

Avoiding The High Cost Of Divorce

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Divorces tend to be extremely costly and consume an exorbitant amount of time for the parties and legal professionals involved. Time equates to money when matters are litigated.

I am sure that the parties involved would rather save their money for their children's college education or their retirement instead of spending it on litigating their divorce case. In order to save time and money during the divorce process, you can utilize various alternate dispute resolution methods, which include but are not limited to, mediation, arbitration, or collaborative law.

Many times divorcing couples will participate in one of the above alternate dispute resolution methods before filing a Complaint for Divorce in an attempt to resolve their matter without court intervention. This will save them a significant amount of time and money because they will not have to incur the filing fee for the Complaint for Divorce nor will they be required to comply with court deadlines regarding filing Case Information Statements and/or serving and/or answering discovery, all of which are extremely costly and very time consuming.

Mediation is a way divorcing parties can resolve their differences utilizing a trained, impartial third party, who is most often a lawyer. Mediators do not make binding determinations but rather assist the parties in coming to a resolution without court intervention, if they so choose. People can attend mediation before or after a Complaint for Divorce is filed. You can attend mediation with or without lawyers. Ultimately, if mediation is successful, the mediator drafts a Memorandum of Understanding, which your lawyer can transcribe into a Property Settlement Agreement. Thereafter, the parties who have mediated the case can file a Complaint for Divorce, if it has not been filed already, and obtain a Judgment of Divorce shortly thereafter.

Arbitration, on the other hand, is a proceeding where an impartial third party or parties, are presented with evidence and actually decide the case. The divorcing parties agree, prior to the arbitration, whether the arbitrator(s) decision will be binding or if they have the right to appeal the final determination. Arbitrators make decisions not recommendations.

Collaborative law is new and upcoming in New Jersey. It is an alternate dispute resolution method that allows the divorcing parties to retain their own attorneys, who work together with joint experts, to resolve their matter without court intervention. It is a “team approach” whereby the parties jointly retain a team of experts to help resolve their matter with a commitment not to litigate. If it is not successful, and a Complaint for Divorce is filed, the parties are required to retain new attorneys and experts.

Alternate dispute resolution methods are a less costly, alternative approach to litigating your matter in the court system. Each approach gives the litigants more control over the outcome of their matter. Many times a court case can take over two years before a trial date is set. Furthermore, there is absolutely no guarantee that a trial will occur on consecutive days. In fact, it is very unlikely. During that lengthy time period the divorcing parties are paying their attorneys, experts, etc. tens of thousands of dollars to fund the litigation, prepare testimony, etc. If the parties decide not to go to court and attempt to resolve their matter amicably it is undisputed that it saves them a significant amount of time and money.