

Collaborative Divorce: The New Kid On The Block

By Tom Norton, CPA, CDFA

In response to the high cost and high conflict involved in traditional litigated divorce cases, a new model of divorce practice has evolved: Collaborative divorce.

Collaborative divorce is based on the reality that 95% of all divorce cases settle before going to trial. So why spend the time and money preparing for a trial that's probably never going to happen anyway?

In collaborative divorce, you, your spouse, and your attorneys are committed to staying out of court. It has been described as "representation without litigation." You and your spouse each have an attorney at all times, but the attorneys commit in writing that they will not go to trial.

You or your spouse can decide to go to trial at any time. But if you do, you'll both have to hire new attorneys and start over. Neither of your attorneys will be able to represent you outside of the collaborative process. That gives everyone involved a strong incentive to settle the case.

Much as in mediation, you will meet with your spouse in a series of two hour meetings; however, instead of having a mediator in the room, you will each have your attorney. Since everyone is committed to settlement, the process is usually much friendlier and less hostile than a traditional divorce.

The advantage over mediation is that your attorney is always with you, making sure you don't give in just to avoid a confrontation. The disadvantage is that instead of paying one mediator, you'll be paying two attorneys. Still, the cost is significantly lower than battling it out in court.

Collaborative divorce might not work if you and your spouse are very hostile toward each other, or if there has been physical abuse involved.

The biggest problem with doing a collaborative divorce is getting your spouse to agree to it and hire an attorney who is willing to participate. Since it is relatively new, many attorneys don't know much about it, and will therefore steer you away from it out of fear of the unknown.

The best remedy for that is to speak to your spouse about it up front, and for both of you to consult with a local group of independent attorneys who practice collaborative law. You can find a group near you by going to www.collaborativepractice.com.

For more information:

www.collaborativepractice.com
[The Divorce Financial Survival Series](#)