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What is Collaborative Law?

Do you think that putting the proverbial gloves on, getting into the divorce fighting ring and then making the other side "pay" for what they have done to you is the only type of divorce? Then perhaps an alternative where both parties can walk away with their dignity, knowing that they have worked towards an amicable common goal and do not "hate each other forever" would be better? Think Collaborative Law.

Collaborative Law is an excellent alternative to the traditional court-based, "fight at all costs" litigation system of divorce. It costs less, takes less time, causes less stress, opens up possibilities not hopelessness and should be considered by every divorcing couple. It is not for everyone. In a Collaborative Law case, each party selects a lawyer of their own choosing. Their attorney must be trained in Collaborative Law, as it requires a different mind-set than traditional lawyering. People trained in Collaborative Law describe it as a paradigm shift away from gladiator style divorce to settlement based divorce.

Leaving the Courts out of it

The parties and their attorneys then sign a Collaborative Law Agreement. The lawyers contractually agree to serve as settlement counsel only. That is to say, the lawyers become contractually barred from ever going to Court in that divorce case. The spouses themselves, of course, can always decide to go to Court and terminate the Collaborative Law process at anytime. This Agreement describes the process that will take place, the fact that both parties must provide full and complete disclosure of all assets and liabilities and that they agree to work amicably and civilly with each other and opposing counsel.

A collaborative divorce case then progresses without the difficulty of the Court system. The parties and counsel will meet in a series of sessions at one location which may be attended by a forensic CPA chosen mutually by the parties to assist with their financial issues and possibly have a licensed mental health professional present to assist with their communication skills. The lawyers' jobs are to facilitate the creation of a broader range of possible settlement alternatives for both parties than would otherwise be available in Court. This process provides higher quality, individualized solutions which both parties find acceptable rather than turning their lives over to a Judge who may or may not understand their needs and desires.

If the four-way settlement process breaks down completely and either party elects to go to court on a contested issue, both lawyers are fired instantly. Thus, unlike all other legal models, the risk of failure to achieve settlement out of court is distributed to the lawyers as well as to the parties themselves. This further enhances the probability of settlement as neither party wishes to employ replacement counsel and incur the lengthy drawn out process of Court based divorce.

This distribution of risk is a very powerful tool. In the traditional litigation-based divorce, lawyers frequently threaten to go to court as part of the negotiation process. The outcome of that (although not many lawyers will tell you this) is that the client pays more for that outcome and it causes considerably more stress on the client and family. In the collaborative process, the opposite occurs. If settlement efforts fail, both lawyers suddenly find themselves disengaged.

Collaborative Law is Growing

The collaborative law model originated in Wisconsin in 1991. It has since proven its worth in California and Texas where it continues to thrive. Unfortunately, very few family law attorneys in the Tampa Bay area have been trained in the process and have developed the new set of skills necessary to manage these cases effectively. The lawyers who do accept these cases tend to prefer the collaborative law model over all other practice and settlement modalities. Hence, the field is growing very rapidly.

Collaborative Law is well suited to cases where both parties are intelligent, where both parties value active participation in the design of the settlement process itself, and where both lawyers are willing to execute a Collaborative Law Agreement, those attorneys must also have talents as facilitators of quality settlements.

Client-driven solutions

In a well-managed collaboration, each spouse is provided the opportunity to play a primary role in the creation, design, and implementation of a quality solution to their marital dissolution disputes in a controlled and emotionally safe process. The alternative traditional court process, requires judges (who unfortunately know very little about the case) are called upon to impose their solutions on both parties. In our experience, Court based decisions are rarely better than the Collaborative solutions. Parties who design their own outcome are always better off than the traditional system. The emotional and financial costs of the traditional system will always take its toll on the family.

Several Collaborative Law groups have been formed in the State of Florida in Southwest, Southern and Central Florida. Our group, Collaborative Divorce Lawyers of Tampa Bay, is the first in this area. For a list of the members of Collaborative Divorce Lawyers of Tampa Bay, click here. Many are Board certified but all have been trained with the skill set to make this less stressful on the parties and the family. We suggest that you strongly consider this method of divorce resolution rather than going toe-to-toe in Court. If you want further information on the process, visit the International Academy of Collaborative Professionals website.

What is collaborative practice?

To learn about the differences between traditional litigation and collaborative law, [Click Here](#).

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IACP Member

All members of the Tampa Bay Collaborative Divorce Group are members of the International Academy Of Collaborative Professionals.

