

# Collaborative Divorce: A process that puts the family first

**Divorce** is one of the most stressful events that adults can endure during their lifetime, ranking close to the death of an immediate family member. It has very real implications to our sustenance and security while eroding the foundations of our self-concept and life-long dreams.

Our adversarial justice system, designed for criminal and civil cases, encourages the couple to "fight" in a win-lose scenario, resulting in divorces that are expensive and destructive, while imposing settlements that typically leave both parties resentful and with unmet needs. Children generally suffer the most in this process, being caught in the crossfire or used as pawns in the conflict as the security of their nuclear family is shattered. From educational difficulties to personal relationship issues, the psychological damage from a conflict-ridden divorce can affect children for the rest of their lives.

Back in the 1980s, an American divorce lawyer by the name of Stu Webb came to the painful realization that his daily bread entailed wreaking destruction on people's lives. He set out to develop a new way of ending the couple relationship while promoting the resilience and benefits of the family unit. Thus was born collaborative divorce.

## HOW DOES COLLABORATIVE DIVORCE WORK?

Collaborative divorce is designed to restructure the relationship and property between husband and wife out of court, while sowing the seeds of ongoing constructive engagement. It offers multi-disciplinary support to help the family cope with the reality and consequences of divorce, reduce conflict and focus on solutions while encouraging healing throughout the divorce process.

Collaborative divorce developed from an understanding of the stress, fears and uncertainties associated with divorce. A team of collaborative professionals, made up of legal, mental health and financial experts, guides the parties to a mutually agreeable divorce settlement. Given that the outcome will impact lives long after the divorce is final, the goal is to help both parties make thoughtful rather than reactive decisions.

Collaborative attorneys represent each party in negotiating the terms of the divorce, collaborating with the other party's attorney and the entire professional team to identify and address the needs of the family unit. The attorneys commit not to represent the parties should the divorce proceedings go to court, ensuring that all are focused on the success of the process.

Divorce counselors include family therapists and psychologists whose role is to help the parties communicate more effectively and deal with stress or other emotional issues that may create impasses. Therapists also fulfill critical roles as child experts in representing the interests and needs of the children and serving

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as parenting guides and coordinators.

Financial specialists are accountants with specialized training in divorce planning and settlements. Their purpose is to help the couple reach a mutually acceptable financial agreement addressing the long-term needs of both parties.

Each spouse selects a collaborative attorney to serve as his/her personal legal representative, and a divorce counselor to serve as an emotional and communication advisor. A child expert and financial specialist are typically engaged to provide neutral analysis and advice. All of these professionals are specially trained in collaborative methods and procedures, enabling the family to benefit from their combined practical insights and intervention.

Not in all cases is the entire team required. Various combinations of professionals may be involved, based on the particular needs of the couple and family. As in all aspects of collaborative divorce, the prerogative ultimately belongs to the divorcing couple.

## FOR WHOM IS COLLABORATIVE DIVORCE APPROPRIATE?

Couples entering a divorce process are typically overwhelmed with anger and resentment, reducing their ability to make decisions or take actions that serve their long-term interests. In instances of low conflict, drafting a divorce agreement through mediation is clearly the most efficient route.

In mediation, however, each party is required to represent him or herself, which often breaks down due to power or knowledge imbalances, intimidation or emotionality, driving the couple to litigation. In a court "battle", the parties give up control of the process to an attorney (who has an interest in protracted conflict) and control of the result to a judge who applies laws and precedents that rarely optimally suit the needs of a particular family.

Collaborative divorce leaves the parties in charge of their own resolution and destiny. The Collaborative team suggests and provides creative and appropriate options, solutions and compromises, taking the children's interests into account. The parties decide the terms of their divorce, not the lawyers or judge. When the terms of the agreement are reached, the collaborative team translates the parties' decisions into a legally binding agreement.

Collaborative divorce is substantially less costly than going to court, and is unique in being fully focused on the quality