

Frequently Asked Questions:

What is Collaborative Law?

Collaborative Law is a divorce settlement process which enables the parties to dissolve their marriages with the assistance of specially trained legal professionals, without the horrific emotional and financial costs of court proceedings. This is accomplished through a structured method of dispute resolution which requires the parties and their collaborative attorneys to:

(1) **Mutually pledge not to resort to or threaten court litigation**

The Stipulation and Order re Collaborative Law is entered into by the parties and their attorneys in each Collaborative Law Case. It contains the mutual pledge of the parties not to resort to litigation or threats of litigation. If either party decides to proceed with litigation, both attorneys and all experts retained during the Collaborative Law process are disqualified from further participation in the case. Thus, the parties and their Collaborative Law attorneys have a strong incentive to obtain a successful non-court resolution of the parties' issues.

(2) **Mutually pledge to conduct all aspects of their negotiations in open, honest, fair and respectful manner.**

The Principles and Guidelines sets forth the parties' pledge as to the conduct the settlement negotiations. Almost all settlement negotiations take place in face-to-face four-way meetings under carefully directed agendas geared to maximize the opportunities to achieve a fair and equitable settlement of the parties' issues, taking into account immediate and long term interests of the parties and their children.

The "no court" pledge and the mutual promises to resolve their differences in the collaborative manner, enable the parties to maintain their dignity and self-respect as well as to achieve a level of respect for the other party which will assist the parties in their future dealings with each other, whether it concerns the children, financial arrangements, or their relationships with friends and families.

What are the advantages of Collaborative Law?

- **Collaborative Law process avoids litigation.**

Retired California Court of Appeals Justice Donald King aptly described the family court process as follows: "Family law court is where they shoot the survivors." Even though almost all domestic relations cases eventually are settled, the financial and emotional costs of family law litigation are profound. The costs of family law litigation include:

- The financial costs of preparing court pleadings, formal discovery, retention of multiple experts, attending hearings (often multiple times before cases are finally resolved)
- The emotional costs of litigation to the partes and their children--even in settled cases, such as:
 - anxiety over the uncertainty of the outcome of their cases. Many decisions made by a family law court are subject to the judge's discretion, and depend upon the judge's philosophy, temperament, notions of fairness and credibility of conflicting evidence.
 - a sense of powerlessness from having to turn over important personal decisions to strangers, as well as being at the mercy of the court's calender as to when the issues are resolved
 - loss of civility and respect, resulting from the perceived need to "look good" before the judge, which often results in disparaging or hurtful allegations being made, provoking anger and resentment of the other party and retaliatory charges
 - loss of privacy with respect to matters relating to intimate relationships
- **Collaborative Law process saves money.**

In most instances, a Collaborative Law case will cost the parties less than litigation, even compared to litigation cases which are resolved prior to trial. Collaborative cases require the informal sharing of information and documents, reducing the need for expensive formal discovery. Collaborative cases also include sharing of jointly retained experts. Expensive and time consuming court hearings and court preparation time are avoided.

- **Collaborative Law process enables the parties to achieve creative settlements**

The Collaborative Law process is a team process, involving both parties and their collaborative attorneys, in a joint effort to resolve the problems associated with the end of the parties' marriage. The goal is to achieve a mutually agreeable settlement. In the Collaborative Law process, the parties are encouraged to take a broad perspective and examine all of their interests, not merely the financial or legal aspects. By broadening the focus of the parties' attention, and by not turning over decision making to third parties, the parties are better able to address their important interests and concerns in fashioning a collaborative settlement.

- **Collaborative Law process preserves dignity of the parties.**

The Collaborative method of dispute resolution requires the parties to be open and honest, and to conduct negotiations in a fair and reasonable manner. This is necessary, because to succeed in a Collaborative Law case, each party must conduct him or herself in a manner calculated to win the other party's agreement. Furthermore, the "no court" pledge eliminates the incentive to try to "look good" at the expense of the other party as is often the case in litigation where the decision making is turned over to a third party. The attorneys trained in the Collaborative Law process assist the parties in maintaining an atmosphere of mutual respect and dignity throughout the proceedings in order to maximize the opportunity for a successful negotiation.

- **Collaborative Law process insulates children from the damage of litigation.**

By pledging to a "no court" resolution of their case, the parties work collectively to develop a parenting plan most suitable to their children. Counselors may be jointly retained to assist the parties and children in coming to an acceptable parenting plan. Because there is no court, no children are exposed to the possibility of having to testify.

- **Collaborative Law process preserves the parties' privacy.**

Because Collaborative Law cases are handled in the privacy of a negotiated framework, it is not necessary to file any documents with the court other than those strictly necessary to document the settlement reached by the parties. No accusatory pleadings or harmful allegations are submitted to the court, nor is it necessary to disclose the parties' financial condition to the Court with a settlement.

- **Collaborative Law proceedings follow the parties' timetable.**

Court proceedings often take many months to be resolved. Hearings frequently have to be continued or rescheduled. Crowded dockets often limit the time a judge can devote to a particular case, sometimes resulting in inadequate attention being given to important issues. A Collaborative Law case proceeds at the pace and in the manner the parties determine.

What is the difference between Collaborative Law and mediation?

In mediation, there is one "neutral" who helps the disputing parties try to settle their case. The mediator cannot give either party legal advice, advocate a party's position, or assist anyone if the other party becomes unreasonable, stubborn, or exerts control over the weaker party. Often mediation occurs without the benefit of attorney representation for the parties. If the mediation process breaks down, the matter will likely end up in court or with an unfair agreement.

Collaborative Law addresses the shortcomings of mediation. Each party is represented by counsel. The decisions made and agreements reached are the result of a process of negotiation among the parties and their collaborative lawyers. All are committed to settling out of court, and the collaborative process provides strong disincentives to anyone who wants to go to court or threatens to do so. By using the Collaborative Law process, the parties commit to come up with their own solution to their situation and not turn over any aspect of those decisions to a third party-- whether a mediator, arbitrator, or judge.

What is The Central Valley Collaborative Law Affiliates?

Central Valley Collaborative Law Affiliates (CVCLA) is a voluntary association of independent family law practitioners in the California Central Valley who wish to provide their clients the opportunity to resolve their family law matters through the alternative of the Collaborative Law process. The members of CVCLA each believe that the Collaborative Law process offers a more humane and constructive alternative to divorcing partners who seek to avoid the acrimony, animosity and expense of divorce litigation.

CVCLA provides general information to the public concerning the Collaborative Law process so that individuals may consider whether Collaborative Law would be suitable or desirable in their situation.

CVCLA also assists its participating attorneys in obtaining Collaborative Law training and instruction, and provides them with common legal documents used in Collaborative Law proceedings.

Each participating attorney in CVCLA has agreed:

- (1) to adhere to the Collaborative Law principles of dispute resolution in all Collaborative Law proceedings undertaken by the attorney. (These principles of dispute resolution are set forth in the Stipulation and Order re Collaborative Law and the Principles and Guidelines), and
 - (2) to undertake training in Collaborative Law process and to maintain ongoing training through seminars and workshop participation
- CVCLA does not provide legal services or render legal advice.

Disclaimer: Legal services and legal advice can be provided only licensed legal professionals, including participating associates of CVCLA. CVCLA does not offer legal advice, nor does it sponsor or endorse any of its participating members. Selection of a any attorney--whether or not a participating member of CVCLA--should be based upon a thorough investigation into his or her skills, ability, education, integrity, reputation and knowledge in the area of family law.