

GRESHAM FAMILY & BANKRUPTCY LAW

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IS MEDIATION AN OPTION

Mediation works successfully for most divorcing families. We have found that while cooperative couples more readily choose to mediate, families with high degrees of conflict need mediation even more due to the high costs of litigation that conflict often provokes. We have developed the following indicators to help clients confirm their decision to attempt mediation. An absence of many of the indicators does not make successful mediation impossible. However, it does mean that disputes may be more difficult and costly to settle. Place an "X" by each condition that exists in your situation.

- 1. The grieving process is ongoing or complete for both parties.
- 2. The attorneys retained by the parties are experienced in and supportive of mediation.
- 3. There are no acts of hiding assets.
- 4. There are no acts of denial of access to the child(ren).
- 5. Both parties agree to total accessibility to documentation regarding assets, liabilities and income.
- 6. There is no history of high conflict or previous litigation between the parties.
- 7. Both parties have a reasonable ability to understand math, budgets, commercial realty, and to grasp consequences and options of parenting and financial issues.
- 8. There is no history of violence or abuse.
- 9. The parties have a history of cooperation and successful problem solving on some issues.
- 10. The parties are capable and willing to communicate with each other and with the mediator in a reasonable and civil manner.
- 11. There is some external pressure to settle, such as time, high attorney costs, or unpredictable outcome.
- 12. The parties have achieved an emotional divorce so that they can negotiate more like business partners and less like spurned lovers.
- 13. There are adequate resources to fund a compromise (limited resources tend to create more competitive relationships and striving for win/lose outcomes).
- 14. The parties' desire for the settlement of the dispute is high.