

What is Collaborative Practice?

A way of approaching the end of your marriage...

"Collaborative Law is the newest divorce dispute-resolution model. In Collaborative Law, both parties to the divorce retain separate, specially trained lawyers whose only job is to help them settle the case. If the lawyers do not succeed in helping the clients resolve the issues, the lawyers are out of a job and can never represent either client against the other again. All participants agree to work together respectfully, honestly, and in good faith to try to find win-win solutions to the legitimate needs of both parties. Four creative minds work together to devise individualized settlement scenarios."

that does not use or threaten "going to court"...

"No one may go to court, or even threaten to do so, and if that should occur, the Collaborative Law process terminates and both lawyers are disqualified from any further involvement in the case.

Most conventional family law cases settle figuratively, if not literally, "on the courthouse steps." The settlements are reached under conditions of considerable tension and anxiety. Moreover, the settlements are reached in the shadow of trial and are generally shaped largely by what the lawyers believe the judge in the case is likely to do.

Nothing could be more different from what happens in a typical Collaborative Law settlement. It is quicker, less costly, more creative, more individualized, less stressful, and overall more satisfying in its results than what occurs in most conventional settlement negotiations."

that is focused on the future needs and interests of you and your spouse...

"The process is geared from day one to make it possible for creative, respectful collective problem solving to happen. Both sides sign a binding agreement to disclose all documents and information that relate to the issues, early and fully and voluntarily.

When everyone knows that it is up to the four of them and only the four of them to think their way to a solution, the special "hypercreativity" of Collaborative Law get(s) triggered. The moment when each person realizes that solving both clients' problems is the responsibility of all four participants is the moment when the magic can happen.

Collaborative Law is not just two lawyers who like each other, or who agree to "behave nicely." It is a special technique that demands special talents and procedures in order to work as promised. Any effort by parties and their lawyers to resolve disputes cooperatively and outside court is to be encouraged, but only Collaborative Law is Collaborative Law"

that supports each of you during the rough parts of the process...

Counselors, coaches and Financial Planners also have been trained in this approach to divorce. They stand ready as an integral part of the process to help the parties and attorneys work with the intense emotions that can arise during this reconfiguration of life; to help the parties explore the needs and interests that their futures require be addressed; to support the participants in moving the process toward final resolution; and to suggest creative ways to meet the future needs of the parties.

and achieves a foundation upon which each of you can move forward.

"Instead of being dedicated to getting the largest possible piece of the pie for their own client, no matter the human or financial cost, collaborative lawyers are dedicated to helping their clients achieve their highest intentions for themselves in their post-divorce restructured families.

Collaborative lawyers expect and encourage the highest good-faith problem-solving behavior from their own clients and themselves, and they stake their own professional integrity on delivering that in any collaborative representation they participate in.

Collaborative Law offers a greater potential for creative problem-solving than does either mediation or litigation, in that only Collaborative Law puts two lawyers in the same room pulling in the same direction with both clients to solve the same list of problems."

Is it for You?

"It isn't for every client (or every lawyer), but it is worth considering if some or all of these are true for you:

1. You want a civilized, respectful resolution of the issues.
2. You would like to keep open the possibility of friendship with your partner down the road.
3. You and your partner will be co-parenting children together, and you want the best coparenting relationship possible.
4. You want to protect your children from the harm associated with litigated dispute resolution between parents.
5. You and your partner have a circle of friends or extended family in common that you both want to remain connected to.
6. You have ethical or spiritual beliefs that place high value on taking personal responsibility for handling conflicts with integrity.
7. You value privacy in your personal affairs and do not want details of your problems to be available in the public court record.
8. You value control and autonomous decision-making and do not want to hand over decisions about restructuring your financial and/or child-rearing arrangements to a stranger (i.e., a judge).
9. You recognize the restricted range of outcomes and "rough justice" generally available in the public court system and want a more creative and individualized range of choices available to you and your spouse or partner for resolving your issues.
10. You place as much or more value on the relationships that will exist in your restructured family situation as you place on obtaining the maximum possible amount of money for yourself.
11. You understand that conflict resolution with integrity involves not only achieving your own goals but finding a way to achieve the reasonable goals of the other person.
12. You and your spouse will commit your intelligence and energy toward creative problem-solving rather than toward recriminations or revenge -- fixing the problem rather than fixing blame."

Quotes have been edited from Collaborative Law: Achieving Effective Resolution in Divorce without Litigation by Pauline H. Tesler (copyright American Bar Association, 2001).

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