



Two Families Law + Brainstormingwomen LLC

## **The 4 Legal Paths to Divorce**

Summary: The end legal goal of a divorce, in North Carolina, is to have an agreed upon way to divide assets, debts, child custody, and cash flow between two spouses. There are many different ways to get there.

The 4 Basic Paths:

- 1. Negotiated Separation Agreement** – with or without the help of an attorney for you and for your spouse, you come to an agreement on how to resolve all legal issues through negotiation and discussion. These resolutions are drafted into a ~15-20 page document, and you sign it in front of a notary.
  - Often the lowest cost
  - Can be low or high degree of interaction with your spouse
  - Strong legal protection if drafted by an attorney
  - Can be the quickest
  
- 2. Mediation** – with or without the support of attorneys, you and your spouse sit in a room together and work through all legal issues with the guidance of a 3<sup>rd</sup> party neutral mediator who is trained in communication and conflict. Once all issues are resolved, an attorney drafts them in the form of a Separation Agreement.
  - Emotionally difficult but productive discussion can bring you more peace
  - High degree of control over outcome
  - Less likely that one or both spouses feels “screwed”
  - Will take a solid amount of time, months
  - Look out for “real” mediation vs. negotiation
  
- 3. Collaborative Divorce** – with the support of a collaborative-trained attorney for each party, the parties work through their legal issues outside of court through respectful discussion. Again, the results of discussion will become a Separation Agreement. Unlike mediation, here the collaborative-trained attorneys will provide the support rather than a mediator.
  - Opportunity to move forward in a very healthy way
  - Significant cost with 2 attorneys and maybe other professionals
  - Lots of professional support and legal protection
  - Smooth, predictable system in place for this format

**4. Court** – with or without attorneys, both parties go to court to tell their “side” of the story to a judge, and a judge issues an Order resolving all of the parties’ issues. An adversarial process with a neutral judge.

- Most expensive – attorney fees!
- Low degree of control over outcome
- High degree of conflict, chances of permanent scarring and damage to co-parenting relationship
- Lowest degree of direct contact with your spouse
- Generally the longest timeframe
- It aims to even the relative power of the parties
- Might be the only alternative for very “stuck” families

Concluding Thoughts: We’re lucky to live in a state where we have the option to divorce in or out of court, using tools and methods that fit individual families and allow for more control over cost and outcome! It’s the future of divorce, I think. Within each of these paths there are lots of variables. Talk to a lawyer (or 2 or 3!), do some research, and think about what is best for your family.