

Mediation vs. Litigation: Which Process is Right for Your San Diego Divorce

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Negotiating a divorce in San Diego involves a wide-ranging bevy of factors—from allocating spousal support and custody considerations, to dividing assets and numerous other considerations. When disagreements arise or



negotiations go stale, other legal methods may be employed to keep progress moving, find a solution for all parties involved, and ultimately finalize your divorce in San Diego.

The two main methods to negotiate and resolve divorces in San Diego include mediation and litigation. But, how do you determine which one is right for you? First, it's helpful to understand just what mediation and litigation entail, respectively.

What is divorce mediation?

In San Diego, divorce mediation is a form of Alternative Dispute Resolution, or ADR. During mediation, the former couple meets with an impartial, neutral third-party who is trained in communication, and other useful negotiation techniques. The function of a mediator is to facilitate pro-active communication between soon-to-be former spouses, with the goal of enabling an equitable resolution when it comes to the myriad negotiation and/or compromise points involved in a divorce (i.e. – custody, spousal support, etc.).

What is litigation?

Litigation is the more traditional and well-known course of action when it comes to divorces in San Diego. When using litigation, a couple goes to court to present their case. There, both parties present their respective evidence and arguments (typically via a family law attorney), and then a judge determines the case's outcome and the divorce's resolution.

Mediation Vs. Litigation

Returning to the original question of which route—mediation or litigation—is right for your divorce in San Diego, it's important to note that each case comes with its own set of unique circumstances, so there is no inherently right or wrong decision when it comes to choosing how to resolve your divorce. That being said, here are some advantages and disadvantages of mediation and litigation.

Generally, mediation is the less contentious option when negotiating a divorce. While litigation takes all disputed matters to court in San Diego where each side protects and advocates their own interests, mediation allows for compromise and a dialogue between both parties.

A second primary difference between mediation and litigation is the matter of *who determines what*. A mediator is a neutral party, and he or she will not provide legal advice to either spouse, nor will the mediator determine the outcome of your negotiations. In litigation, a judge will ultimately determine all disputed matters involved—custody, spousal support, division of assets, and the like. Though you and your divorce lawyer will ostensibly do your best to argue your case, the judge will make a final ruling. Conversely, in mediation you only have to agree to what you and your soon-to-be ex can negotiate and agree upon together.

Two other determining factors that may influence your decision to mediate or litigate your divorce in San Diego are the matters of cost and flexibility. Because there are no court costs nor as extensive legal bills, mediation can be less expensive than litigation. Likewise, mediation is far less formal than court, and thus more flexible. Litigation, on the other hand, involves firmly scheduled court dates that may span over a –sometimes lengthy—period of time.

Only you and an experienced, San Diego divorce attorney in San Diego can determine the course of action that is wisest for your particular case. In some instances—or in particularly contentious or complex divorces—litigation may be the best route. In other circumstances, mediation may be the more viable and comparatively placid method.

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