

In the spirit of our green issue, this article explains how to conserve your money, time, energy and sanity when faced with a divorce. The answer, quite simply, is mediation. Mediation is a process by which the parties, their attorneys and a neutral, trained mediator, sit down to attempt to resolve the issues. As a general rule, every divorce must go to mediation prior to being placed before the Judge for trial. Mediation works. Trials are extremely expensive and are risky. To leave your fate and that of your children, in the hands of a Judge who only knows of your case and your life what can be presented in the span of a few hours, means for an uncertain future. Even though in mediation you will have to give up some things you want, at least it is a deal you have made. At trial all things are up for decision and the Judge may decide to give the one thing most important to you to the other party. However, there are several misconceptions that make people initially hesitant to the mediation process. 1. A person may feel an agreement is impossible so they shouldn't even try. While it is true that if two people communicated well they probably would not be getting a divorce in the first place, mediators are professionals trained in diffusing situations and resolving conflict. With some guidance on the law and parameters of what typically happens in similar divorces, even the most emotional and angry people are able to focus on logic and come to a good resolution the vast majority of the time. 2. My attorney just wants to settle the case and, therefore, is weak. I want a "bulldog." Attorneys often encounter this negative view when encouraging a resolution to the client's issues without going to trial. The fact is many of us are litigators and there is nothing that we, as attorneys, love more than going to trial. Mediation, for born litigators, is exhausting and requires an exercise in patience. However, beware of attorneys who portray themselves as "bulldogs" and discourage mediation. The fact is an attorney makes the most money on the case if the case goes to trial. Certainly there are cases that cannot be completely resolved at mediation. At times, there simply isn't a middle ground at which the parties can meet to resolve the issues. However, these cases are the exception to the rule and, if anyone discourages mediation, a client should look closely at his or her motives. 3. Sometimes couples believe it is a good idea to go to mediation without attorneys. While this is possible, it is often not a good idea. A mediator is not allowed to give either party legal advice. Therefore, when a person goes to mediation without an attorney, he or she has no guidance on the law or what rights, money, or property he or she may be entitled, but is giving up in the mediation agreement. Once the agreement is signed, with limited exceptions, it is done. Signed agreements are very hard to overturn and, thereby, it is exponentially more expensive to attempt to overturn than to simply hire an attorney prior to mediation. Trials are expensive, emotionally, mentally and financially. Conserve your resources and mediate.

Never go to mediation alone

Attorneys encouraging mediation aren't week.