

Wise Decisions: Cost Issues in Divorce Mediation vs. Litigation

Approaching the disillusion of a marriage, both parties are faced with many hard decisions. Whether to choose mediation over litigation is fundamental and primary in the divorce process. When couples weigh the pluses and minuses of both choices, the factor of cost must be of primary concern. The costs of divorce litigation are both significant and a source of concern for couples as well as even the attorneys that may represent them. In their September 2002 meeting, the Beverly Hills, California Bar Association issued the statement, "By the time we see [divorce] cases in court, most people have spent all their community assets in the divorce itself. By that time, we're just dividing debts and attorney's fees." It is obvious that cost is a universal concern.

The cost of a mediated divorce, with one attorney, is on average \$5,000 to \$7,000. However, the cost of a litigated divorce averages \$30,000. This disparity can grow significantly when a divorce is more complex. When you factor in the considerable expenses a divorcing couple faces, the added costs of divorce litigation are devastating. It is incumbent upon couples to look for ways to reduce costs so that assets remain for the benefit of their children and for relocation, housing, and associated costs. Choosing mediation represents a "wise decision" when looking for a way to cut costs while insuring the soundness of the divorce process.

Certainly, cost is not the single reason to choose mediation, but it is a significant consideration. When evaluated with the many other benefits of mediation, mediation represents a way to cut costs without sacrificing the quality of service. The mediation process offers a couple the flexibility and sensitivity that is the hallmark of divorce mediation. Mediators are specifically trained to focus on the priorities of their clients and, from industry reports; cost savings is a top priority. Many couples see their worst fears materialized when they choose divorce litigation and their mutual resources are totally depleted by attorney fees and court costs. Facing a divorce is, in itself, a fear provoking proposition and adding the hardship of financial stress can be a terrible burden. Divorce mediation eliminates the financial stress and the couple can focus on a meaningful and thoughtful process of resolving their marriage.

Another important consideration is the effect a bitter and contentious battle over money will have on the children in the marriage. Nothing can provoke more hostility and anger than argument of assets and costs. The children are silent witnesses to this battle and can face significant worry over the issue of financial security and their own well being. When they hear their parents agonizing over costs and their own insecurities over their financial future, children cannot help but internalize these issues. "Will they have to switch schools?" "Will they have to move from the family home?" "How will their life style be changed?" These are all questions that trouble the children, as well as the

parents. The fear of an unknown and vague future can impact children even more deeply than the adults in the divorce process. Divorce mediation is, again, a “wise choice” because the financial benefits will ensure that the couple’s children will not have to face the acrimony of arguments over assets and property division.

Divorce mediation offers couples a dignified, confidential, and sensitive approach to the process of divorce. Cutting costs is important but certainly not at the expense of other needs. Mediation, with a sensitive and professional mediator, serves a multitude of needs. Mediation offers both parties a way to resolve their marriage in an atmosphere where priorities are recognized, equity is paramount, and the emotional well being of everyone affected is addressed. The right mediator offers these essential benefits while keeping costs reasonable and responsible.