

# How to Best Go Through Your Divorce

## THE DIVORCE GUIDE

LITIGATION ■ MEDIATION ■ COLLABORATIVE LAW ■ ARBITRATION



# WELCOME



In my 36 years representing New Jersey couples in divorce and helping them move on to the next chapter in their lives, I've come to learn that even the mere act of contemplating divorce is stressful. I know that the idea of heading into a courtroom to fight over your children, your family home, support, and the assets you have accumulated with your spouse could be the most stressful event of your life. It is also my experience that couples who select the best approach to their divorce can more easily handle their fear and trepidation. Understanding the process in advance and working with an experienced attorney who understands your needs will boost your confidence and comfort level and helps you achieve a peaceful end to your marriage.

My law firm provides personalized service and we take the time to understand the position of each client before moving forward. I know your concerns when it comes to transitioning from marriage to divorce and beyond. My goal is to help you make this transition as affordable and peaceful as possible.

I am certified by the American Academy of Matrimonial Lawyers as a Divorce Mediator and Arbitrator and I have received training from the New Jersey Institute for Continuing Education as a Collaborative Divorce Attorney. In addition to working with clients in a variety of capacities, my experience includes work as a Fellow of the American Academy of Matrimonial Lawyers. I am also President of the New Jersey Divorce Arbitrators Association.

As someone who has seen divorce from all sides, I understand that each situation has its own unique set of challenges. The goal at my firm is to help clients work through their problems to the best solution for everyone. We are a client-centered practice that does our best to make a difficult time in your life just a bit easier. There is no denying divorce is difficult, but we'll do what we can to reduce the challenges and help your divorce go smoothly.



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Divorce is never easy, but the tools you use to achieve your final divorce arrangement can make the process less contentious. There are some couples that have no choice but to settle the end of their marriage in court, but for those who are open to compromise or would prefer to keep matters private, there are many other options. What is the best way for you to go through a divorce?

### Litigated Divorce - Least Favorable

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The least effective and most contentious of your options is to litigate. It is the most expensive, time consuming, combative and public method of resolution. The ultimate decision is left to the discretion of the judge who will not know the facts and considerations in your divorce except for a few hours in the courtroom. Each spouse has an attorney to represent his or her best interest. Decisions about custody, visitation, child support, alimony and division of assets are determined by the court, and all matters discussed during the proceedings, as well as the Judgment, become a matter of public record. Litigation is best in situations where there is no way spouses will agree on a settlement. It is often the choice for situations when the safety and well-being of the children and/or one of the spouses is at stake, or when their relationship is too volatile to compromise.



### Mediated Divorce - Most Favorable

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Mediation is an excellent option for settling divorce issues. Mediation is less contentious, expedient, non-combative, less expensive, and private. An agreed upon divorce mediator is selected mutually by the parties. The mediator is a neutral who facilitates the parties reaching their own agreement. Mediation focuses on the interests and goals of each party. There is less talk about what each is entitled to or what position each holds than there is in litigation or arbitration. In mediation the parties compromise voluntarily and conclude with an agreement that is “homemade” rather than ordered by the court. Statistics show that mediated settlements are more likely to be followed by the parties than a judicial decision which is imposed on a person

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involuntarily. In mediation, the parties know exactly what they compromised on and are willing to voluntarily enter into a mediated agreement. Divorcing spouses have the option of hiring individual legal representation for mediation because a mediator is not allowed to provide either side legal advice. The best mediators are divorce attorneys with training, experience, and knowledge of family law. It is preferable to have representation during

mediation so the end result is not skewed too much in one direction or another. In cases where there are limited funds, an individual should first seek counsel from an experienced family attorney to understand their rights and parameters of a fair settlement. Then they can mediate without counsel present. In those instances, the party should discuss with counsel in between mediation sessions and certainly at the conclusion of mediation.

Do not mediate with a mediator who also promises to represent one of the parties in the uncontested divorce proceeding. It is a conflict of interest and could lead to unnecessary litigation in the event there is a dispute pertaining to the settlement after the divorce.

## Collaborative Divorce - Most Preferred in Difficult or High Income and Asset Cases

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The collaborative divorce process brings together divorcing spouses, their attorneys and various team members to achieve a single goal: collaborating toward a divorce settlement that avoids trial or arbitration. This goal is set at the beginning of the process and each member of the collaborative team commits to the process, often through a written agreement. Collaborative teams include coaches from various walks of life that work with the couple to make the process as efficient and affordable as possible. These experts might include neutral parties from the fields of finance, real estate, psychology, and child development. Ideally, each spouse will be represented by an attorney that is trained and certified in the practice of collaborative law.

