

If You Must... Divorce Lovingly

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Divorce Lovingly, are probably two words you thought you would never see used together. Mediation (not meditation) presents a viable alternative to litigation for couples who are separating and divorcing.

Initially, it may be enticing and appear the "easy" alternative to "hand it over" to the attorneys to litigate the dissolution of your marriage. The traditional litigation mode appears, on the surface, to offer an antiseptic form of conflict resolution in which the attorneys "fight it out" and the clients are "spared" direct involvement. In the alternative, one or both spouses may wish to use the litigation process to "punish" the other as a form of therapy.

Perhaps I am preaching to the choir. We all have or know of "horror stories" about litigated divorces. The stories of "he said she said" are all too common; where each spouse treated the other in less than a Christian manner, and the children, if any, represent the casualties of war. In addition to the emotional, and spiritual costs, the average litigated divorce in Erie County is \$3,000.00 to \$5,000.00 per spouse. The average mediation costs approximately \$2,000.00 for the couple.

Mediation is a voluntary, cooperative settlement process, which enables couples who are separating and divorcing, to plan their future rationally, in an atmosphere of cooperation and mutual respect. The Mediator is a trained professional who may be an attorney or a mental health professional. The Mediator acts as a neutral and facilitates the resolution of this process.

The Mediator will assist the couple to make sure "all the bases have been touched," all relevant information has been disclosed, and that the agreement is legal. During the process, the Mediator will help the couple to identify areas of agreement, prioritize and understand areas of disagreement, develop and explore various options and alternatives, work towards a narrowing of differences, and ultimately secure a mutually acceptable agreement.

As a problem solver, the Mediator will endeavor to be creative, flexible and patient to insure that the couple produces a customized agreement which is to their mutual satisfaction. The Mediator will monitor decisions which appear to represent mere capitulation, due to feelings of guilt or a power imbalance. Only an agreement which is truly mutually acceptable will maximize compliance and minimize future conflicts with fewer return visits to Court to settle post divorce disputes.

Mediation is not counseling. Issues related to blame, fault and guilt must be referred to a counselor. Good will is difficult to measure and value, but mediation enhances the spirit of cooperation. In addition, because resolutions are mutually

created and agreed upon rather than imposed, compliance is greater than secured through litigation.

It should be noted that mediation is appropriate for couples wishing to separate and divorce for the first time, as well as for divorced couples who have continued to experience fights after their divorce. Mediation can help these couples take back control over their lives, come to terms with their predicament, and secure a mutually acceptable resolution.

If you are interested in mediation, there are various resources for finding a mediator. The Yellow Pages, under the heading "Mediation Services" of the telephone book provides a selection of mediators. The New York State Council on Divorce Mediation provides a free directory of its members by location and may be reached at (800) 8942646. In addition, for those so inclined, there are resources available on the Internet: Academy Of Family Mediators at <http://www.mediators.org>; ADR Resources at <http://adrr.com>; American Bar Association Section of Dispute Resolution at <http://www.aganet.org/dispute>; Children's Rights Council at <http://www.vix.com/crc/org.html>; and Mediation Information and Resource Center at <http://www.mediate.com>.

A divorce is a sad and traumatic event in and of itself. However, the divorce process does not have to be a "knockdown, drag out fight to the finish." Mediation is a viable alternative to litigation. Each divorcing family possesses an economic pie of a certain size; how much of it will you retain to finance a new beginning, and how much of it will you expend on attorney's fees? For the best interest of yourself, your spouse and/or your child(ren) I hope you will check that reflex to contact an attorney and call a mediator from the list above. Regardless of what you have experienced, heard, or seen, it is possible for a couple to Divorce Lovingly.