

Divorce Process

Many couples are not aware of the choices they have in order to reach a resolution and instead, may have the perception that only one option exists to resolve marital conflict.

In NY, approximately 98% of all divorce cases are settled by agreement. How you come to an agreement to divide your property and the best arrangements for your children differs. The options include:

- Kitchen Table Settlements
- Mediation
- Collaborative Law
- Litigation

Kitchen Table Settlements

Many couples had a productive way of working with each other when times were good. Despite conflict now, they can still talk and sit down, at the kitchen table, and work out an arrangement that satisfies each of them. The agreement can be taken to a lawyer to be put into legal form.

Unlike some other divorce options, this method of reaching agreements can produce inexpensive, quick, private agreements for couples who do not have children or substantial assets. Without the benefit of legal advice, however, you may not know if you are giving up valuable rights. It is also easy to make mistakes that someone with family-law experience could help you avoid. People often find, upon taking the agreement to a lawyer, that questions will arise that may cause one or both spouses to change their agreement. If the husband and wife do not have equal information and equal power in the relationship, one person might not get his or her needs met.

Mediation

Mediation is assisted settlement negotiation. Mediators don't take sides, and are used for the sole purpose of trying to help people reach a settlement.

Mediators are neutral and can offer clients a different, neutral perspective. Also, having both clients, both lawyers and a mediator in the same place at the same time with everyone's attention focused on getting a settlement can often create a positive environment for making agreements.

Litigation

Litigation provides an important safety net for those who cannot decide for themselves. In litigation, decisions are made for the parties, by a judge. There are very strict rules about what information may be presented to the decision-maker, who may have never seen you before, and who will hopefully not see you again.

The court system is the only way to “force” a reluctant party to deal with family law issues. Litigation, though, is a process focused on the negative aspects of divorce and other family law matters. In comparison to other divorce options, it causes people to focus on how they are “right” and the other is “wrong,” when they really just have different ideas about how their lives should look after divorce. Litigation is expensive and destructive to relationships. Even though most cases settle before they ever go to trial, the process of preparing to go to trial, if necessary, causes relationship damage that is difficult – if not impossible – to repair. Costs of litigation can use up funds that could be put to better use, like children’s college or litigants’ post-divorce financial autonomy.

Collaborative Law

Collaborative Law is quickly becoming a popular dispute resolution option in NY. In the Collaborative Law model, you, your spouse, and lawyers agree in advance that no one will take any contested issue to court. The “Collaborative Team,” which often includes mental-health and financial professionals, focuses all its attention on finding ways to restructure a family so that everyone involved gets their needs met to the greatest extent possible. The lawyers in this team are divorce lawyers and family law attorneys specifically trained in Collaborative Law.

Collaborative Law starts with the idea that most people want to move through family law matters as quickly and efficiently as possible. Most people do not want to harm their spouse or children, they just want to change their situation to something they believe will work better. Collaborative Law eliminates much of the strategic game playing that often accompanies litigation, as well as the hard feelings that are created when one person has to win and the other has to lose. In the unlikely event that clients are not able to settle their cases using the Collaborative Law model, litigation attorneys can still take the case to court.