

COLLABORATIVE DIVORCE - FAQ

A. What is the difference between collaborative and traditional divorce?

While the result (divorce) is the same in both cases, the process as well as the emotional and financial impact may vary significantly. The process starts with both spouses and both lawyers signing an agreement to resolve issues without going to Court. A Collaborative Divorce Agreement is reached through face-to-face negotiations between the spouses and lawyers. The Collaborative Divorce process is respectful with a focus on problem solving.

Traditional Divorce Lawyers directly negotiate terms of divorce on behalf of spouses. If the parties cannot agree, then a Judge imposes a decision in court. This approach is often adversarial, more financially and emotionally costly, and time-consuming than collaborative divorce.

B. How much does Collaborative Divorce cost?

The cost of a Collaborative Divorce depends on the complexity of the issues to be resolved and the degree of cooperation between the spouses. My time is billed on an hourly rate (plus GST). Four-way team meetings are usually scheduled in three-hour time periods and the number of meetings required depends on your situation. The overall cost will also be affected by whether or not other collaborative professionals such as a Family Specialist or Financial Neutral are involved. Collaborative Divorce is usually less expensive than litigation because parties that choose Collaborative Divorce are committed to a cooperative process.

C. What if my spouse wants to take me to court?

Collaborative Divorce is a voluntary process. If either party wants to go to Court after the Collaborative Process has begun, then both lawyers withdraw from the process and new lawyers are required to represent the parties in Court.

DIVORCE MEDIATION - FAQ

A. What is the difference between Mediation and Collaborative Divorce?

Mediation and Collaborative Divorce are both cooperative processes aimed at resolving issues outside of Court. Mediation Spouses retain lawyers for outside counsel before, during, or after mediation. The spouses resolve the terms of their divorce directly with each other and with the assistance of the Mediator. The Mediator does not take sides or advocate for either spouse and the process is tailored to meet the unique needs of the clients.

Collaborative Divorce Spouses retain their own Registered Collaborative Family Law Lawyer to assist them through the process and to provide legal advice. The terms of the separation or divorce are negotiated during four-way, face-to-face meetings with both spouses and both lawyers. The lawyers have a shared goal of collaborating to reach resolution while at the same time providing legal representation for their own client.

B. What is the difference between Mediation and traditional divorce?

Mediation Spouses meet face-to-face to negotiate agreements with help of the Mediator. The Mediator is a neutral and does not take sides or advocate for either spouse. The Mediation process emphasizes

cooperation, productive communication, and focuses on the future. All discussions are private and confidential. Mediation is often faster and less expensive than traditional divorce. Traditional Divorce Lawyers negotiate terms of divorce directly on behalf of clients and if spouses cannot agree then a Judge imposes decision in Court. The litigation process is often combative and focussed on the past. All documents filed in court are public record.

C. Do I still need a lawyer if I choose mediation?

Yes. You are required to retain a lawyer to advise you of your legal rights and review the Agreement created in the mediation process. Beyond that, you can consult with a lawyer as little or as much as you want at any point prior to or during the mediation process.

D. How do I prepare for mediation?

Once you decide the mediation process is right for you, I will email some forms to complete along with a list of the financial information required to bring to the first meeting.

E. Is mediation appropriate if my spouse and I have a lot of conflict?

Mediation works for amicable couples as well as those enmeshed in conflict. A skilled mediator will facilitate focused, constructive dialogue regardless of the level of emotion and conflict. For mediation to be successful, each spouse must come with an open mind and willingness to reach mutually agreeable solutions. If either party is unwilling or incapable of negotiating respectfully on their own behalf, Collaborative Divorce may be a better option.

F. How much does mediation cost?

I charge an hourly rate for my time spent in the mediation. The number of meetings required is different for each couple and depends on the number and complexity of issues to be resolved and the degree of cooperation between the spouses.

G. What happens if we do not reach an agreement in mediation?

In the unlikely event that an agreement cannot be reached, you have the option to pursue Collaborative Divorce or litigation. I cannot represent either spouse if you choose to leave the mediation process.

H. What if my spouse wants to take me to court after we begin mediation?

Prior to starting the mediation, both spouses sign an Agreement to Mediate, which states they will not make threats to go to court. However, mediation is voluntary and either spouse can terminate the mediation process at any time. Discussions that occurred or agreements made in mediation cannot be used in court and the mediator cannot be called as a witness.

LITIGATION - FAQ

A. What if I want to participate in the Collaborative Divorce process or Mediation and my spouse wants to litigate?

Both Mediation and the Collaborative Divorce process are voluntary and both spouses must agree and commit to the process. If your spouse has chosen litigation, then you have no other option.

B. If we are in the litigation process, will we be going to Court?

I will do my best to resolve the issues through negotiations with your spouse's lawyer so as to avoid the Court process. Sometimes if the spouses cannot resolve their issues through negotiations then attending Court to have a Judge make a decision becomes the only option. As long as negotiations are moving the process forward, then Court is not necessary and the parties still have the decision making authority. If agreements are not reached, then the decision making authority is turned over to the Judge.

C. How much does litigation cost?

Litigation is usually much more costly than the Collaborative Process or Mediation because it is an adversarial process that is a war like model. Parties that choose litigation may be uncooperative and want to fight to win. There is also an emotional cost to litigation that impacts both spouses and their children.