



# Family's First

## Divorcing Wisely Will Save You Money And Time

*Are you contemplating a divorce or legal separation, but have no idea where to start? It's actually quite common for couples that want a divorce to hold off because the divorce process can be so daunting. First, divorce and lawyers seem to go hand in hand. Expensive. Second, even if your legal bill doesn't become a nightmare, splitting your financial assets, especially your retirement plan, sounds painful. So what can you do?*

EDUCATE YOURSELF ABOUT THE DIVORCE PROCESS and the steps to complete a divorce. I often tell clients that the most important decision you can make about your divorce is the process you select. The process you choose can determine your success.

There are three options available to couples to process their divorce: kitchen table divorce, litigation, and alternative dispute resolution (ADR) options such as mediation and collaborative law. Each process has its way of handling a divorce. The processes are so different, as are the results. Kitchen-table often works for couples with minimal assets, who have the time and ability to sit around the "kitchen-table," settle their matter, and file the necessary paperwork with the court. Litigation tends to take the most time (generally one to two years) and cost the most. It has been my experience that litigation affords parties the least amount of control and decisions are either made by a judicial officer or in zero-sum settlement. However, litigation remains a viable option for cases where domestic violence, serious

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addictions, mental health or similar issues plague the family, and so that the other options are not feasible. With ADR options, such as mediation, the parties work with a third-party neutral, the mediator, to reach all agreements related to their divorce. The parties are in control of the process, and the process is more affordable and efficient than traditional methods like litigation. Typically, parties need only a few months to complete their divorce in mediation. If a couple can mediate their divorce, this should be a serious first option. Statistically, couples that mediate their divorce are happier with their results, more likely to follow the agreements made, and their children are more resilient to the divorce.

Regardless of the process, every couple starts and ends in the same manner. A divorce is initiated with a filing of a Petition for Dissolution of Marriage and ends with a final agreement. How a final agreement is reached differs with each process. In litigation, parties generally request that the court issue temporary orders for issues like child and spousal support, before going to trial for a final hearing or settling out of court. In mediation, parties work together with the mediator to reach a final agreement, and immediate issues are resolved in the mediator's office and do not require a court hearing.

Divorce is not easy. You need to be as prepared as possible – emotionally, physically and spiritually. Often, filing for a divorce is a sign of war, especially if the other party is unaware. It often results in a race to hire lawyers and a court fight – costly, time-consuming, and especially harmful to children. If possible, avoid the surprise-attack. Discuss filing with your spouse. Use that opportunity to select the process



that is right for you. Ultimately, how much your divorce will cost is determined by this decision. If needed, seek out a professional, such as a therapist or mediator, to help you with that conversation. Even if you do not want the divorce, you should absolutely participate or risk losing a great deal. In my practice, I prepare the petition for the couple, review it in session with both parties and file it for them. Although only one person is the petitioner, this process allows both to be involved. We then serve the petition on the other spouse (respondent) by mail or in my office to take away the sting or embarrassment that might happen when served in public. To learn more about the divorce process, visit our website for more articles and videos. □

**Editor's Note:** *Dina Haddad, Esq., LL.M., is the founder of Families First Mediation, a family law mediation boutique, and provides family law mediation services in San Jose. She is a panel neutral for Agency for Dispute Resolution, headquartered in Beverly Hills, and sits as judge pro tempore for the Santa Clara County personal property arbitration program. You may reach Dina at 408.357.3486, dina@ffmediation.com, or at her website, www.ffmediation.com.*

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