

COLLABORATION		MEDIATION		LITIGATION	
Party	Attorney	Party	Attorney	Party	Attorney
No filters among attorneys and clients		Information filters: Between - party and party, attorney and client, attorney and mediator, attorney and attorney, attorney and other party		Information developed and organized by attorney and forensic experts and fed to parties through legal and non-legal "experts" eyes and ears	
Each party is responsible for clarifying position-concerns-issues with attorney guidance & support	Power Equalization: attorney may assist client to be heard	Each party is responsible for making self heard and understood, party concern about being powerless	Mediator may assist, but concerned about appearance of bias; no "checks and balances"; may become scrivener for dominant party	Party is heard only through pleadings and testimony [usually written]	Attorney is conduit for information that he/she filters for maximum "persuasive effect"
Party in direct contact with attorney at same meeting	Attorney can intervene directly [within four-way or by taking a time out] to assist client in rethinking position or in venting	One party may be unreasonably positional or unduly emotional	Mediator cannot intervene directly to head off unreasonable position or re-direct or absorb undue emotion	Parties in contact with their own attorneys. Negotiations between parties often limited and circumscribed	Attorneys "control" client and filter information flow and control negotiations
Parties can deal with issue directly or with attorney assistance	Direct attorney to attorney communication to warn of problem and cooperate in moving matters along	One party unreasonably delaying matters	Mediator cannot intervene to move matters along	Decisions dictated by application of "Law" to facts as presented to Court	Court is ultimate decision maker
Entitlements, if discussed at all, are only one among several options	Attorneys educate the clients, encourage thinking outside the box. Interest based on larger context of what is best for the family	One party can insist on "entitlements"	Mediator can discuss alternatives, but cannot work with only one party to modify position	"Entitlements" without consideration of parties' relative interests are paramount	Court can only apply law and decide based on relative "entitlements" as urged by the attorneys
Financial disincentive: Court is unavailable without trashing the whole process, tentative agreements can only be salvaged by new attorneys	Concern for emotional and financial cost to client	Party has court available for difficult issues	Mediator cannot keep parties out of court, part of issues can be resolved and others decided in court, no significant disincentive	No financial considerations except as limiting the parties' ability to argue their respective positions	Court may make some allocation of costs between parties. Typically, much more expensive than either mediation or collaboration