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The Benefits of Divorce Mediation over Litigation

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Mediator Nicole K. Levy

takes a deep dive into the benefits of resolving a divorce through mediation rather than litigation.

Taking the first step to ending your marriage can be challenging. Many recently separated spouses only decide to seek a divorce after years of struggling to communicate at all, never mind about the dissolution of the marriage. The prospect of exacerbating these already strained communications with divorce litigation leaves many people wondering if there's a better way forward.

Massachusetts courts encourage divorcing spouses to consider the benefits of divorce mediation. Not only can guided mediation reduce the overall stress and expense of divorce, but it also often results in a quicker and less expensive resolution. Further, the parties retain more control over the process and the terms of a potential agreement reached through mediation, which allows both parties to feel that they “won.” At [South Shore Divorce Mediation](#), our experienced Massachusetts divorce mediators dedicate themselves to assisting clients during the mediation process to achieve an optimal outcome efficiently and effectively. Each of our Massachusetts [mediators and conciliators](#) are also a [practicing attorney](#) in the Probate and Family Courts, providing us with experiencing handling contested cases and the knowledge of relevant laws and cases. You can discuss the benefits of divorce mediation with our mediators by calling (781) 253-2049 or confidentially connecting with us [online](#).

What is Divorce Mediation in Massachusetts?

[Mediation](#) is a form of alternative dispute resolution that encourages parties to resolve their legal issues without messy and expensive litigation. During divorce mediation, the parties meet with a [statutory divorce mediator](#), typically a family lawyer, to engage in guided negotiations addressing all issues, including:

- **[Child custody and visitation](#)**
- **[Alimony](#)**
- **[Property and debts division and assignment](#)**
- **[Child support](#)**
- **[Preparing prenuptial agreements](#)**
- **[Parenting goals](#)**
- **[Joint business and/or asset management](#)**

*Divorcing spouses must address each of these issues to finalize a divorce agreement. Participants may narrow the scope of negotiations by addressing the issues and resolving some, or all, through mediation. Divorce mediation ideally results in spouses entering into a binding **mediated separation agreement** without judicial intervention.*

Reasons to Choose Divorce Mediation Over Family Litigation

*Experienced Massachusetts divorce lawyers might recommend forgoing mediation and seeking immediate judicial protection if a case appears to be **highly contested** – especially those involving allegations of spousal or child abuse. Even high conflict cases involving allegations of domestic violence can be resolved through **conciliation**, which is a **more robust form of divorce mediation**. Many people think their situation may not be the right fit for mediation, but this is often incorrect. Mediators are **trained to handle conflict** and most cases that are in mediation start with only one agreement: to try mediation. Most divorce situations jointly benefit from resolving family issues on their own terms during private mediation sessions. Consider the following primary benefits of using a **statutory divorce mediation provider**, like South Shore Divorce Mediation.*

Resolving Property Distribution and Parenting Disputes Together

*Divorcing spouses with shared assets often attend mediation to negotiate **fair property distribution settlements**. Rather than submitting asset disputes to the family court, which might not address the parties' unique concerns, spouses may develop **binding marital property distribution plans** that work for their situation. For example, spouses may agree that although certain jointly owned assets are marital property under Massachusetts's law, they will treat them as separate assets under the dissolution settlement. Or the parties may benefit jointly from a certain **tax***

filing or property distribution that would not have been explored in the context of litigation. Couples with children may end their marriage, but they will always be co-parents. By jumping into litigation, you are allowing a judge and attorneys to determine what's best for your children. In mediation, parents may develop *joint parental responsibility* that suit their particular schedules and needs. Experienced child custody mediators help co-parents address *general custody arraignments*, individual parental responsibilities, and specific child-rearing concerns often left unaddressed by boilerplate custody orders. Examples include:

- *Milestone birthdays*
- *Religious celebrations*
- *College funds*
- *Extracurricular activities*
- *Family vacations and obligations*
- *Religious upbringing*
- *Education*
- *Driver's licenses, vehicles, and insurance*
- *Healthcare concerns*

While judges must approve custodial arrangements based on the child's best interests, most judges accept duly negotiated custody and support agreements.

