



CASE STUDY

Mediation Strategies for High-Conflict Custody
Disputes Involving Young Children
How to Resolve High-Conflict Custody Battles Through Mediation

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Even under perfect conditions with cooperative parties, custody disputes can pose significant challenges for mediators. But when a couple's former passion for one another turns into extreme animosity, the hurdles of a custody battle often multiply.

I want to share a case with you that, at the outset, seemed destined to end in a lengthy court battle. The parents, both upper-middle-class professionals, had worked hard to build successful careers in their respective fields. Like many couples in similar situations, they had struggled to balance the demands of their professional lives with the responsibility of raising a child. Compounding these pressures were personal differences, including a significant age gap, and the fact that their child was only one year old.

Despite sharing a deep commitment to their child's well-being, ongoing conflicts had made it nearly impossible for them to establish an equitable and effective parenting plan. This point of contention, where neither was willing to concede ground or agree with the other's point of view, is where the couple was when they entered my office.

Evaluating the Case

When I first took on this case, the tension between the parties was so high that neither was even willing to sit in the same room with the other. To make matters worse, I later learned that one partner was convinced that mediation would be a “complete waste of time.”

Starting the resolution process under these circumstances was, unsurprisingly, very challenging. The outlook didn’t look like it would improve as we started our initial session, during which I insisted we try bringing both parties together so I could properly evaluate their case. I quickly found that they weren’t exaggerating the intensity of their feelings for one another; the first part of that session was consumed by a tense, emotional argument that, from the outside, felt nearly impenetrable.

For mediation to work, there must be at least a sense of collaboration. In an ideal world, both parties would be fully cooperative, but I had no illusions of that happening in this situation. The first step is to stay calm, collected, and neutral. We’re all human, and emotions like these are not only relatable, but magnetic.

Mediators need to resist being drawn into the emotional tempest, operating instead as a stable foundation upon which a durable resolution can be built. For this couple, and for many parents, that common ground was their child.

While each client was quick to criticize their former partner, I could clearly see the profound love they shared for their 1-year-old in the way they spoke about him. The evaluation session showed me that discussions centering on each party's needs would be unproductive. Their child's needs, on the other hand, was one of the few topics they both cared about.

The problem was, the importance of this subject alone wasn't enough to get them to work together. By focusing on these two opposing ideas, I was able to form my mediation strategy.



The key is to find common ground where collaboration can take root and grow.

Overcoming Intense Emotions and Stalled Communication

First, I laid the groundwork for collaboration by discussing less heated topics, including the issues they were having around their property and retirement. From there, I suggested we switch from joint session to “separate caucus” sessions so I could chat with each of them separately.

By having each party in their own separate breakout room on Zoom, we were able to eliminate many of the emotional triggers that had made our first meeting so contentious. I would switch back and forth between each room, translating some of the more combative speech into its essential productive elements. I found that, **after venting their emotions in an environment that lacked an opportunity for immediate retaliation, they were able to dedicate their full attention to each issue we discussed.** This approach not only helped them avoid unnecessary conflict, it gave me the opportunity to gather the information I needed to keep us moving forward.

That’s not to say this strategy eliminates obstacles entirely. For example, having separate sessions can certainly be more time-consuming.

While typical meetings tend to last about two hours, switching between breakout rooms increased their overall length. But for these clients, I believe the separation was absolutely necessary.

There is also the matter of confidentiality. **In separate sessions, all conversations are kept private unless explicit permission is given to share details.** This approach protects the clients' privacy and helps them feel secure during discussions. However, issues can arise if one party expects full transparency across all sessions. While the clients can agree to an open-book policy, it requires explicit consent from everyone involved. If only one client agrees, it can create additional friction.

Ideally, you would have both parties attend each session together, but in high-conflict cases, you can end up losing more time than you would save. That being said, I do find the final stages of mediation require both parties to be together if at all possible. Thankfully, by the time we reached that part of the case, my clients did so willingly.

Reaching a Resolution

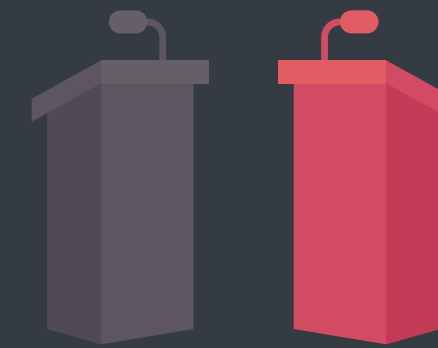
After 15 total hours of mediation sessions spanning 11 months (one of the longer mediations I have handled), we successfully developed a plan that satisfied all parties. This resolution was built on three foundational pillars:



**Resolving
Scheduling
Conflicts**



**Shared
Communication
Methodology**



**Co-parenting
Board
Meetings**

Resolving Scheduling Conflicts

As can be expected with career professionals, one of the major points of contention was scheduling conflicts due to work. At the start of negotiations, one party's unpredictable work schedule made it difficult to equally divide parenting responsibilities or have regular conversations about co-parenting.

