

OPTIONS FOR RESOLVING A DIVORCE OUT OF COURT

Many people want to avoid fighting in court when they are getting divorced or have another family law issue, such as custody and visitation. There are several ways to do that.

KITCHEN TABLE

The most inexpensive option is to talk it out between yourselves to come to an agreement, and then get help writing the agreement and forms from a Self-Help Clinic such as the one in Santa Clara County http://www.sccourt.org/self_help/family/family_help.shtml, or from a book, such as How To Do Your Own Divorce in California: <http://www.amazon.com/How-Your-Divorce-California-2013/dp/094450888X>. Or, you can hire an attorney on a limited scope or consulting basis to help with the forms and the agreement.

MEDIATION

If it's difficult to talk to each other without arguing, or if you need more guidance in understanding and/or agreeing on the issues, a mediator can help. In a mediation the couple comes to their own agreement about their divorce or other legal matter, with the mediator as a facilitator. The spouses or partners agree to disclose all their financial information, and to listen to each other, as well as to advocate for their own needs. A mediator is neutral, and doesn't represent either person. Mediation is also confidential. The mediator builds on the skills that the parties already have to work through any unresolved issues and to keep the communication positive. The mediator can also prepare the court paperwork necessary for the divorce judgment or other court order. The parties sometimes hire separate attorneys to review any agreements that they make in mediation. Another option is Wevorce, which is a new type of mediation that uses a team approach, including a financial specialist and a parenting specialist, and uses software to guide the process (www.wevorce.com).

COLLABORATIVE PRACTICE

Another recent process is collaborative practice, in which you and your spouse or partner would each have your own attorney. The two parties and two attorneys work as a team to gather information and to come to an agreement about the issues out of court. The team can also bring in other professionals, such as an accountant, appraiser, and/or a child custody expert, if desired. In team meetings you make decisions about dividing your property and about support, custody and visitation issues. You would be encouraged to make the transition to two households work for all of you. You always keep your own right to go to court, but you would need to hire a different attorney if you wanted to do so. If you come to an agreement, the collaborative attorneys would put it in written form, and would prepare the necessary court paperwork.

The Santa Clara County Superior Court has established a list of qualified mediators and Collaborative Law attorneys. Their website is: http://www.sccourt.org/self_help/family/divorce.shtml#agreement. You can also find more information at www.CollaborativePracticeSiliconValley.org. Another place to get information about divorce issues and about the ways to get divorced is to go to a Divorce Options Class <http://www.cpcal.com/DivorceOptions.aspx>.

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