

## **Divorce Mediation, Collaborative Divorce and Litigated Divorce: A Comparison**

There are many roads to divorce – not that you would know it from television and films, where divorce always, *always* means litigation and dramatic courtroom scenes, angry spouse shouting, lies and drama. Litigation is rarely so exciting and it is far from the only option available to divorcing couples. After all, emotional states vary, goals and personalities vary, and different couples require different levels and types of help coming to their final agreements. While litigation is truly the only option for some couples, many will benefit instead from a Collaborative Divorce or Divorce Mediation.

In a *litigated divorce*, the sides are adversarial. The disagreements between the parties are so fundamental and the issues at stake (property, support, custody) so complex, there is no possibility of simply coming to an agreement. Litigation means each side hires attorneys, a petition is filed and a court date set. Litigated divorces are the most costly and slowest way to divorce, and even relatively calm proceedings can be emotionally draining as the adversarial nature of a litigated divorce requires an attack sensibility, treating the other party as an enemy.

A step back from a litigated divorce is *divorce mediation*. The mediation process involves a trained mediation attorney who acts like a guide between the two parties. Individual attorneys may be involved as well for advice and counsel, but it is not a courtroom, and the spirit should be one of cooperation. In a mediated divorce there is no requirement that the divorce laws of the region be followed. As long as the final agreement contains no illegalities and is agreed to by both parties, it will go into effect. Mediation is usually faster and less expensive than litigation, and can teach both parties vital skills for communicating in the future, such as remaining goal-oriented, staying future- and present-focussed, and maintaining a polite and respectful demeanour.

Finally, in *collaborative divorce* both parties know the general outline of how they wish to separate their lives. They bring in attorneys and other experts and negotiate. Since they already know the broad outlines of their agreement, there is usually no need for formal mediation. They simply need experts to help them craft the legal language, vet each other's statements and positions, and help resolve minor disputes along the way.

It's important for any couple heading towards divorce to know the options available to them. Assuming there is only one way to proceed can result in unnecessary expense, emotional pain and delay.