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## What Is Your Mediation Potential?

In spite of mediation's professional youth, some myths have already taken hold. One such myth is that you have to be having a friendly separation or divorce in order to use mediation. I have received numerous calls from professionals who say, "I have a divorcing couple who could benefit from mediation, but they don't get along well enough to use it." People fail to understand that mediation was specifically designed as a process to resolve disputes; it is expected that the parties are in conflict, or that they will soon have conflicting interests.

Even those who profess to know that mediation is appropriate for the vast majority of separating and divorcing people still maintain that if one or both clients express their anger loudly, the couple is not suited for mediation. Maybe because of my Sicilian background, I do not find this to be true. In fact, the most difficult couple that I worked with were two extraordinarily silent people. They consistently nodded, shrugged, or gave monosyllabic responses to my every attempt to elicit their settlement interests. The

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screamers were nowhere near as difficult as this couple was. It is not the verbal decibel level exhibited by clients that determines their appropriateness for mediation.

There are two primary factors that actually indicate a couple's appropriateness for mediation: the desire to avoid the adversarial arena and wanting a fair settlement. In my experience, most separating and divorcing couples are appropriate for mediation--some more than others. I have designed a questionnaire to help you determine your potential for mediation. Like all tests, it is not a foolproof guarantee of success or failure; rather, it provides a quick and easy method to help you determine your mediation potential.

The following questions should be answered by circling the response that applies most to your situation. Then add up the points and discover your potential for mediation.

Questions for all separating and/or divorcing couples:

	Yes	Maybe	No
1. Is your marital relationship over?	5	3	1
2. Would you prefer to spend the least amount of money necessary to reach a divorce settlement?	5	3	1
3. Would you prefer to spend the least amount of time necessary to reach a divorce settlement?	5	3	1

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	Yes	Maybe	No
4. Can you be in the same room with your spouse for approximately one hour with a neutral third person present?	5	3	1
5. Do you believe your spouse will be honest about his or her income and assets?	5	3	1
6. Are you willing to work on budget forms (with needed help)?	5	3	1
7. Are you willing to do legwork, such as gathering your account and credit balances?	5	3	1
8. Do you believe your spouse will follow through with a fair agreement that he or she commits to?	5	3	1
9. Have you been truthful about money with your spouse?	5	3	1
10. Has your spouse been truthful about money with you?	5	3	1

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	Yes	Maybe	No
<b>11.</b> Would you react negatively to legal techniques, such as a sheriff serving you with a summons?	5	3	1
<b>12.</b> Would your spouse react negatively to such an action?	5	3	1
<b>13.</b> Would you prefer not to pay large legal bills from joint assets?	5	3	1
<b>14.</b> Do you think you would obtain approximately the same settlement using mediation as you would using the adversarial approach?	5	3	1
<b>15.</b> Do you think you would receive or pay approximately the same amount of support using mediation as you would using the adversarial approach?	5	3	1
<b>16.</b> Would you prefer to have your negotiations handled in a private office rather than in a public courtroom?	5	3	1

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	Yes	Maybe	No
<b>17.</b> Would you prefer not to be forced to testify during a divorce court trial?	<b>5</b>	<b>3</b>	<b>1</b>
<b>18.</b> Would you rather have all the necessary information before you reach a divorce settlement rather than after?	<b>5</b>	<b>3</b>	<b>1</b>
<b>19.</b> Would you rather meet with a neutral mediator than have two lawyers fight over your assets?	<b>5</b>	<b>3</b>	<b>1</b>
<b>20.</b> Are you considering or presently using mediation?	<b>5</b>	<b>3</b>	<b>1</b>
<b>21.</b> Will you follow through with a fair agreement that you commit to?	<b>5</b>	<b>3</b>	<b>1</b>

These responses are weighted significantly greater:

<b>22.</b> Are you mentally competent?	<b>5</b>	<b>100</b>
<b>23.</b> Are you willing to be honest about your income and assets?	<b>5</b>	<b>100</b>

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	Yes	Maybe	No
<b>24.</b> Are you physically abusive to your spouse?	<b>-100</b>		
<b>25.</b> Is your spouse physically abusive to you or do you fear physical abuse from your spouse?	<b>-100</b>		

Questions for separating and/or divorcing couples with children:

<b>26.</b> Would you say that your children's best interests are one of your priorities?	5	3	1
<b>27.</b> Would you prefer to make your own custody and visitation decisions concerning your children?	5	3	1
<b>28.</b> Are you willing to confidentially disclose any significant problems in your parenting?	5	3	1
<b>29.</b> Would you prefer that your children not be used as the prize of a custody battle?	5	3	1
<b>30.</b> Is it important to you that your children suffer from the divorce as little as possible?	5	3	1

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Add up your total points:

Total points

- 120–150 Perfect for Mediation
- 90–120 Very Good for Mediation
- 50–90 Average Mediation Potential
- 30–50 Your Mediation May Take Longer Than Most
- Below **30** Skip Mediation-Go Directly to Divorce Court

This score is not the only indication of your appropriateness for mediation, but you may regard it as a strong determinant of your potential success using divorce mediation.