



# **The 11 Myths of Divorce Mediation**

**How the Truth Can  
Save Your Family's Future**



## Introduction

Where do these divorce mediation myths come from? Often, they are perpetuated by well-intentioned friends or relatives who are only trying to help. But because each divorce case is different, the advice you receive from them is often times misinformed and not applicable to your own circumstances.

This article is intended to expose common misconceptions about divorce mediation, who really benefits and why. These 11 myths were compiled from listening to hundreds of clients facing similar predicaments regarding their separation or divorce.

Our hope is that by dispelling these myths, your concerns about divorce mediation will be put to rest, and you can open your mind to the certainty that divorce mediation can work for you as your best option.

All the best,

Main Line Family Law Center

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## MYTH #1

**My rights will not be fully protected, and I will not get everything that I am entitled to.**

This is absolutely not the case. In fact, your rights will be just as protected with a divorce mediator, if not more, than they would be using divorce lawyers.

Here's why:

- **A divorce mediator is both a neutral third party – and an advocate for you.** While it is true that a divorce mediator does not take sides, what you may not realize is that the divorce mediator's role is to protect everyone's rights and best interests.

**Knowledge is power.** The divorce mediator takes the time to educate both spouses on the law and explain exactly how it applies to your particular circumstances. When you understand the law, you can make your own informed decisions. Only then, can you truly protect yourself.

**You will know what's fair according to the law.** The divorce mediator continually points out what the law would view as unfair or unbalanced during the mediation sessions. This compels spouses to reach a very even and well-balanced settlement agreement in the end.

**The days of the “shark” divorce lawyer are over.**

Courts are simply too overworked anymore for the prototypical, loud, and intimidating trial attorney to bully the court to get their client's desired outcome.

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## MYTH #2

**I need the biggest, meanest divorce lawyer in town**

**Over 90% of all divorce cases end up settling no matter who represents you.** Courts expect the

attorneys to avoid litigation and to work together in finding a fair resolution on behalf of their clients. Typically, these resolutions are made right before trial - and after spouses have already spent on average between \$30,000 to \$40,000.

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## MYTH #3

**I will never find out what assets my spouse may be hiding.**

**Voluntary asset disclosure is rarely a problem.**

If you and your spouse are both there in good faith and do not intend to hurt one other financially or otherwise.

**A slick spouse will do it no matter what.** If your spouse intends to hide assets from you in bad faith, chances are s(he) will do so regardless of whether your

case is in litigation or mediation. It's true that, in litigation, a spouse can be held in contempt in discovery court if they fail to produce requested information. But - here's the twist: there can be no legal consequences if the hidden assets can't be found or traced!

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## MYTH #4

**My spouse has been unfaithful so divorce mediation could not work.**

Heading into divorce mediation feeling hurt, resentful or betrayed by your spouse is normal and understandable. But this does not mean that you cannot successfully mediate your divorce.

- **Focus on the future** - clients report that these feelings do subside as their focus begins to shift away from past events and more towards the preservation of their family's future best interests.

- **Get extra support.** What some spouses do is use a divorce/life coach or therapist to help them cope with these feelings, both before, during or after the mediation process. They help you to turn your attention away from the past and focus on resolution in the now.

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## MYTH #5

**I am the family breadwinner, so I will lose everything.**

If you are the breadwinner, the law generally deems you responsible for paying child support, alimony and potentially other expenses in your divorce. However, in divorce mediation, you actually have a much better chance of retaining **more** than if you go to court.

**You are in control.** In divorce mediation, you and your spouse retain control over all of your financial decisions that form the basis of your agreement—so you make the decisions - not the courts.

**No matter what happened during the marriage, you are both now on equal footing in the mediation room.**

**A heavy focus on budget planning** - During mediation, you have the opportunity to sit down with your divorce mediator and analyze your individual budget of expenses so that fair and realistic financial obligations can be negotiated.

**Going to court is risky** - In addition to risking having to pay unaffordable amounts of child support and alimony and being awarded a smaller piece of the marital estate, you may also be responsible for having to pay your spouse's attorney fees throughout your case, depending on the law in your particular state.

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## MYTH #6

**I'll get steamrolled since my spouse controlled the finances.**

If your spouse attempts to bully you into a financial settlement that is unfairly balanced in their favor, an experienced divorce mediator will:

- **Firmly point out its inappropriateness.** The mediator has zero tolerance for this behavior and will immediately recognize this as an impediment to resolution.

- **Engage you to speak on your own behalf.** The mediator encourages you to express your own opinions and ideas as to what your needs are and what you think is most fair for your settlement.

- **“Advocate” on an issue.** A divorce mediator is not your mouthpiece, but at times, may intervene on your behalf to assert your rights on a particular issue in order to keep the discussions fair and balanced.

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## MYTH #7

### **My spouse and I can't communicate so we can't mediate.**

Sure, you feel tired, exhausted and emotionally spent as a culmination of many years of arguing, fighting and talking past one another. But have no fear. Even if you can no longer communicate face-to-face outside of the mediation room, you can still have a successful mediation.

**Consider a Coach** - The use of a life or divorce coach throughout the divorce mediation process can really help you to practice negotiation skills, and give you more self-confidence.

- **You'd be surprised what happens.** It may seem like a miracle, but when spouses unite for a common purpose (typically for the preservation of their family), all of a sudden the floodgates of communication open up.
- **Use technology to diffuse tension.** Another effective way spouses have worked around the tension is to use e-mail to communicate and negotiate in between sessions, as well as Skype/video conferencing during mediation.

- **Mediated settlement agreements are fully enforceable in court should either one of you violate its terms.**

Once your agreement terms are put in writing in a marital settlement agreement draft, both of you will sign and notarize it. You are each then contractually bound.

- **Mediated settlement agreements usually stand the test of time.** Statistics have shown a much lower likelihood of mediated settlement agreements being challenged in court than settlements that are reached through adversarial litigation. Why? Because in mediation, you crafted the settlement terms together, and so you both know they were negotiated fairly. This is as opposed to having been told by a court what the terms and obligations are, whether they are fair or not.

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## MYTH #8

**Divorce mediation is not legally binding so we'll still end up in court.**

Actually, **divorce mediation uncovers what you need to agree upon.** The purpose of divorce mediation is to identify those very issues that couples cannot come to terms on, and assist them in working past those obstacles in order to reach a joint resolution. To think that every couple comes to mediation with all of their terms resolved in advance would be naïve – and extremely rare!

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## MYTH #9

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**You have to agree on everything to be able to mediate your divorce.**

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## MYTH #10

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**Divorce mediation is for couples who want to reconcile their marriage.**

**Divorce mediation is not therapy.** It is not a method used to salvage a relationship (although the rare couple does end up reconciling as a result of the mediation process). In most cases, by the time couples come to mediation, they have already participated in couples counseling and have affirmatively decided together that the time has come to either separate or divorce.

- **Divorce mediation is for couples who want *resolution*.** They are ready to move on with their lives and get a fresh start, while doing it both civilly and amicably.

- **Save the emotional court battle.** Most divorce mediation settlements actually end up being a reflection of how spouses would have fared had they battled in out in court.

- **Your own education will save you thousands.** Because spouses are educated on the law, they learn how to apply the law to their own case – instead of paying divorce lawyers tens of thousands of dollars to do it for them.

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## MYTH #11

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**Mediation means I will have to settle for less than if I got my own divorce lawyer to fight for me.**