Reducing Stress and Family Conflict

*As we have noted, mediated divorce agreements are **less likely to be violated**. Guided mediation takes place in a comfortable office setting, generally law office conference rooms (in person or **via Zoom**) or dispute resolution centers, and not the courthouse. Mediation sessions are simple to schedule in that they work around the parties involved, including through videoconferencing software. This allows spouses to avoid leaving the office to attend*

*court-schedule hearings that are set based on the judge's calendar and the natural stress and **negative emotions** associated with courtrooms. Clients may also take breaks or end sessions as necessary for their emotional well-being -- something not generally available during contested family court hearings. Likewise, mediation focuses on **identifying areas of agreement** and gives the parties professional platforms to state their respective positions and resolve potential conflicts. Through **shuttle diplomacy**, mediators can even resolve cases with spouses sitting in separate rooms. Divorcing spouses can always **agree to disagree on certain issues** and ask the court to resolve the limited remaining disputes. These established dispute resolution techniques substantially reduce the stress and family conflicts associated with divorce proceedings.*

Expedited Divorce Settlements with Judicial Oversight

*Couples electing to dissolve their marriages generally want to move forward quickly, but this becomes virtually impossible during contested litigation. It can take years to resolve family litigation in Massachusetts, especially during **high-asset divorce proceedings** or highly contested custody cases. Mediation works towards creating binding separation agreements or divorce settlements within a shorter time frame. Most sessions last two hours, and spouses attend as many or as little sessions as needed for their situation. Sometimes mediators can sit down with couples who already discussed their desired settlement and draft dissolution agreements over the course of a few sessions and email communications. The parties may **submit their settlement agreement to the court** and request entry of the final divorce decree in one hearing. Judges will review the settlement agreement under Massachusetts' law – generally to ensure the agreement is not unfair or patently unreasonable – and enter the agreement as the judgment.*

Substantially Reduced Attorneys' Fees

Family attorneys must charge by the hour under Massachusetts's professional responsibility laws. As such, lengthy divorce proceedings generally result in substantial legal bills for both parties. Each spouse might choose to obtain individual counsel while simultaneously paying to support individual households and children. Guided divorce mediation typically involves one statutory mediator that the parties pay jointly. Mediation often **costs parties less than litigation**, even with each party retaining an attorney or **mediation coach** to review the proposed agreement. Divorce litigation can result in legal bills over \$10,000 each quickly. Even if the parties cannot reach complete agreements, partial divorce settlements reached through mediation will still reduce the overall costs associated with divorce proceedings.

Privacy and Confidentiality

In most cases, the pleadings filed in a litigated divorce are public records. Thus, if you go to court, anyone with sufficient curiosity could discover details about your finances and personal lives through court filings and other documents. In the context of a highly contested divorce litigation, the disclosures in such pleadings are likely to be more detailed and presented in a more aggressive manner by battling attorneys. When you arrive at a settlement agreement through mediation, very few documents are filed with the court, so much of your personal dispute is not public record. Moreover, all discussions and work product produced during mediation is **confidential under the Massachusetts mediation statute**. Through mediation, divorcing couples can maximize their privacy while minimizing family conflict.

South Shore Divorce Mediation is a Division of Lynch & Owens, P.C.

Whether you're concerned about high attorneys' fees, lengthy judicial proceedings, or court-ordered custody arrangements, speak with your spouse about the benefits of divorce mediation. South Shore Divorce Mediation is a division of [Lynch & Owens, P.C.](#), the south shore's leader in divorce and family law representation. Our [mediators and conciliators](#) have negotiated thousands of binding divorce agreements over more than 100 years of combined legal experience throughout Massachusetts. Schedule a mediation with [Nicole K. Levy](#) today at (781) 253-2049 or send [her an email](#).

Nicole is a divorce mediator, conciliator and mediation coach for South Shore Divorce Mediation, with offices in Hingham, Massachusetts and East Sandwich, Massachusetts. She is also a collaborative law attorney Senior Family Law Attorney for Lynch & Owens, P.C. Nicole is a statutory mediator under [M.G.L. Ch. 233, s. 23C](#) and a proud member of the Massachusetts Council on Family Mediation. To read more from Nicole, check out her [content on the Lynch & Owens blog](#). Disclaimer: The information you obtain at this site is not, nor is it intended to be, legal advice. You should meet with an attorney for advice regarding your individual situation. You are invited to contact our office. Contacting the office does not create an attorney-client or mediator-client relationship. Please do not send any confidential information to the office until such time as an attorney-client or mediator-client relationship has been established. This blog is considered an advertisement for the Law Office of Lynch & Owens, P.C. d/b/a South Shore Divorce Mediation. The Massachusetts Rules of Professional Conduct broadly govern all advertisements and communications made by attorneys and law firms in the Commonwealth. Generally, legal websites and any other content published on the internet by lawyers are considered a type of communication and an advertisement, according to the Comments to Rule 7.2.

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