

COLLABORATIVE LAW DISCLOSURE STATEMENT

Should you choose to participate in the collaborative law process, you and the other party would each have an attorney and a shared commitment to avoid litigation. The collaborative law process involves informal discussions and joint meetings for purposes of settling issues. The participants agree to be honest and mutually respectful. Both parties and counsel commit to resolving differences without resort to court proceedings. The collaborative law process utilizes informal exchange of financial information and may involve jointly engaged neutral professionals. The parties will be assigned tasks to assist in the process. Parenting plans, allocating parental responsibilities and parenting time with children are jointly worked out by parents with the goal of serving the best interests of the family. The parties use their best efforts to arrive at solutions that address the parties' fundamental interests (needs, values, concerns, and priorities) in order to reach an acceptable settlement. If the matter cannot settle through the collaborative law process, the collaborative lawyers must withdraw.

CONSIDERATIONS WHEN DECIDING WHETHER TO PARTICIPATE IN THE COLLABORATIVE LAW PROCESS

The following may be advantages of the collaborative law process:

- ❖ Collaborative law contemplates a series of meetings to gather information, to develop and evaluate options, and to allow each party time to make informed decisions. During these meetings, the parties will have the comfort of professional advice and guidance from their respective collaborative lawyers.
- ❖ The collaborative law process preserves privacy by not airing differences in a public forum. Most settlement terms and financial disclosures can be kept from the public record.
- ❖ The parties retain control over the outcome. Collaborative settlements are more sustainable over time and invite more consistent compliance than do court-ordered mandates.
- ❖ The collaborative law process helps parents develop and preserve a cooperative relationship that will benefit their children as they go about the task of co-parenting.
- ❖ The inevitable increase in hostility and conflict that results from adversarial litigation emotionally damages litigants' children. The collaborative law process is designed to minimize post-divorce conflict.
- ❖ Extended family relationships and friendships are more likely to be preserved in the collaborative law process.
- ❖ The collaborative law process can level the playing field by having all fees paid from community or separate funds or otherwise allocated in an acceptable manner.
- ❖ The collaborative law process requires the professionals and parties to explore options that address the interests of both parties and their child(ren), rather than take tactical positions to obtain an advantage.
- ❖ The collaborative law process encourages creative solutions to meet the parties' needs, which may differ from what the court would decide.
- ❖ Everyone has an economic incentive to work toward settlement – the parties because of the high cost of litigation and the lawyers because they will be required to withdraw if settlement cannot be achieved.
- ❖ The collaborative law process is confidential. Litigation is public.
- ❖ The team approach is one of the major benefits of the collaborative law process. The process allows the parties to jointly engage neutral professionals to help them resolve their differences and improve their communication.



The following could be disadvantages of the collaborative law process:

- ❖ If the matter is not resolved and litigation counsel is retained, there may be some duplication of effort as the second lawyer catches up.
- ❖ Should trial be necessary, trial preparation will have been delayed and important evidence may be unavailable.
- ❖ Court-ordered mechanisms to compel production of information are not available.
- ❖ Emergency, pre-emptive relief (e.g, a restraining order) regarding property and children may not be available.
- ❖ Neutral experts retained during the collaborative law process may not be allowed to participate if the case does not settle. You might need to hire and pay for additional experts to support your position in court.

The following are other considerations relating to the collaborative law process:

- ❖ The collaborative law process is not appropriate when punitive action is sought, such as contempt proceedings to enforce prior orders.
- ❖ The collaborative law process may not be appropriate if an acceptable level of trust is lacking.
- ❖ The collaborative law process prohibits taking tactical advantage of another's mistakes, oversights, and misinformation. Litigation sometimes allows the litigant with the less meritorious case to prevail.
- ❖ Protective orders in family violence cases are not obtained in the collaborative law process.
- ❖ The collaborative law process is not suitable if a party feels threatened, intimidated, or in an unequal bargaining position even with the assistance of counsel.
- ❖ No one who feels coerced into participating in the collaborative law process should agree to it.
- ❖ If parties feel compelled to vindicate and defend themselves from accusations of wrong-doing or to expose the wrong-doing of another, the privacy of the collaborative law process may not be satisfying.
- ❖ If the dispute requires the judicial determination of a preliminary question of law or fact upon which all the negotiations depend, the collaborative law process may be premature.
- ❖ The collaborative law process contemplates the collaborative professional team's ability to communicate confidentially without informing or copying the parties so that the team can work together to attain the goal of reaching an acceptable settlement.
- ❖ If a party desires to conceal certain information that could affect the outcome of the case, the collaborative law process is inappropriate. The parties are required to share all relevant information and documents in the collaborative law process. Concealment is not tolerated. In litigation, if properly requested, all relevant information must be disclosed as well.

It is ultimately your decision whether or not to engage in the collaborative law process.