

The Collaborative Divorce Lawyers Association

A network of Connecticut attorneys committed to representing individuals in a non-adversarial, cooperative divorce process.

Although the traditional adversarial litigation model works well in some areas of the law, "zealous advocacy" can produce profound detrimental side effects in family law cases. Full-scale adversarial representation can require tactics that are destructive when employed in divorce cases, especially when children are involved. When contested divorces are fought as battles to be won, there can be no real winners. The negative impact can have long-term repercussions because a divorced couple has a relationship that continues after the litigation is concluded, whether it be financial or with respect to parenting their children.

What is collaborative divorce?

Collaborative divorce is a process through which the parties and their individual attorneys commit themselves to resolving all issues of the divorce by negotiated agreement without resorting, or threatening to resort, to costly court proceedings. Collaborative divorce uses informal methods such as voluntary production of financial documents, four-way conferences, negotiation, and where needed, outside professionals such as accountants, financial planners and family counselors. While some lawyers may refer to themselves as being collaborative in style, true collaborative lawyering requires commitment to the "no court" aspect of the process.

Divorce is a problem to be solved, not a battle to be won.

Karen Fagerstrom

The collaborative model provides an opportunity and an incentive for parties and lawyers to use their best efforts to reach agreement. If this is not possible, then by the terms of the agreement between the parties and their attorneys, the parties are free to seek litigation counsel. Lawyers therefore have an incentive to facilitate agreement, rather than to foster conflict between the parties. In the event that the collaborative process is unable to resolve all the issues in dispute between the parties, agreements reached during the collaboration can be preserved, and litigation can focus on the remaining issue or issues, limited and defined by the less expensive collaborative process.

Collaboration and Mediation Compared.

Collaboration offers a middle ground between mediation and full adversarial litigation. In mediation, the parties meet with one neutral mediator. In mediation the parties advocate for themselves while often using the services of consulting attorneys outside the mediation sessions. The neutral cannot give any party advice or assist either of the parties in advocating their position. In the collaborative setting, the parties are never "on their own;" each party is fully and individually represented throughout the process. Parties who might not be as skilled in negotiating or in understanding financial or legal nuances can feel secure that their

lawyer is protecting their interests. Because the collaborative process provides the parties with added support, it may be a more comfortable option for many clients. Collaborative attorneys can also prepare all necessary paperwork for their clients and, if requested, can attend the required court hearing where the divorce agreement is presented to the court for approval.

The Benefits of Collaborative Divorce.

The collaborative process is designed to be less time consuming, less expensive and less confrontational than traditional adversarial divorce. Clients are better able to focus on pertinent issues because stress and anxiety are effectively reduced. Money saved in the collaboration can be used to jointly engage the services of other professionals, such as financial planners or tax accountants. An additional benefit is that the collaborative process is more private than a contested divorce generating court filings, transcripts and hearings in open court.

Collaborative resolutions are reached through a process in which clients have more control and settlements have been designed to meet each party's needs. These agreements are designed to be more sustainable over longer periods of time. Like the agreements reached in mediation, there is less post-judgment litigation in divorces resolved by collaborative methods.

The non-combative atmosphere diminishes hostilities, allows the parties to preserve and enhance that which remains of their relationship, and allows them to learn to work cooperatively during and after the divorce, managing finances and co-parenting children.

Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses, and waste of time. As a peace-maker, the lawyer has a superior opportunity of being a good person.

Abraham Lincoln

Collaborative Lawyering.

Lawyers in a collaborative process are not required to behave like "hired guns" fighting to defeat their opponent. Collaborative lawyers encourage the highest level of ethical and moral behavior among themselves and their clients. A collaborative lawyer still owes a primary allegiance to his or her individual client, but the collaborative lawyer knows that the best way to serve the client's interest is to achieve a settlement that preserves the dignity of both spouses and serves the best interests of the family. Collaborative lawyering requires the attorneys to take reasonable, rather than tactical, positions and when the parties differ, to seek solutions that address the needs and interests of both parties. In short, collaboration allows lawyers to get to the heart of the matter and to concentrate their efforts on devising solutions to the problems facing a divorcing family.

The Collaborative Divorce Lawyers Association.

The Association is a network of Connecticut lawyers who have committed themselves to resolving divorces cooperatively. The Association is not a law practice; the members of the network have no professional relationships or interests in the practices of other members. The attorney members have come together out of mutual respect and commitment to the ideals and protocols of the collaborative model. Many of the members have been specially trained and have practiced as mediators. Each member is included in the network because the others believe that he or she is highly experienced and skilled, not only in the legalities of divorce, but in effective communication, cooperative negotiation and creative problem-solving.

How it Works.

You and your spouse each choose individual collaborative lawyers that you determine are best able to represent your needs. If you are unsure whether a collaborative divorce is suitable for your situation or have questions about the process, feel free to call one of the lawyers in the Association. The parties and their lawyers agree upon and sign a collaborative case representation agreement. By agreement, one of the spouses is designated as the "plaintiff". That person's attorney prepares the "pro se" paperwork for the divorce to be served on the other spouse and filed in court so that the divorce conforms to all the legal and procedural requirements of Connecticut law. After the case is filed, the parties exchange financial and other information, and participate in negotiations and meetings designed to work out resolutions to all the issues that face a divorcing couple. No motions are filed or argued in court while the divorce is pending, nor do the parties engage in formal "discovery." All financial information is produced voluntarily and no discovery motions are filed, subpoenas issued or depositions taken. If necessary, the parties jointly engage the services of a specialist to help with the resolution of complex issues (i.e. business valuations, tax planning or customized parenting plans). Ultimately, all agreements are reduced to writing in a form that is acceptable to the court. Each attorney prepares whatever paperwork is necessary for his or her client. The lawyers arrange for the case to be placed on the court calendar for the only court appearance that is required -- the final uncontested hearing where the agreement and required paperwork is presented to the court for approval.

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