

DIVORCE WITH DIGNITY

Divorce Mediation & Collaborative Divorce: Two Alternatives to Litigious Divorce



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Last week John told Sue (fictional characters) he wanted a divorce. Sue knew their twenty-year marriage was rocky and that their numerous marriage counseling sessions had not improved their situation, but she never thought John would insist on a divorce. The thought of fighting it out in court along with the financial, emotional and social impact of divorce terrified her. Sue didn't want a divorce but had to protect herself. Luckily the next day Sue consulted with a divorce attorney who informed her of two ways to resolve divorce issues outside of court: **Divorce Mediation** and **Collaborative Divorce**. Sue now considers these two alternatives to be "better ways" for her and John to work out their divorce issues.

Divorce Mediation and **Collaborative Divorce** are two alternatives that provide a divorcing couple the opportunity to resolve divorce issues outside of Court. Both are geared toward providing privacy, respect, dignity and control to the divorcing couple. They are based on assumptions of good faith and full disclosure, and provide environments where divorce issues could be discussed and resolved in a non-adversarial manner. Both promote thinking "outside the box" in order to find creative, acceptable solutions.

Mutual respect, trust, and common goals are used to work through, manage and resolve issues.

Divorce Mediation provides for meetings with a Mediator, an impartial third party. The Mediator's role includes acting as a facilitator, identifying divorce issues, and promoting healthy discussion. During mediation sessions, the Mediator encourages communication, asking questions and managing the discussion. The couple works together in an effort to resolve their divorce issues. When the mediation process is complete, the Mediator typically prepares a Memorandum of Understanding (MOU) which is not binding on the couple but

Both alternatives are geared toward providing PRIVACY, RESPECT, DIGNITY and CONTROL to the divorcing couple.

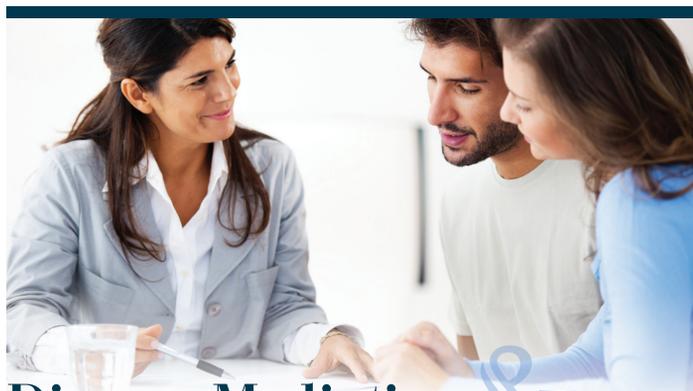
contains the mediated terms. Each spouse typically takes the MOU to his or her individual attorney to review the mediated terms and continue with the legal divorce process.

Collaborative Divorce is another alternative whereby each spouse retains a collaboratively trained attorney. Although each

attorney advocates for his or her client, everyone works together, and in doing so, the husband and wife retain control of the process. A series of meetings are held to discuss the divorce issues. No adversarial tactics or threats of litigation are allowed. An atmosphere of honesty, cooperation and integrity geared toward the future well being of the family is relied upon. Together the husband and wife are the architects of their settlement agreement. Neutral, collaboratively trained financial and mental health professionals may be brought in if needed. If negotiations break down and husband or wife decide to stop the collaborative process and proceed with a litigious divorce, neither collaborative attorney is able to continue on and husband and wife have to retain new attorneys.

If divorce is inevitable, putting forth an effort to resolve issues outside of court using alternatives of **Divorce Mediation** or **Collaborative Divorce** can help preserve family relationships. Divorce issues can be viewed as "joint problems to be solved" rather than a fight to win and destroy. Meetings can be scheduled at the convenience and availability of all involved. For both **Divorce Mediation** and **Collaborative Divorce**, the husband and wife are screened to assure the process chosen is suitable, taking into account the couple's history and situation. ■

Karen P. Sampson, Esquire is an attorney in Moorestown, New Jersey, whose practice includes Divorce Mediation and Collaborative Divorce. She is an advocate of the Divorce Mediation and Collaborative Divorce processes and is committed to handling divorces in a respectful, dignified manner, helping families move forward with their lives. She is a Founding Member of the New Jersey Council of Collaborative Practice Groups and the South Jersey Collaborative Law Group where she currently serves as First Vice President. Ms. Sampson is also a member of the New Jersey Association of Professional Mediators. She can be reached by phone at 856.439.0068 or through e-mail at karen@karensampson.com. Her website can be viewed at www.karensampson.com.



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