

DISPUTE RESOLUTION PROCESSES COMPARED

	Party (“Kitchen table”) Negotiation	Mediation	Collaborative Law	Attorney Negotiation before Trial	Litigation
Description of the Process	Parties to the dispute communicate directly with one another regarding issues in dispute. They may identify interests, but may trade off items of value to reach a settlement.	Mediator facilitates communication between two parties to a dispute, helping them identify their interests, brainstorm possible solutions and reach a settlement.	Parties and their respective collaborative attorneys work collaboratively through series of meetings to identify party interests, gather necessary information, and develop a solution.	Attorneys negotiate a settlement between the parties before trial based on anticipated outcomes at trial. Up to the time of settlement, attorneys may rely on such Court-involved procedures as motions (such as a “motion for temporary orders”) or pretrial hearings to arrive at interim solutions to conflict.	Parties via attorney representation file and answer legal complaints, complete a discovery process, and present evidence before a judge.
Role of Outside Parties	Depends – can use attorney advisors, financial advisors or child therapists for input into agreement or can use no outside parties.	Mediator acts as Neutral Facilitator of Communication between the Parties. Attorneys may provide legal advice to clients outside the mediation and/or participate in the mediation.	Attorneys control the collaborative process, assist parties in identifying their interests, gather information, create available options for meeting parties’ needs, provide legal advice, and formalizing agreements reached. Other Neutral Consultants may be involved including divorce coaches, and financial and child specialists.	Attorneys negotiate client’s positions prior to trial in order to obtain the best alternative deal to what they expect to happen in court. The Attorneys may seek input and direction from the judge assigned to the matter through motion hearings or pretrial conferences. Expert witnesses are occasionally involved.	Judge hears the evidence, applies the law and renders a decision.
Party Control of Process	High	High	High	Low	Lowest
Privacy	Confidential to the extent the parties agree.	Parties bound by Mediation Agreement not to disclose or use information exchanged within the mediation in any action outside the mediation.	Parties bound by Collaborative Law Contract providing that neutral consultants and collaborative attorneys are disqualified as witnesses in any subsequent litigation.	Court proceedings and court files are open to the public. To the extent case settles before trial, certain information may not become public.	Court proceedings and court files open to the public.
Decision-Maker	The parties	The parties	The parties	Attorney’s/parties, sometimes a judge	The judge
Result	Verbal or Written Agreement – a Divorce Agreement must be drafted based on these terms and submitted to the Court to be entered as a Judgment of Divorce.	If mediator is not an attorney, then Written Memorandum of Understanding which can be used as the basis of a Divorce Agreement, or (if the mediator is a lawyer) a Divorce Agreement which is submitted to Court and entered as a Judgment of Divorce	Divorce Agreement which is submitted to the Court and entered as a Judgment of Divorce	Divorce Agreement which is submitted to the Court and entered as a Judgment of Divorce	Judgment after trial
Time of process	Generally depends on the extent of agreement between the parties and the complexity of the issues	Generally depends on the extent of agreement between the parties and the complexity of the issues	Generally depends on the extent of agreement between the parties and the complexity of the issues	Depends on the extent of the agreement between the parties and the complexity of the issues, along with the Court’s schedule, if	If a case goes to trial, the total time of the case generally lasts between 2-3 years, due to Court scheduling and the length of time between trial and issuance of a decision.
Cost	Low				High