



The Divorce Options eBook

Marriages may end, but Families are forever

This eBook contains descriptions of the various different divorce options and information about each, including Divorce Litigation, Divorce Mediation and Collaborative Divorce.

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CHAPTER 1: Legal Separation

Legal Separation is the process where a married couple may formalize their separation while staying legally married.

The Legal Separation process has to make arrangements for parenting time, financial support of the children, financial support of one spouse, parenting time for both parents, decision making for the children, splitting assets and liabilities. Once all the arrangements are made, a Legal Separation Agreement would be created outlining all the terms of the separation. Once completed, this document is signed and notarized by both spouses.

Some couples obtain a legal separation as an alternative to a divorce, based on moral or religious objections to divorce. Some also decide to legally separate instead of divorce for insurance and social security benefit reasons.

Legal separation does not automatically lead to divorce. It is possible for the couple to reconcile, in which case they do not have to do anything in order to continue their marriage. If the two do not reconcile, and they wish to proceed with a divorce, they must file the appropriate paperwork to the courts to get on the calendar of a Supreme Court Judge in the Matrimonial Center.

CHAPTER 2: Divorce Options

Very often when people are thinking about Divorce, they immediately think of a divorce attorney. We want you to know, you have options and options that would work better for your pocketbook, as well as the mental health of you and your family. However, if you want to spend as much money as you can and you want to create as much grief as possible for you, your spouse and your family, then hiring a divorce attorney to litigate for you is probably the best option.

Some people like fighting in court because they feel so betrayed by the other person that they feel this is the only way to get back at that person. However, at what cost financially and emotionally? A divorce generally is an extremely emotional process and adding a litigation component adds contention between the spouses and causes loyalty issues between the children and their parents. You do have options and exercising can mean either the divide of a once happy home or a home that will recover and be stronger.

Some people like litigating because they have been told by family and friends this is the best option and putting on the best fight will get you the most money and parenting time in the end. However, there are many dynamics when litigating and the outcome will be different for every couple that chooses this option.

CHAPTER 3: Litigation

A Litigated Divorce is the most expensive, most invasive and most time consuming process of all of the options. The process of litigating includes each spouse hiring an attorney and paying that attorney anywhere from \$5,000 to \$15,000 for each attorney. A retainer is required. The family can be out \$20,000 to \$30,000 with the minimum \$60,000 paid for a litigated divorce. There is usually no financial expert involved in the divorce and the judge makes the final decision. The process is out of your control.

In a litigated divorce, you have to follow the procedures of the court and are at the mercy of the court and the judge's calendar. You continue to spend money to go to court, file papers and make sure that all the legal and procedural steps are taken. Every time you go to court, the cost is approximately \$2,000 for the family. This process can go on for 2 to 4 years. I have never heard of a litigated case taking less than 1 year.

Litigation Estimates: \$300-450 an hour. 2-3 years in court. Total estimated: \$60,000. Immense stress on all family members, outcome is determined by the Judge. All property discussions are made in a public forum.

Benefits: No decisions need to be made by you or your spouse, it is completely decided by the judge. If you are the type of person that cannot make a decision,

this may be right for you.

CHAPTER 4: Mediation

Mediation is the most affordable and least emotionally invasive of the options. When mediating, you and your spouse work together with a third party to help you come to resolutions of the items that need to be resolved in the divorce.

Mediation is done in a private setting and not a public courtroom. These items include parenting time, custody, child support, spousal support and splitting assets and liabilities. The amount of time that it takes to mediate these items depends on how much time you and your spouse have taken to discuss the issues. If you haven't discussed them at all, and do not want to discuss them, then all of these discussions will take place in Mediation, however a divorce coach can assist in the discussion.

We have never had a mediation process cost anyone more than \$5,000, total, not each. Even in the most challenging mediation sessions. The only stickler in mediation is when one party does not know what they want or they feel very strongly toward a particular value. However, there are many cases we have had where one party did not compromise until coming to mediation and when there is a third party listening, their ability to compromise increases. Having the chance to talk about their values and finally feeling heard and respected for it occurs with the support of the mediator and coach. Not all Mediators are coaches.

When deciding to select a mediator, it is important to recognize an unbiased professional. We have found that most attorneys have a difficult time when trying to represent the family. They have been trained to represent and fight as hard as they can for their client's rights. When selecting a Mediator and if they are an attorney, make sure to select an attorney that has the ability to be unbiased and not represent one of you over the other spouse. This is not the case in mediation.

Additionally, when selecting Mediators, make sure you select someone who has been trained from a Financial perspective and is a Certified Divorce Financial Analyst or CDFA. Also ensure the Mediator is a Certified Divorce Coach or Mental Health Professional. This is extremely important as they will be able to tell you about the tax, financial and emotional implications of the decisions you are making. Having a Divorce Coach in the room helps each of you put the emotional component aside to help you focus on the real issues instead of the emotional component clouding your vision. Having a Financial expert in the room helps you understand the tax implications and other financial impact of the decisions you are making when splitting assets and liabilities and determining the support amounts by projecting into the future.

A final note on a mediated divorce is that after the ink is dry on the agreement, we have found compliance in over 90% of the cases!! This is not true in litigated cases when compliance is much lower than 90%.

Mediation Estimates: \$300-350 an hour (\$5,000 total), no retainer required, total 3-6 sessions, 2-3 months for document preparation.

Benefits: No court appearances, family stays intact. Communication improves. Fair settlement and both you and your spouse make all of the decisions before signing the agreement.

CHAPTER 5: Collaborative

Collaborative Divorce is the least known option of the 3 options and is similar to mediation, but more expensive, and more affordable and less invasive than litigation.

With this option, each party has an attorney that represents each of them, along with one financial expert and one divorce coach. This team based approach is more expensive because there are more people in the room, but it is still less expensive than litigation and it is also done in a private setting instead of a public courtroom.

With a collaborative divorce, the process usually costs about \$15,000 to \$20,000. The process is similar to mediation in the fact that we discuss each of the issues with the team and we help the spouses come to an agreement that works for both of them. The process takes a similar amount of time as the mediated case. The benefit to this process is that each of the spouses is represented by an attorney. The issue to look out for is using an attorney that has not completely bought into the collaborative process and still tries to win at all costs instead of working in a cooperative way with the team to come to a resolution that works for everyone.

Collaborative Divorce Estimates: \$250-350 an hour (\$20,000 total), total 3-6 sessions, 2-3 months for document preparation.

Benefits: No court appearances, family stays intact. Communication improves. Fair settlement and both you and your spouse make all of the decisions before signing the agreement.

CHAPTER 6: Effects of Divorce

Studies show that children of divorce are more vulnerable to illness, and many other losses, poor performance in school, parental alienation vs. loyalty, loss of financial and structural stability.

Yet, studies also show that children will survive, and if divorce is imminent it is still better for the children to come from a broken home rather than live in one.

Children who live in hostile, and tension filled homes, have a higher heart rate, higher blood pressure, that's only the physical detriments, emotionally, children suffer with anxiety and depression while witnessing their parent's arguing and divide.

Divorce takes a toll, no matter what, therefore the least invasive dissolution the better. The sooner the divorce is final the sooner the healing can begin for all the family members. Believe it or not, you don't have to hate your Ex, with a civil, mature approach to separation and divorce the better the role model you are for your children, family members and community.