Collaborative attorneys are free to consider all the options available without concern for ending up in a court room.



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It is possible for either party to end collaborative divorce methods and pursue litigation. In most cases, the discussions held during the collaborative process will not be part of the trial. The difference between collaborative divorce and mediation is that collaborative divorce guarantees an attorney will support each spouse through the entire process and a team of experts is assembled to assist in the making of important decisions. The collaborative method can be the least expensive option and, for many couples, is the most efficient. Like mediation and arbitration, collaborative divorce is confidential.



The collaboratively trained attorney is retained solely to assist a party reach a settlement using the collaborative process. If the parties can't reach settlement and have to resort to litigation or arbitration, the attorney cannot represent the party who will have to retain new counsel. The commitment to settle is the heart of collaborative law. The collaborating parties will have time and legal fees invested in the process which creates an incentive to reach settlement rather than starting over with different counsel and then entering the more expensive litigation or arbitration arena.

Core principals of the collaborative process are:

- 1.) The commitment not to litigate or to threaten litigation;
- 2.) Voluntary full disclosure of all information relating to the collaborative process;
- 3.) Commitment to negotiating a settlement that meets the needs of both parties;
- 4.) Commitment not to take advantage of mistakes made by the other party;
- 5.) Withdrawal and disqualification by all collaborative professionals if collaboration fails.

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### Arbitrated Divorce-Best Alternative under Certain Circumstances

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Arbitrated divorce works for those who need third-party assistance in settling their divorce for at least some issues, but prefer to avoid the expense and emotional turmoil of the courtroom. Arbitration provides a final and binding resolution for the end of a marriage. Each party presents their position, but the process is less formal than litigation. Arbitration is an effective and efficient means by which to solve a deadlock in divorce

negotiations. Some couples using another method, such as collaborative or mediated divorce sometimes turn to arbitration if an issue arises in which neither party is willing to settle. Arbitration is less expensive, faster, private, and can be used in conjunction with other divorce methods. Issues and discussions remain private and both parties have control over choosing the arbitrator and setting the time and place for the arbitration.

Arbitration has many advantages over litigation.

- 1.) Firstly, the parties mutually select the arbitrator who should be trained as an arbitrator and a knowledgeable divorce attorney, as opposed to being randomly assigned to judge who may be new to family law, or who has a reputation for bias on certain issues.
- 2.) The parties and their attorneys enter into an arbitration agreement which outlines the issues to be arbitrated;
- 3.) The rules of evidence are usually relaxed which saves a great expense in time and experts fees.
- 4.) **Undisclosed income** is kept private within the arbitration, thus avoiding the requirement of the judges to report tax avoidance or tax fraud to the authorities;

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- 5.) Saves time. Arbitrations are scheduled at the convenience of the parties and avoids the monthly or yearly litigation delays;
- 6.) There is finality to arbitration because of the limited right to appeal an arbitrator's award. In some cases, the parties can agree that the arbitrator's award must be within certain parameters so there will not be a "runaway" award;
- 7.) Arbitration can be limited to less complex issues such as division of personal property which would be too expensive and time consuming in litigation.

## Conclusion

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Divorce can be a frustrating experience if you do not understand the benefits and challenges of each approach. Having the ability to discuss the various options with your attorney and spouse can make the experience more civilized. If the two of you are able to work as a team and focus on what is in the best interest of your family or on the other's well-being, the collaborative or mediation methods are cost-effective and can lead to a more civil relationship in the long run.

## Our Philosophy on Divorcing

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Mark Gruber is certified by the Supreme Court of New Jersey as Matrimonial Law Attorney. He is a fellow of the American Academy of Matrimonial Lawyers and trained by the Academy as a Divorce Mediator, and Arbitrator. He also is trained by The New Jersey Institute of Continuing Legal Education as a Collaborative Law Attorney. He litigates and practices the many alternatives to litigation and will advise new clients the best path for your divorce-a path which will lead to a fair settlement at the least cost and amount of time.... and most importantly the path which has the least conflict and anxiety.



Mark Gruber understands how difficult it is to transition from a married to divorced

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family. His firm, [Gruber, Colabella and Liuzza](#) provides a multi-dimensional approach to legal problem solving that has put them at the forefront in many areas of New Jersey law. The firm's philosophy is to foster resolution through tough negotiations which are leveraged by their reputation for superior trial advocacy. They offer a cost-effective approach to resolving legal issues through alternative dispute resolution. If you are in the midst of divorce and looking for the best resolution for everyone involved or you have a specific method in mind and would like to speak to someone about moving forward, contact Mr. Gruber and his firm at 973.398.7500 or by email at [mg@gruberlaw.biz](mailto:mg@gruberlaw.biz).