

INTRODUCTION

Divorce mediation is one of the new catchphrases of the 1980s. Yet few people understand exactly how it works. This book will explain what divorce mediation is, why it is so successful, and how it can work for you.

Every year in the United States, there is one divorce for every two marriages. There will be **1.2** million divorces and 1.8 million separations this year. Each of you has already been affected by a divorce, whether it is your own, a family member's, a friend's, or a coworker's.

For those of you about to start your divorce procedure, this may be your first experience with a court system. Chances are it will not rate with the great firsts of your life. A divorcing couple enters a different and harsher world. Many people have described the adversarial system as notoriously expensive and more emotionally painful than the end of their marriage. Invariably they have found that litigation created added bitterness and acrimony. Divorce mediation was born to help alleviate this nightmare.

Mediation offers a commonsense way to settle a dispute. A neutral professional sits down with the divorcing couple

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and helps them reach a settlement. To date, only **3** percent of the divorcing population has used mediation, but experts predict that within the next ten years mediation will be the way most people settle their divorce disagreements. Why has it worked? Why does it offer such hope?

One of my favorite analogies may help to explain why mediation will be so successful. Take a barrel of money and place it between a divorcing couple. The adversarial system provides the divorcing couple one important rule: “Grab as much money from the barrel as you can get for yourself.” What happens is certainly predictable: they each attempt to take all the money. Now let’s put it into a mediation context. Here is the same barrel, placed between the same divorcing couple, with a very different rule: “How can you most fairly divide this barrel of money between the two of you?” Experience shows us that people will try to work out a fair settlement. The definition of *fair* is by far their biggest problem and the main reason for employing a professional mediator.

The successes of divorce mediation have convinced legislators and court officials to encourage and implement mediation programs. Currently ten states have mandatory mediation for divorcing couples, five states allow a judge to order mediation, and twenty-one states are considering mediation programs. Mediation is here, and with it comes a multitude of questions.

If you are like most Americans, you have barely heard the word **mediation**. Even divorce professionals aren’t always certain what divorce mediation is all about.

Mediation started in the early 1970s with a nonprofit community program called The Bridge, in Atlanta, Georgia, which used mediation to bring together runaway children and their parents. The techniques and procedure were successfully transferred to divorce mediation, and it spread

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like wildfire throughout the United States. It has come on the heels of no-fault divorce, which changed the way we end marriages in the Western world. It eliminated the idea of one person having to be the “bad guy” during a marriage. Regardless of fault and regardless of the kind of divorce filed, settlements are basically an economic matter of property division and support. Divorcing men and women are beginning to realize that hiring top lawyers to wage their battle is a sure way of escalating their divorce costs and doesn’t do as much for a fair settlement as reasonable negotiations would.

Divorce has become big business in America. Even low estimates show that Americans spend at least *two* billion dollars on divorce each year. Many researchers provide a figure that is double this amount. Literally hundreds of divorced men and women have confided to me that they wish they had heard about mediation before spending \$40,000 to \$80,000 for a divorce court battle.

Along with lower costs, there are other good reasons for using divorce mediation. Many people want a civil relationship after their marriage ends, and mediation minimizes the bitterness. Recent clients of mine turned to mediation for this very reason. Jack and Mary had been married twenty-three years. Their oldest child was graduating from college in five months and they both wanted to attend his graduation. Jack and Mary had just begun their divorce procedure and their relationship was rapidly deteriorating. They decided to stop their lawyers from pursuing a contested divorce and to try mediation. Both wanted a civilized relationship that would allow them to be in the same room for future events involving their children. They simply wanted a fair and decent divorce. Mediation helped them to achieve just that.