



# Mediation Times

Divorce Mediation Institute of Utah, LLC, 801-568-0789

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## The 3 Biggest Mistakes People Make When Getting a Divorce

**One**— Following the well-intended advice of a friend or family member.

Everybody has his or her own legal interpretation of how a divorce should end up. This frame of reference is usually based on an episode of a T.V. show, or a best friend who had a cousin who had this type of settlement. While some of this advice might be true, you must remember that a divorce is like a fingerprint, no two are the same. Nobody else has your kids, and nobody else has your exact situation.

Don't get false expectations from well meaning, but misinformed and subjective sources.

**Two**— Thinking you will get to tell your side of the story, and that the judge will punish your spouse for being a bad person.

Instead, here is what will happen: You will be given approximately 20 minutes at each hearing to plead your case. The judge does not want to hear why your spouse is a bad person, or why your life has been turned upside down. The judge will not hand out a punishment in a divorce case.

**Three**— Assuming a judge can make a better decision than you can. We are always amazed that two reasonably normal and decent people would rather let a judge, in a court of law, determine how their children will be parented. Most parents could do better by flipping a coin. An agreement a judge imposes on you will NEVER be better than one you can come up with, for you and your children.

Visit our website at [www.we-agree.com](http://www.we-agree.com)

## Seven steps to closure in a mediated divorce

1. Have a desire to handle your divorce in a timely, less expensive way.

2. **Know your Mediator.** Call and schedule a free consultation, where you can learn more about divorce issues and mediation. Write down your questions, concerns, issues, fears, etc.- in advance. Chances are a mediator has seen enough examples to give you insight into your unique circumstances.

3. **Schedule your first mediation session.** Get out of "No Man's Land" and get the process started, right from the orientation and consultation. Bring your booklet and information home, read and/or fill it out.

Bring it with you to your first appointment.

4. **Create a master divorce agreement plan.** Meet with your mediator to outline: a). a parenting plan; b). family or spousal support; c). debts and assets distribution; d). any and all other pertinent issues.

5. **Meet with your divorce attorney.** When your mediation memorandum is complete, your divorce attorney will draft your paperwork for you.

6. [Attend the mandatory parenting class at the courthouse.](#) Read all the information about [Utah Mandatory parenting classes](#), meeting schedules, etc. For other states, check for court ordered mandates for parents.

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## How do we split our stuff? 10 Tips on Property Settlement.

1. Divide your personal property without the help of your lawyer or the court. Unless domestic violence is involved, it's not cost-effective to use lawyers or the court's time to divide your furniture and personal belongings. By the time you've fought about it, you could've purchased all new things!

2. Make an inventory of your household items, and decide what you'd like from the listing, assign each item's priority.

3. Speak with your spouse (again, provided domestic violence is not involved) about what he or she would like from the inventory. Are there items which you can agree upon? If so, that part is settled.

4. Try and divide things based on what you both actually need.

Courts rarely award money in lieu of a share of personal property, so unless you and your spouse agree on a buy-out for a specific item (or even the whole house full of furniture), you will receive personal property, not cash.

5. If you can't agree on how to divide your list of items, try flipping a coin, or drawing straws. One person picks first, the other second, and so on.

6. Try and divide the items sensibly. If your spouse has the children 75% of the time, maybe he should get the Nintendo. If you need a computer for your business, that may take precedence over your child's desire to use the internet.

7. Gift items from family members ordinarily go back to the spouse to whom they were given. Grandma's hope chest goes to her grandchild, not her ex-grandchild-in-law.

8. Gift items between the two of you go to the original recipient. You don't get back the diamond Valentine's pendant from 1995 just because you're splitting up now.

9. If pets are involved, try and make your judgment based on where the pet is better off. Does your spouse have a shorter workday, while you work 14 hours straight? Fido probably needs walks more often than you can realistically provide.

10. If it won't matter in 5 years, let it go.

*Your Divorce Advisor  
by Diana Mercer  
and Marsha Kline Pruitt.*

### **WHY MEDIATION WORKS**

Mediation works! It works because it brings all necessary parties to the bargaining table where they can "realistically" evaluate their positions and safely explore settlement options. It works in settling over 85% of the cases in which it is utilized, including those where the parties have been unable or unwilling to negotiate, or have taken unrealistic or intransigent positions.

Today, parties litigate because they know of no better alternative. However, as the benefits of mediation become more widely recognized, it will undoubtedly become the most utilized tool for resolving civil disputes in the future.

