

**Comparison of
Mediation - Collaborative -Litigation**

	Mediation	Collaborative	Litigation
Timing	2-hour meetings with clients and neutral mediator Clients create timetable for meeting and control the pace	2-hour meetings with clients and lawyers in the room Clients create timetable for meeting and control the pace	Timeframe typically 14+ months from start to finish, with frequent delays
Control of Process and Outcome	Clients make the final decisions Tendency for Positional negotiating Results in Memo of Understanding or draft Agreement	Clients make the final decisions Interest based process - Commitment to mutually acceptable outcome Results in Agreement	Court establishes fixed schedule of deadlines and hearings Clients appear for multiple hearings, lawyers facilitate presentation of evidence, Judge decides all issues All decisions are subject to appeal and re-litigation.
Role of Attorneys	Mediator helps clients identify issues and facilitates conversations between clients to Lawyers advise their respective clients between meetings, No legal advice in the room	Clients and lawyers in the room Lawyers disqualified from contested litigation Advocacy is in providing advice and assisting client in working toward to mutually acceptable outcome for the clients and their family.	Lawyers typically control the flow of information between the parties, present the client's case to the court. Advocacy typically seeks to maximize the client's recovery to detriment of opposing party. Tug-of-war analogy - tendency for conflict to escalate and relationships to break down
Information sharing	No obligations regarding disclosure of information Best when both parties have full understanding of property and liabilities	Full disclosure, Full transparency as to all material information, without being asked. No taking advantage of mistakes Addresses imbalance of knowledge and understanding	Information obtained through formal discovery procedures governed by Court rules No obligation to disclose information that has not been requested Parties often seek to obstruct one another from access to information
Advice to client	Mediator can explain black letter law but cannot advise clients with respect to the law	Discussion of the law is done in the room with both clients	Lawyers responsible for educating their respective clients
Outside experts	Clients may individually retain assistance of outside expert, may jointly agree to retain outside expert	Clients jointly retain experts as needed	Each side hires their own experts to testify in opposition to the other's expert
Privacy	Confidential process	Confidential process	Public process