. When you add the out of pocket costs, filing fees, witness subpoenas, court reporter fees and transcripts fees the cost of the war often exceeds the amount in controversy and wastes hard earned marital assets that can better be used for you and the children.

COURT ORDER: THE GAMBLE

When you allow the case to go to court, you give up the right to make decisions about your own life. Not even the best trial attorney can safely predict the decision of a judge. In fact, in most divorce cases, both clients leave the process unhappy with the result. Before putting decisions about your life into someone else's hands you need to explore alternative methods of reaching an agreement and moving on with your life. Mediators can help you to avoid the risk.

THE EMOTIONAL COST: YOUR CHILDREN ARE WATCHING

Contrary to public perception, divorce attorneys practice in and are subject to a stressful, emotional environment, and sometimes become immune to the emotional cost of the children involved in their client's dispute. Children often become a bystander and innocent victim of their parents' battle. However, if you think that the fault lies solely with the attorneys you are missing the point. You, the client, make it all possible. Clients, out of their own emotional pain, often urge their attorneys to savage

their spouse. It is a way to make them "pay for what they have done." When that is your objective the price that you pay goes far beyond dollars. It results in the loss of dignity and self-respect.

Most importantly be aware that your children are watching. As hostility increases they become the innocent victims. When a parent is attacked, the child feels attacked. "Mom, why are you so angry at Dad? Don't you know that I love him?" "Dad, why are you so angry at Mom? Don't you know that I love her?" Confusion sets in and children often suffer from unnecessary guilt, with no answers, blaming themselves for your divorce.