

JUDITH NEWMARK

A Way To Smooth Road To Painful Divorce

HIGH IN A Richmond Heights skyscraper, Marta Papa's law office looks elegant. Facing her desk are a pair of tall upholstered chairs, separated by a dark, glossy butler's table. On the table are a pretty pair of blue-and-gold coffee cups, and a big box of Kleenex.

The table wobbles.

That's because the people in the chairs have been known to shake it, slam it, grab it.

Well, nobody ever said getting a divorce could be easy.

But Marta Papa thinks it could be easier than it usually is.

She also thinks that for many people in St. Louis County, it will be soon.

Papa is a member of a task force that, under Family Court Administrative Judge Melvyn W. Wiesman, is trying to get people who are divorcing to make more decisions by cooperating instead of by fighting. How? Through a process called divorce mediation.

By summer, this process will be brought to the attention of every couple in St. Louis County filing for divorce.

Under the new plan, couples with children who file for divorce will be required to attend two classes. One, on parenting, will talk about ways to help children cope with the stress of divorce. The other class will be a court orientation to let people know what to expect in the divorce process. It will include an explanation of divorce mediation, which is an alternative to going to court and letting a judge make decisions about child custody and division of property.



Papa is aware that many people do not know what divorce mediation — her legal specialty — is. Often, they think it means trying to get the husband and wife to reconcile. It doesn't mean that; when a couple decides to divorce, she said, it is not the court's business to try to persuade them to change their minds.

But she thinks that many people can get through the process with less pain and more respect for each other than they would if they have to be adversarial in court before they can be ex-spouses.

"Divorce mediation is not past-focused. It is future-focused," Papa said. "The man and woman plan the future together.

"Where will each live? Where will the kids live? Who will take them to birthday parties? All these kinds of questions they decide for themselves."

When they have made their agreement, it is drafted into formal language by the mediator — either a lawyer with special training in human services, or a human services specialist, such as a social worker or psychologist, with special training in law. As a rule, the judge will be able to approve the agreement in a short hearing and authorize the divorce.

Programs like the one in St. Louis County already exist in a number of places around the country; in some places, including the city of St. Louis,

some forms of mediation (usually over child custody) are required.

Without requiring mediation, Papa says, it's good for people to know the option is there. There are several reasons why a couple would prefer a mediated divorce to a trial resolution, she thinks:

1. To save time. Because trials take a long time, a backlog has developed. In St. Louis County, it typically takes about two years from the time a couple files for divorce until a trial can be set. In the interval they may live apart but they are not divorced. A hearing on a mediated settlement, however, can generally be set in less than two weeks.

2. To save money. Most mediations can be worked out in three or four sessions of an hour to an hour and a half, Papa said. Some couples are able to do it in less time because, once the mediator has helped them organize their task, they can work out many of the details on their own, without the mediator.

3. To avoid dragging their children — or themselves — through a court battle. Obviously, nobody ever got a divorce because they had a fabulous relationship, but, Papa said, a quicker, shorter process does not deepen wounds. It allows the man and woman a measure of control and sets a pattern that they can work together when they need to, even if they can't live together any more. This is reassuring to the children, and good practice for the parents.

On the other hand, Papa said, mediation is not appropriate for every divorcing couple. Factors that rule it out include:

1. Physical abuse. "If one is afraid to get in the elevator with the other on the way down from my office, they can't mediate," Papa said. "Each person has to feel free to voice his or her needs."

2. Mental incompetence. That includes active alcoholism; both parties have to show up sober for mediation to work.

3. Vengefulness. If one spouse or the other is out for a "pound of flesh," that is an adversarial attitude and does, indeed, belong in a courtroom.

As an attorney mediator, Papa says, she knows some divorce lawyers are skeptical about the process. But, she said, she thinks it is unfortunately true that there will still be plenty of work for them even if mediation became the norm. There is also skepticism, she acknowledged, from people who think that mediation is not a good idea because it makes divorce — which is unquestionably hard on families, especially kids — too "easy."

But she doesn't look at it like that. She doesn't think making divorce rougher, and making the adults fight longer and more bitterly than they may need to, does anybody any good. Better for them to get through it, if they can, with a measure of civility, control and mutual cooperation. Nothing is going to make divorce easy, she says. It's a question of whether it's going to be hard, or even worse.

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