Through the mediation process, the couple realized this had long been a significant barrier to their progress. When their employment ended, that party chose to find an employer that offered a more predictable schedule, which created the space needed to address co-parenting dynamics. From there, we were able to move on to the issue of communication.



- **Work schedules can be a major barrier to co-parenting**
- **Recognizing obstacles is the first step toward resolution**
- **Adjusting circumstances can lead to progress**

Developing a Shared Communication Methodology

This couple was well aware that the way they communicated with one another was not healthy, nor was it beneficial for their child's future. In a divorce case without young children, communication only needs to improve to the point where you can finalize the separation.

But when the parties involved need to co-parent for the next seventeen years, it becomes essential to establish an ongoing and effective communication methodology. This process required us to talk through the history behind their conflicts, find ways to remove the emotion from their interactions, and identify communication methods that both parties were comfortable using.



- **Effective communication is crucial for long-term co-parenting**
- **Acknowledging unhealthy communication is the first step to change**
- **Removing emotion from interactions can lead to better outcomes**

The Use of Co-parenting Board Meetings

One of the best ways to isolate emotions from the co-parenting process is through a strategy called “co-parenting board meetings” (shout out to Steve Erikson - Mediator Extraordinaire - for coining the phrase). These meetings can reshape the often unstructured nature of parenting conversations into something more akin to a business discussion.

Clients schedule a monthly check-in with one another in the communication format they’re most comfortable with, whether that be through video-conferencing platforms like Zoom, online messaging services, or by meeting at an agreed-upon public location. Whatever format they choose, I encourage them to make sure that they are fully engaged during these discussions.

While co-parenting board meetings can work through asynchronous methods like email, I find synchronous approaches more effective because they help both parties stay actively involved.

Before each meeting, an agenda of potential topics is sent to both parties so that everyone is prepared. During these discussions, any issues—whether they be scheduling problems, upcoming vacations, conflicts at school, or anything else of note—are addressed one at a time until both parties are satisfied. I usually sit in on the first session to act as a guide, but I find that most pick up the format very quickly and don't require further assistance.

By repairing communication and using their shared methodology to engage in ongoing co-parenting board meetings, this couple successfully avoided court. They not only resolved their immediate conflicts, but laid the foundation for a healthier co-parenting relationship for years to come. The partner who initially expressed little confidence in mediation thanked me for encouraging them to stick with the process, and they haven't reached out for further help since.



- **Structured communication improves co-parenting**
- **Treat co-parenting like a business relationship**
- **Flexibility in communication methods is important**

Why Mediation Works for High-Conflict Cases

According to the [U.S. Department of Justice](#), mediation has an estimated 75% success rate at resolving voluntary cases compared to 55% resolved through court-ordered proceedings. Despite these statistics, many partners in the process of divorce or separation don't consider mediation a viable option. When emotions run high, it's easy to think of legal action as the only hope. But in many cases, **litigation can be far more expensive than mediation** and leave both parties with an unsatisfying result.

With this couple, keeping them out of the courtroom was the best possible course of action. In court, their dynamic would have almost certainly led to a lengthy and emotionally taxing experience; one that would have done little to improve their situation or benefit their child. Through mediation, these parents were able to save time, money, and find a practical solution that prioritized their child's well-being, in spite of the volatility of their relationship.

While mediation is never easy, especially during high-conflict cases, it remains one of the least disruptive and most effective ways to achieve lasting resolution. This case demonstrates that, with patience, persistence, and a focus on collaboration, even seemingly insurmountable disputes can lead to meaningful change.

Why Consider Mediation

Avoiding court can lead to better outcomes

For high-conflict couples, mediation can prevent a lengthy, emotionally draining legal battle.

Focusing on the child's well-being is key

Even in volatile relationships, mediation can help parents find practical solutions that prioritize their child's needs.

Mediation saves time and money

Resolving disputes outside of court is often more efficient and cost-effective.

Ready for a Transparent and Peaceful Mediation?

If you are dealing with a high-conflict custody dispute or other family law issues, Forester Family Law is here to help.

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