

## **Dissolve a Marriage or Wage a War?**

Published in Santa Monica Business Journal in December 1996

By Lee Jay Berman

Once upon a time they were in love. Today they are not. Once they had babies. Today they have children. Once they wanted to be married. Today they do not. One has talked to a divorce lawyer. One wants to use a mediator. What comes next?

There are two ways to get divorced. One way involves a winner and a loser, as decided by a third party. Often times, this way involves lots of little losers -- the children. Typically, both lose when a battle takes place. Divorcing couples can spend too much time, money and most importantly, emotional energy on fighting.

Think about divorce. Technically speaking, it is the separation of a partnership, a division of assets, a financial dissolution. Emotionally speaking, for many it is the separation of the most significant relationship we ever have. Losing this relationship, especially if not by choice, can bring to bear incredible amounts of hurt, anger and vengeance.

Divorcing couples must choose whether they plan to dissolve a marriage or wage a war. At a time like this, those involved are caught up in the tornado of swirling emotions and typically are not equipped to make logical decisions. They depend more on advice from others. This is when the choice of how to handle the divorce is so important.

By working with a mediator, divorcing couples can work with each other while retaining control of the outcome. In this process, they can give and take on their way toward a win-win solution. This can only be done once they have recognized what each other's interests are. If they both want the house, why do they both want it. What about it are they after? Is it purely shelter, or is it a power struggle. Is it sentimental, better for the kids, or just out of spite, so that the other does not get it? During a mediation, when we speak of children, we speak in terms of "parenting" the children and how to share this, rather than "custody of," "possession of," or "visitation rights regarding" the children.

Working with attorneys can be great or awful, just like working with teachers, psychologists or any other profession. A good attorney can work an amicable agreement out with the other side, much like a mediator would. A bad attorney, such as L.A. Law's Arnie Becker, can instill the fear of "Do it to them, before they do it to you." Bad attorneys can fan the flames of anger and turn a peaceful dissolution into World War on Your Street. What's worse is that both are doing their jobs! Attorneys are advocates, hired to look out for their clients' interests in an inherently adversarial process.

Preparation for divorcing in the court system can work well for the long-term emotional stability of two individuals, or it can completely decimate all involved for a long time, including the little ones. Some of that depends on who the attorneys are and who the judge is. Divorcing with a mediator ends in a mutually agreed upon outcome, compiling the ideas from both participants

and formalizing them for the judge to approve. Each individual decides how to get divorced, regardless to which process they use. The choice is ours.

-----

*Lee Jay Berman is the President of THE MEDIATION ALLIANCE, INC., a full-service mediation firm dedicated to utilizing the talents of field-specific, professionally certified mediators. Mr. Berman and his firm also teach mediation skills and consult to businesses teaching conflict resolution skills in the workplace. Contact Mr. Berman at (213) 383-0438.*