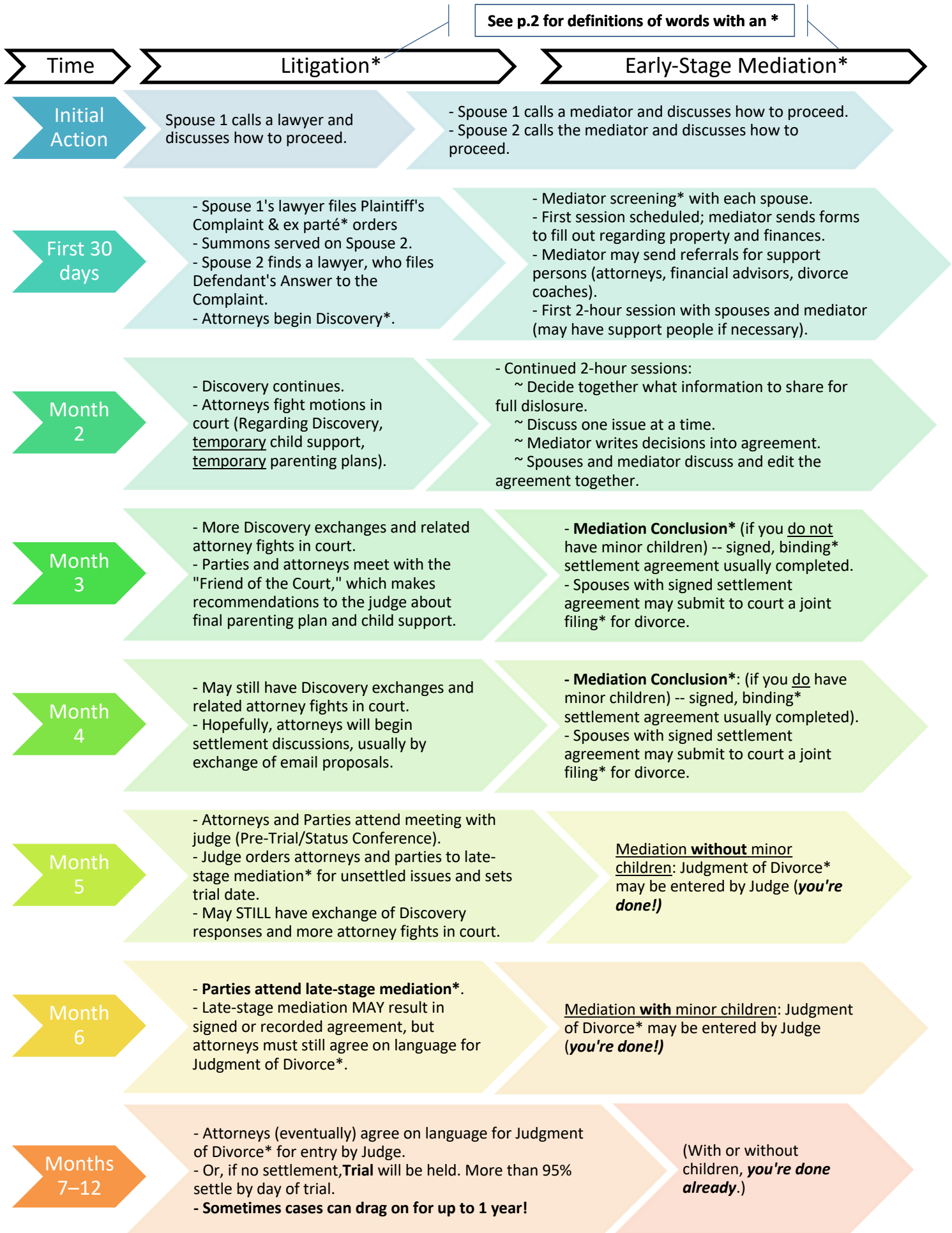


LITIGATION VERSUS EARLY-STAGE MEDIATION

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See p.2 for definitions of words with an *



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* DEFINITIONS AND EXPLANATIONS:

Litigation. This is the traditional process, where each spouse finds a lawyer and you fight it out in court. Opposing attorneys look for ways to weaken your spouse and instruct you not to talk with each other about any substantive decision-making but instead, to talk through attorneys. Most often, a judge will send you to late-stage mediation (defined below) after many months of fighting.

Early-Stage Mediation. Here, you find a mediator together and start the process early, before positions and feelings harden. Settlement discussions begin immediately, with the mediator guiding the conversations, and you talk directly with each other, resulting in a much shorter and more peaceful overall process. Each of you may have an attorney, but the attorneys have a very different role; instead of taking over the case and going to war, they become your counselors and advisors, with the goal of helping you settle all issues using mediation.

Discovery - Attorneys often send to the other party many pages of questions and request for production of documents on any subject that may be relevant to any divorce proceeding (not necessarily specific to your case). Attorneys may also schedule Depositions. Discovery can continue until trial but usually has earlier deadlines. Attorneys and parties spend many, many hours gathering and reviewing documents, determining what to submit and how to answer questions. Parties, of course, pay the attorneys for all hours expended. In contrast, early stage mediation requires voluntary disclosure of the specific information needed to make informed decisions in your case, and both spouses sign documents attesting that they have fully disclosed all information.

Ex Parté - Ex Parté generally means that only one party must be present; ex parté orders are orders granted on the request of and for the benefit of one party. Parties can file to request such orders at any time, but some attorneys file for them immediately. In contrast, the mediation process focuses on agreements that benefit both parties.

Mediator Screening. Mediator talks with each party to ask more personal questions about the parties' relationship and how they communicate with each other, to make sure mediation is appropriate and to help the mediator design the process to be most effective for the parties.

Mediation Conclusion. Average for mediation without minor children is 4-5 sessions. Average for mediation with minor children is 5-6 sessions.

Settlement Agreement Binding. A signed agreement is legally binding, and parties may begin parenting plan, sharing of children's expenses, child support, spousal support, and property and debt division as stated in the agreement; Clients often feel divorced upon signing.

Late-Stage Mediation. If the case does not settle, the next step is trial. Typically, late-stage mediation is all in one day, sometimes going into the evening, with lots of pressure to settle that day, which may lead to buyer's remorse the next day! Parties are often in separate rooms with their attorneys, and mediator shuttles back and forth between rooms, meaning that the parties are not working together to resolve.

Joint Filing. 2019 Michigan Court Rule allows parties with settlement agreements to file jointly, using non-adversarial language. Parties need to file a Joint Petition form with a Consent Judgment of Divorce that incorporates the settlement agreement, and this filing acts as Complaint, Answer and Summons. The only court proceeding is the final court hearing to have a judge sign the Judgment.

Judgment of Divorce. Most jurisdictions have some waiting period. In Michigan, all parties must wait at least 60 days after filing before a Court can enter a Judgment of Divorce; There is a 6- month waiting period for parties with minor children, but most judges will waive for parties who have settled all issues, allowing judgment entry any time after 60 days.