

# **PRINCIPLES AND GUIDELINES** **FOR THE PRACTICE OF COLLABORATIVE LAW**

## **I. GOALS**

- We acknowledge that the essence of “Collaborative Law” is the shared belief by participants that it is in the best interests of parties and their families in typical family law matters to commit themselves to avoiding litigation.
- We therefore adopt this conflict resolution process, which does not rely on a court-imposed resolution, but relies on an atmosphere of honesty, cooperation, integrity and professionalism geared toward the future well-being of our family.
- Our goal is to minimize, if not eliminate, the negative economic, social and emotional consequences of litigation to the participants and their families.
- We commit ourselves to the collaborative law process and agree to seek a better way to resolve our differences justly and equitably.

## **II. NO COURT INTERVENTION**

- We commit ourselves to settling our case without court intervention.
- We agree to give full, honest and open disclosure of all information having a material bearing on our case, whether requested or not.
- We agree to engage in informal discussions and conferences to settle all issues.
- We agree to direct all attorneys, accountants, therapists, appraisers and other consultants retained by us to work in a cooperative effort to resolve issues without resort to litigation or any other external decision-making process except as agreed upon.

## **III. CAUTIONS --LIMITATIONS OF COLLABORATIVE LAW PROCESS**

- We understand there is no guarantee that the collaborative law process will be successful in resolving our case.
- We understand that the process cannot eliminate concerns about the disharmony, distrust and irreconcilable differences which have led to the current circumstances. While we are intent on striving to reach a cooperative and open solution, actual performance may differ. Nevertheless, we recognize that success will ultimately depend on our mutual commitment to make the process work.

- Even in the Collaborative Law process, we must still act in our own best interests. Cooperation does not mean that either of us must put the interest of the other ahead of self-interests (except where it is strategically advantageous to do so.) Open and cooperative agreement-making increases the likelihood of maximizing the beneficial outcome for each of us. We may continue to act in our own best interests in areas which are outside the dispute, such as in changing estate plans and future financial and other activities.
- We understand that we should not lapse into a false sense of security that the process will protect each of us.
- We understand that while our collaborative attorneys share a commitment to the process described in this document, each of them has a professional duty to represent his or her own client diligently, and is not the attorney for the other party, and cannot give legal advice to the other party.

#### IV. ATTORNEY'S FEES AND COSTS

- We agree that our attorneys are entitled to be paid for their services, and the first task in a collaborative matter is to ensure parity of payment to each of them. We agree to make funds available for this purpose.

#### V. PARTICIPATION WITH INTEGRITY

- We will work to protect the privacy, respect and dignity of all involved, including parties, attorneys and consulting professionals.
- We shall maintain a high standard of integrity and shall not take advantage of each other or of the miscalculations or inadvertent mistakes of the attorneys, experts, or consultants, but shall promptly identify and correct them.

#### VI. EXPERTS AND CONSULTANTS

- In selecting additional professional assistance, the parties are encouraged to retain joint experts and consultants. In the event separate experts or consultants are retained, each of them shall be directed to follow the spirit and direction of these *Principles and Guidelines*, and to collaborate with each other, meet and confer, and, if possible, render joint statements on the matters in question.

#### VII. CHILDREN'S ISSUES

- In resolving concerns about sharing the enjoyment of and responsibility for our children, we, our attorneys and therapists shall make every reasonable effort to reach amicable solutions that promote our children's best interests
- We agree to act quickly to mediate and resolve differences related to our children to promote a caring, loving and involved relationship between our children and us.
- We agree to insulate our children from involvement in our disputes.

#### VIII. **NEGOTIATION IN GOOD FAITH**

We acknowledge that each of our attorneys is independent from the other, and represents only one party in our collaborative marital dissolution process.

- We understand that the process, even with full and honest disclosure, will involve vigorous good faith negotiation.
- Each of us will be expected to take a reasoned position in all disputes. Where such positions differ, each of us will be encouraged to use our best efforts to create or to modify proposals so that they meet the fundamental needs of both us.
- Although each of us may discuss the possible outcome of a litigated result, none of us will use threats of litigation as a way of forcing settlement.

#### IX. **ABUSE OF THE COLLABORATIVE PROCESS**

We understand that either collaborative law attorney will withdraw from the case upon learning that his/her client has acted to undermine or take unfair advantage of the Collaborative Law process. Examples of such violations of the process are: the secret disposition of community, quasi-community or separate property in violation of the Standard Family Law Restraining Orders; failure to disclose or misrepresentation of the existence, value, or true nature of assets and/or obligations; failure to participate in the spirit of the Collaborative Law process, abusing our minor children, withholding our minor children from the other parent, or interfering with our parenting plan to the detriment of the Collaborative Law process.

- All understand that the ultimate sanction against attorneys who abuse the Collaborative Law process, or condone and/or encourage such abuse by their clients, is diminution of that attorney's reputation in the legal community, including the Family Law judiciary.

#### X. **DISQUALIFICATION BY COURT INTERVENTION**

- We understand that our attorneys' representation is limited to the Collaborative Law process and that neither of our attorneys can ever represent us in court in a proceeding against the other spouse.

- In the event a court filing is unavoidable, both attorneys shall be disqualified from representing either client.
- In the event that the collaborative law process terminates, all consultants will be disqualified as witnesses and their work product will be inadmissible as evidence unless the parties agree otherwise in writing.

XI. **WITHDRAWAL OF ATTORNEY**

- If a collaborative attorney deems it appropriate to withdraw from the case for any reason, s/he agrees to do so by a written Notice of Withdrawal to the parties and their attorneys, all other participants, and, if a Stipulation and Order has been filed, to the Court. This may be done without terminating the status of the as a Collaborative Law case.
- The party losing his/her collaborative attorney may continue in the Collaborative Law process by retaining a new collaborative attorney who will agree in writing to be bound by these *Principles and Guidelines*.

XII. **ELECTION TO TERMINATE COLLABORATIVE PROCESS**

- If we or either collaborative attorney decide that the Collaborative Law process is no longer appropriate and elect to terminate the status of the matter as a Collaborative Law case, we agree to do so by sending a written Termination Election to all other parties and their attorneys, to all other participants and, if a Stipulation and Order has been filed, to the Court.
- The termination of status may also occur automatically in the event either of us deem it necessary to initiate an adversary court proceeding to protect our property, ourselves, or our children. This process is also outlined in the Stipulation and Order Re: Collaborative Law.

XIII. **SELECTION OF NEW ATTORNEY: ADDITIONAL FEES**

- Once the status of the case as a Collaborative Law matter is terminated, the collaborative attorneys agree to assist their respective clients in the selection of new attorneys.
- We understand that in retaining new attorneys in the event of the termination of the status of our case as a Collaborative Law matter, each of us will incur additional attorney fees which may equal or exceed that paid to our current collaborative attorney.

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**XIV. PLEDGE**

BOTH PARTIES AND ATTORNEYS HEREBY PLEDGE TO COMPLY WITH AND TO PROMOTE THE SPIRIT AND WRITTEN WORD OF THIS DOCUMENT AND TO EXECUTE AND INCORPORATE THE *STIPULATION AND ORDER RE: COLLABORATIVE LAW*.

Dated:

Dated:

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HUSBAND

\_\_\_\_\_  
WIFE

Address:

Address:

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Collaborative Attorney for HUSBAND

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Collaborative Attorney for WIFE

**CONSULTING PROFESSIONALS**

(If applicable)

\_\_\_\_\_  
Mental Health Professional

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Vocational Evaluator

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Certified Public Accountant

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Certified Divorce Planner

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Certified Financial Planner

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Appraiser

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Actuary