

Collaborative Family Law

Collaborative Law

Collaborative Law is a model for resolving all issues when married couples separate. Each client retains a specially trained lawyer whose role is to assist the client in resolving issues fairly, efficiently and without court intervention. Cooperative strategies rather than adversarial techniques and litigation are used; namely use of analysis and reasoning to solve problems, generate options and create a positive atmosphere for settlement.

All participants agree to work together in good faith in a series of settlement meetings to find "win-win" solutions which meet the needs of the clients and their family. Settlement is the only agenda. The lawyers cannot go to court or threaten to go to court. If either client goes to court, both collaborative lawyers are disqualified from further participation. The parties agree to utilize neutral financial specialists and other specially trained professionals as needed.

How it works

The spouses meet with their respective Collaborative attorneys to discuss individual needs and concerns. Then, the couple and their attorneys meet in four-way sessions to reach a settlement. All issues including property division, parenting time, and support, is put "on the table". At times other professionals may become part of the "team" to assist couples in reaching resolutions.

The Collaborative Team

A Collaborative team is the combination of professionals that the couple chooses to work with to resolve their dispute(s). The clients can proceed with simply their Collaborative lawyers or they can choose to include a neutral financial professional, a divorce coach, a child specialist, or other specialists that they believe would be helpful. The "Collaborative team" guides and supports the couple as problem-solvers, not as adversaries.

The Collaborative Attorney

The Collaborative attorney has specialized training which facilitates interest-based negotiation. The attorney advocates for the client, identifies questions and issues that need resolution, provides legal advice, generates and evaluates resolution options, manages conflict, and assists the parties in implementing agreements.

The Divorce Coach

A Divorce coach is a licensed mental health professional, with experience in divorce counseling who receives specialized training in Collaborative Divorce. The Divorce Coach assists each client and the Collaborative professionals to communicate effectively and helps manage emotional and

psychological issues. They also communicate with the other Collaborative professionals to provide insight and assistance in order to help facilitate discussions and negotiations.

The Child Specialist

The child specialist is a licensed mental health professional with specific training in and experience with family systems and child development. Further, he or she has training and experience in working with parents and children who are in the midst of a divorce or other child custody or parenting issue. The child specialist helps parents and the Collaborative professionals involved to remain focused on the feelings and needs of the children involved in a collaborative legal matter.

The Financial Specialist

The financial specialist helps the parties gather, understand, organize and value financial data, identify and clarify financial goals and interests and comprehend short and long term implications of settlement options.

The financial specialist will be a certified financial planning practitioner, chartered financial consultant, certified divorce planner or certified public accountant, and will have met additional training requirements to qualify him or her to handle the unique financial challenges presented in divorce and family law cases.

Formal Discovery v. Voluntary Disclosure

Detailed and complete disclosure is required in the collaborative process. Both parties sign a binding agreement to disclose all documents and information that relate to the issues, early, fully and voluntarily. Hiding documents and stonewalling are not permitted.

Key Advantages

- **Self Determination**: The client retains control. The couple takes responsibility for shaping the settlement as the key members of the team.
- **Support**. The parties construct a settlement cooperatively with each other while benefiting from their attorney's advocacy, problem solving, and negotiating skills. The parties receive insight and support from two attorneys and other team members who assist in identifying legitimate interests and the children's needs.
- **Focus on settlement**. Removing the threat of "going to court" reduces anxiety and fear, thereby helping the parties to focus on finding positive solutions.
- **A better post-divorce future**. By reducing stress and encouraging cooperation and respect between the parties a foundation is created for a healthy post-divorce family structure.
- **Efficient and Economical**. The collaborative process is usually less costly and time-consuming than litigation.
- **Better Result**. The collaborative process is more attuned to the legitimate and unique interests of a family and therefore produces final agreements that are more individualized, detailed and complete than adversarial settlements and/or Court Orders following a contested court proceeding.

Collaborative Law Is An Effective Settlement Process

Collaborative lawyers view the other lawyer not as an adversary but as a partner in a problem-solving process. This is often referred to as a “paradigm shift”. The Collaborative lawyer encourages their client to move away from self-centered, oppositional positions and focus instead on solutions that holistically benefit the family. Good faith and creative problem solving is implemented as compared to conventional litigation where lawyers follow the “win at all costs model”, Collaborative lawyers can only succeed if they find not only solutions to their own clients’ problems but constructive ways of addressing the other party’s concerns that are satisfactory to their client.

While most conventional family law matters settle eventually, it is usually at great expense to the parties financially and emotionally. The process is often driven by coercion and fear, which is why so many settlements occur just prior to trial. The settlements are often reached under conditions of considerable tension and duress.

Collaborative Law v. Mediation

In mediation, the participants negotiate for themselves with a neutral third party helping to guide the discussions. While the mediator may give legal information to the participants, they cannot provide legal advice. Some people are not comfortable negotiating on their own behalf and want a lawyer provide legal advice and negotiate for them. This might occur, for example, when there is a history of domestic violence between the spouses.

The Termination of a Collaborative Case

In the event the parties are unable to arrive at a settlement through a collaborative approach, the lawyers withdraw from the case and the parties are free to retain trial lawyers to pursue their matter in court. The materials accumulated during the collaborative stage will be transmitted to the trial lawyers so that there is minimal loss of continuity.

In the event that one side or the other does hide or misuse the Collaborative Law process, the collaborative law agreement requires the lawyer to withdraw. If the client is being less than fully honest, or participating in the process with less than good faith the Collaborative counsel must withdraw. For instance, if documents are altered or withheld, or if a client is deliberately delaying matters for economic or other gain, the lawyers will withdraw thus discontinuing representation of the client.