*Michael J. Roberts*  
[www.mediate.com/articles/roberts.cfm](http://www.mediate.com/articles/roberts.cfm)

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## Working It Out:

### Mediation Brings Peace To Conflict

When we think of the term “conflict” we come to any number of ideas on what it may look and feel like. To some, conflict means an argument with a spouse, or the thought of having to give another lecture on the rules of the house to a teenager. To others it means a disagreement between employees and management, or an individual who feels that they have been wronged by a business or a government agency. Whatever form conflict takes, we can be sure to find plenty of it in our modern society. Whenever we turn on the television we can find any number of dramatized examples of conflict—what forms it takes, and how it is resolved.

Conflict is an everyday part of life. Whatever conflict we might find, can either be destructive or creative, positive or negative. It can be the spur toward growth and self-realization, or it can tear us apart and drown us in poisonous emotions. Conflict can be a positive force for social change, or it can serve to further polarize people into factions. So, what makes the difference between conflict as a positive force, and conflict as a negative force? What is the secret? Well, it's all in the approach and how we manage our own involvement in the process.

### It all Begins with a dispute:

When communication breaks down between people and both sides make a heavy investment to gain a certain outcome, then that conflict has graduated to the level of a dispute. What happens when you are absolutely sure you are right and the other party is wrong? What happens when they feel the same way about their position? Where do you go from there? There are really two simple approaches to dispute resolution: the adversarial approach, or the collaborative approach.

In the realm of conflict management, the adversarial way to dispute resolution is considered the “traditional” approach. The adversarial way is positioning your self to “win” a disagreement, dispute or contest. One party is victorious at the expense of the other. This is the way most of us have become familiar with how conflict is resolved, and it always tends to bring out the worst in the folks embroiled in it. Unfortunately, society seems to engage in an adversarial way in those conflicts in which parties have a vested interest.

Most people want to resolve their dispute with the ever so famous words “I am taking you to court” and this has become our war cry so to speak. We are not gentle enough with each other; there just isn't any slack. We think we know people's thoughts and intentions, but we don't. We do not take the time to understand any perceptions other than our own. At some point or another, we have all felt the personal sting that conflict brings - both emotionally and financially. In the realm of a contested court process, the costs that we experience emotionally and financially can be great.



### Embracing the art of Mediation:

There is a trend in our society away from the adversarial approach to a more collaborative method; a trend towards conflict management that engages both parties involved in the dispute to find a mutually beneficial agreement. This collaborative approach to conflict management is characterized by both parties involved agreeing to sit down together to separate themselves from the problem or issue, set aside their ideas of what a “win” might be, and communicate what their real needs are. This way has those involved negotiate around their real needs, with the hope of walking away from the process having met those needs. This collaborative way is possible, and it works.

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***Conflicts are a normal part of life; how we deal with them can make a big difference. Often when people resolve conflicts, one person ends up a winner, and one loses out. This may solve the problem for the moment, but resentment and bad feelings can cause more problems later. Another way to look at conflicts is to try to find a WIN-WIN solution, in which both sides can benefit. In this way, conflicts are turned into opportunities to grow and make things better. This approach is the cornerstone of "conflict resolution" - an important tool for bringing peace into our personal lives, our communities and to our world.***

***- Robert Alan Silverstein***



"I'm glad we settled our conflict this way.  
War is expensive."

(Working it out: continued)

Mediation, which is a "**CONFLICT RESOLUTION PROCESS**" where a Third-party helper (the mediator), who facilitates the problem-solving process between disputing parties, is a tool for the collaborative way. This tool gives us a way to start engaging in conflict that does not have to be destructive; a way that is less costly to our emotions and bank accounts. This then becomes an alternative to the traditional adversarial way. "As long as a safe environment can be created for BOTH sides, mediation can happen at any point in time in a dispute. As people become more familiar with how mediation works, they feel it becomes more empowering and less destructive than fighting it out in court. It's a process where they make their own agreements, instead of having someone else's forced onto them."

A growing body of research shows the effectiveness of mediation in dispute resolution. Mediation is exponentially less costly than involvement in a court process, and the agreements made between the disputants are more lasting because of this, our social institutions and a growing number of businesses are mandating involvement in mediation in order to resolve disputes. "Our courts have implemented mediation programs that have seen a huge amount of success, and our judges are increasingly referring people to mediation as part of their dispute process."

*-quoted by Nancy McGahey,  
Utah Dispute Resolution*

(Seven steps to closure in a mediated divorce continued )

**7. End the war, rather than fighting longer to try and win the war.** It's true-does any side really win in a long, drawn out war? Too many casualties eclipse any feeling of victory. So it goes with a mediated divorce. Have a desire to handle your divorce in a timely, less expensive way, with a final outcome that is less painful, but fair for all parties involved. Just like there are no winners in an over extended war, work harder to end the war, rather than just fighting it.

