

Collaborative Divorce

The idea of the "collaborative divorce" has been around only since 1990. In a collaborative divorce, both parties hire attorneys – not just any lawyers, either, but "collaborative family lawyers" – attorneys familiar with the concept of collaborative divorce and who understand and accept established rules of collaborative practice. Ideally, the lawyers will know one another and have a history as colleagues in collaborative divorces.

The parties sign an agreement – the "initial agreement" – which requires them to make several commitments:

- to not go to court – to **not even threaten** to go to court – and instead to work out the details of a settlement through the collaborative process – if one party threatens to go to court, the collaborative effort will have been tainted and will be terminated;
- if the collaborative process breaks down and the parties resort to the court system, both attorneys and all experts (accountants, therapists, psychiatrists, etc.) who may have been consulted in the collaborative process are barred from being further consulted or used in the divorce case thereafter;
- to cooperate in early and complete discovery (turning over pay stubs, bank statements, tax returns, etc.)
- accept that a negotiated settlement is a better goal than any outcome that may be achieved at trial, that the path to settlement will be less damaging to everyone than the path to trial, commit to meet each other's goals if at all possible, and accept that each party has a duty to the other (and the children) to engage in good faith settlement talks and to remain respectful and fully engaged in the process;
- to help achieve, and expect, transparency in the process and to not withhold information;
- to jointly retain only neutral experts – each party is prohibited from hiring their own "hired gun" expert for valuations, appraisals, custody recommendations, etc.;
- to dedicate the time and effort to attend all "four-way" meetings – the primary means by which negotiations take place in collaborative divorce;

In essence, in a collaborative divorce, the parties and the attorneys meet together (a "four way conference") several times (most cases see four to seven four-way conferences) and go through all of the documentation, discuss all of the issues and, over time, reach a global settlement on all issues. The agreement is then prepared by the attorneys and submitted to the court for finalization of the divorce. The divorce is obtained and the agreement is implemented without any of the nastiness of the traditional, litigated, divorce.