



Family law needs a make-over: Mediation first, drama later

Gretchen Taylor

Family law disputes in the United States suffer from inefficient processes that drain resources, prolong emotional distress, and often do more harm than good. Instead of fostering resolution, our system seems designed to create expensive, drawn-out battles that leave families financially and emotionally exhausted.

It's time for a change. Mediation should be the first step, not an afterthought. And we don't have to reinvent the wheel, we can borrow from successful models in Europe and a few forward-thinking U.S. jurisdictions. Let's be honest, family law in the United States is a mess. It's expensive, time-consuming, and emotionally draining. It's like running a marathon through quicksand, only to realize the finish line keeps moving. Instead of subjecting families to endless legal battles, we should take a cue from Europe and put mediation front and center.

WHY OUR SYSTEM IS A DISASTER

Picture this: A couple files for divorce. The court system promptly welcomes them into an elaborate maze where they wait months - sometimes years - for decisions

on crucial matters like child custody, support, and even restraining orders. Meanwhile, judges are drowning in cases (some with 8,000+ open files), attorneys are burning through their clients' life savings, and children are caught in the crossfire. It's like a bad reality show, except no one gets a prize at the end.

By the time parties are directed by a court to seek resolution of their disputes outside the courtroom, they have already invested huge chunks of time, energy, and money in their cases - resources they will never be able to recover. Mediation at this stage is like providing triage to a patient who is already near death. And if domestic violence or child custody is in the picture, the wait for a permanent solution could be untenable.

Think about this: If a four-year-old child is separated from a parent for a year due to court delays, that's a quarter of his or her life. Relationships suffer, resentment builds, and what might have been a simple custody arrangement turns into an entrenched battle that could have been avoided. Even when the courts finally offer a settlement conference, it often comes

too late. By then, attorneys have invested countless hours in discovery, depositions, and trial preparation. Clients are broke, exhausted, and often unwilling to compromise after months of legal warfare. At that stage, people aren't looking for solutions - they're looking for vindication.

EUROPE HAS IT FIGURED OUT

Across the pond, mediation isn't an afterthought - it's the first step. Countries like Switzerland and Germany offer court-sponsored mediation programs where neutral experts help resolve disputes before legal fees spiral out of control. The UK even hands out mediation vouchers (yes, like coupons for family peace). And guess what? It works! Up to 80% of cases settle early, saving time, money, and sanity.

Here's how some European countries approach family law:

- Switzerland: Before you even think about stepping into a courtroom, you meet with a Juge de Paix (Justice of the Peace), who helps mediate the case. The process is designed to resolve disputes early and efficiently.

- Germany: The courts provide mediation services right after a case is filed, with trained judge-mediators helping parties reach

agreements before a trial even becomes necessary.

- United Kingdom: The government incentivizes mediation with financial support, making it easier and more appealing for families to resolve their disputes without ever seeing a judge.



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This approach isn't just more humane - it's more effective. And yet, in the United States, we continue to do things the hard way.

U.S. COURTS THAT GOT THE MEMO

While most U.S. courts remain stuck in the dark ages, a few jurisdictions have seen the light. Well before significant discovery has been done and large attorney fees have been expended, these courts give parties an opportunity to resolve their matters with the help of a neutral third party.

Some examples:

- Florida: Offers pre-filing mediation, so couples don't nuke their finances before negotiations even start.
- Minnesota: Assigns judicial officers early to move cases along before they turn into courtroom soap operas.
- Arizona (Maricopa County): Forces self-represented parties into an Early Resolution Conference, because trying to navigate family law alone is like

assembling IKEA furniture without instructions.

- Marin County, CA: Has a Discovery Facilitator Program - basically, a referee to keep legal teams from endless document warfare.

- Minnesota's Early Neutral Evaluation (ENE): Encourages parties to meet with experienced professionals who assess their case and provide feedback, often leading to settlements within weeks.

These programs work. They reduce legal costs, free up court resources, and - most importantly - help families move on with their lives. So why aren't more courts adopting these approaches?

THE FIX: MEDIATE FIRST, LITIGATE LATER (IF YOU MUST)

Instead of forcing families to spend years (and small fortunes) on legal proceedings before mediation is even an option, courts should flip the script. Get families into mediation immediately, before they've drained their savings, their patience, and their will to live.

Attorneys win because their clients stay solvent. Judges win because their caseloads shrink. Families win because they get solutions faster. And kids? They might actually get to see both parents since they worked out a custody plan.

Here's what needs to happen:

- Mandatory early mediation: Courts should require mediation before discovery, depositions, and trial preparation drain financial resources.
- Dedicated settlement officers: More judicial officers should be assigned solely to case resolution, reducing the burden on trial judges.
- Publicly funded mediation programs: As in the UK, financial incentives for mediation should be available to encourage early resolution.
- Streamlined custody and domestic violence hearings: Fast-track urgent cases and have courts designed to just hear these matters to ensure that children and survivors aren't left in limbo for months (sometimes years).

FINAL THOUGHT: LET'S BE SMART ABOUT THIS

The current system is like using a sledgehammer to open a peanut - it's messy, expensive and unnecessary. Mediation isn't a radical idea; it's just common sense wrapped in a legal bow. So, let's stop the madness. Courts should offer settlement resources at the front door, not as a last resort.

Voluntary settlements are usually court-connected and lack the confidentiality of mediation. Either accomplishes the same goal, which is helping litigants find acceptable solutions for themselves.

Humor aside, we need to reorganize our family law community to offer frequent and early opportunities to work with settlement officers and mediators. Failing to do so just continues the same squeaky wheel.

Early resolution saves money, time, and emotional well-being. And as a bonus, it means fewer attorneys drafting 100-page briefs about who gets the air fryer. Let's call that a win.