**Here comes the Judge.** Paperwork gets submitted to the courts and is complete when the judge signs the decree. Then you wait for the judge to sign the paperwork.

Me·di·a·tion :

Intervention between conflicting parties to promote reconciliation, settlement, or compromise



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## Ask the Attorney

**Q:** What kind of guarantee do I have in getting my spouse to pay alimony or child support?

**A:** Every court order, including a divorce decree, is enforceable by the courts.

If child support and alimony are not paid as agreed, the case may be brought before the judge. There are severe consequences for not obeying the orders. This may include, but not limited to jail time and fines

**Q:** What kind of custody arrangement is best?

**A:** Whatever works for you, your spouse and your kids. There are many different types of custody and your mediator will be able to go overreach one and help you make the choice best for you and your family.

**Q:** How long will it take to get divorced?

**A:** All divorces are different. Some could take just a few months; others may take up to a year or more. It all depends on how the two of you can agree on things like, spousal support, division of property, debts and assets. Etc.

**Q:** If I decided that I know longer want mediation, can I hire an attorney?

**A:** Absolutely! Each party is not required to stay in mediation. If you feel that an attorney will better suit you, then you have the right to obtain one.

## 10 tips

### 10 Tips For Dealing with Arguments

1. It takes 2 to argue. You can always refuse to participate.
2. A certain amount of tension is to be expected when you're getting divorced. Expect difficult discussions, but they don't have to result in a fight.
3. Try to understand your spouse's viewpoint. Once you understand what he or she wants, you can begin to see how you might be able to help resolve the situation.
4. Evaluate your own goals. Are you entrenched in a position that may have another solution? If you want your children on Wednesday night for dinner, will Thursday do? If your goal is financial security, is one particular asset the key, or could another be substituted?
5. Use "I" statements. Begin every sentence with "I", rather than "you". Example: "I feel upset when I hear you say that I'm a bad father because I have to work so many hours" instead of "You are always accusing me of being a bad father".
6. After you explain how you feel, listen to your spouse's side of the story. Repeat what you heard, to make sure for yourself (and to convey to your spouse) that you understand how he or she views the situation.
7. Plan a time to have a discussion with your spouse about a specific issue that bothers you. Limit the discussion.
8. Choose your timing. The same comment may evoke a different response if chosen 1) when neither of you is tired; 2) when neither of you is already angry; and 3) the children or others are not in earshot.
9. Be prepared to say "I'm sorry" sometimes. "I was wrong" can go a long way.
10. Above all, let annoyances go and choose your battles wisely. They are too important to squander.

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## Get to Know our Mediator, Diana J. Huntsman

Diana is the senior partner of "Huntsman | Lofgran | Walton, PLLC" and has been an attorney for 29 years. She has also been a mediator for Divorce Mediation Institute of Utah for 11 years. Over that time, as a lawyer, she focused on representing clients in court in family law cases, including divorce, custody, and paternity matters. As a mediator, she focuses on helping couples solve such matters outside of court. She finds fulfillment in helping people resolve such conflicts with the least amount of trauma possible.

Diana is intimately familiar with the law, courtroom procedure, judges and litigation. She has successfully fought innumerable court battles for her clients.

Diana is also skilled at diplomatic negotiation. She is certified with the Utah courts as a Master Mediator and has mediated over 400 divorce/custody cases for couples outside of court. She finds fulfillment in helping people resolve their family law conflicts through mediation, without the cost, time, and drama of the courts. Diana strives to protect each client's financial rights and parental relationships; to resolve each conflict with the best results reasonably possible, given the circumstances; and to be of support to each client through the process.

Diana has been a partner and mediator in the mediation company, "Divorce Mediation Institute of Utah, LLC," since April, 2012.

Diana received her Juris Doctorate from the University of Utah, College of Law; her Bachelor of Science from Utah State University, /cum laude/, with majors in Economics and Business Administration, and a minor in Political Science; and her Associate of Science from Snow College, *magna cum laude*. She has been a member of the Utah State Bar since 1994, and is a member of the Family Law Section of that bar.

Previously, Diana was a Prosecutorial Intern for the Salt Lake County Attorneys' Office; a Judicial Extern for the Honorable J. Thomas Greene, of the United States District Court, District of Utah; an associate, then partner, with Mangum, Holt & Huntsman; and the owner of Diana J. Huntsman & Assocs., PLLC.

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