

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

### **I. INTRODUCTION**

1.01. The essence of “Collaborative Law” is the shared belief of the 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 seek to adopt a conflict resolution process that does not rely on a Court imposed resolution. The process does rely, however, on an atmosphere of honesty, cooperation, integrity and professionalism geared toward the future well being of the parties and their children.

1.02. One of our major goals in adopting the Collaborative Law process is to minimize, if not eliminate, the negative economic, social and emotional consequences of protracted 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 OR OTHER INTERVENTION**

2.01. By electing to treat their Family Law case as a Collaborative Law Matter, the parties and their attorneys are committing themselves to settling their case without court intervention. The parties agree to give complete, full, honest, and open disclosure of all information, whether requested or not, and to engage in informal discussions and conferences for the purpose of reaching a settlement of all issues. All attorneys, accountants, therapists, appraisers and other consultants retained by the parties will likewise be directed to work in a cooperative effort to resolve issues without resort to litigation or any other external decision making process.

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

3.01 In electing the Collaborative Law process, we understand that there is no guarantee of success. We further understand we cannot eliminate concerns about the disharmony, distrust and irreconcilable differences which have led to the current conflict. While we all are intent on striving to reach a cooperative and open solution, actual performance may fall short.

3.02. Even though we have adopted the Collaborative Law process, the parties are still expected to protect their respective interests and are not to allow themselves to lapse into a false sense of security in the assumptions and expectations each holds about the other. The parties may continue to act in their own best interests; consistent with the principles and guidelines of collaborative law. They need not take into account the other party’s interests in areas which are outside the parameters of the divorce, such as changing estate plans and future financial and other activities.

#### **IV. PARTICIPATION WITH INTEGRITY**

4.01. As participants in the Collaborative Law process, we are concerned about protecting the privacy, respect and dignity of all involved, including parties, attorneys and consultants. Each participant shall uphold a high standard of integrity, and specifically shall not take advantage of inconsistencies and others' miscalculations, but shall disclose them and seek to have them corrected.

#### **V. EXPERTS AND CONSULTANTS**

5.01. In selecting outside help, the parties are encouraged to retain joint experts and consultants. In the event each party retains a separate expert, each 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 issues in dispute.

5.02. In resolving issues about sharing the enjoyment and responsibility of the parties' minor children, the parties, attorneys and therapists shall make every reasonable effort to reach amicable solutions that promote the best interests of the children. The parties agree to act quickly to mediate and resolve all differences related to the children in a manner that will promote a caring, loving and involved relationship between the children and both parents.

#### **VI. NEGOTIATION IN GOOD FAITH**

6.01. The parties understand that the process, even with full and honest disclosure, will involve vigorous good faith negotiation. Each party will be expected to take reasoned positions in all disputes and, where such positions differ, each party will be encouraged to compromise where necessary to reach a settlement of all issues. Although all parties should be informed by their attorneys and consultants about the litigation process and the result it may attain, neither party or attorney should use threats of going to court as a way of forcing settlement.

#### **VII. ABUSE OF COLLABORATIVE PROCESS**

7.01. Collaborative counsel are encouraged to withdraw from a case as soon as possible if they learn that their client has withheld or misrepresented information or otherwise acted so as to undermine or take unfair advantage of the Collaborative Law process. Such actions may include, but are not limited to, the secret disposition of joint marital or separate property in violation of the mutually agreed-upon restraints, failure to disclose the existence or the true nature of assets and/or obligations, on-going emotional or physical abuse of the minor children of the parties, or withholding a secret plan or intention to flee the jurisdiction of the court with their children contrary to an agreement or existing court order.

7.02. 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 the diminution of that attorney's reputation in the legal community.

### **VIII. DISQUALIFICATION BY COURT INTERVENTION**

8.01. The parties and their attorneys will sign the Collaborative Law Agreement and will agree to be bound by its specific terms and provisions. The parties understand that their attorneys' representation is limited to the Collaborative Law process. Thus, while your attorney is your advisor, confidant, counselor, advocate and negotiator, he or she may not represent you in court, nor go with you to court in person, nor be named as your attorney on any document filed with the court other than a mutual stipulation or agreement of the parties, as specifically set forth in the Collaborative Law Agreement.

8.02. In the event a party or attorney deems it necessary or unavoidable that a filing with the court be done, both attorneys will be disqualified to represent either client. Except upon mutual written agreement of the parties to the contrary, in such event all consultants will be disqualified as witnesses in the case after it ceases to be a Collaborative Law case.

### **IX. WITHDRAWAL OF ATTORNEY**

9.01. If either attorney deems it appropriate to withdraw from the case for any reason, they agree to do so immediately by a written Notice of Withdrawal to the other party and his or her attorney. This may be done without terminating the status of the case as a Collaborative Law Case.

9.02. The party losing his or her attorney may continue in the Collaborative Law process without an attorney or retain a new attorney who will agree in writing to be bound by the Collaborative Law Agreement and these Guidelines and Principles.

### **X. ELECTION TO TERMINATION COLLABORATIVE PROCESS**

10.01. If either party decides that the Collaborative Law process is no longer appropriate, and elects to terminate the status of the case as a Collaborative Law matter, they agree to do so immediately with written notice of their Termination Election to the other party and his or her attorney.

10.02. The termination of status may also occur automatically in the event a party deems it necessary to proceed to court in an emergency to protect his/her property, self, or children. This process is also outlined in the Collaborative Law Agreement.

**XI. SELECTION OF NEW ATTORNEY; ADDITIONAL RETAINER**

11.01. Once the status of the case as a Collaborative Law matter is terminated, both attorneys agree to aid their respective clients in the selection of a new attorney.

11.02. The parties understand that in retaining new attorneys in the event of the termination of the status of the case as a Collaborative Law matter, each party will likely incur an additional retainer in a amount perhaps comparable to that paid to his or her current attorney.

STATEMENT OF CLIENT RIGHTS AND RESPONSIBILITIES  
IN CIVIL FAMILY ACTIONS

A. Client Rights

1. Clients have the right to have their attorneys diligently advocate their interests within the bounds of the law and legal ethics.
2. Clients have the right to have the fee arrangement fully and completely explained prior to entering into any agreement for services.
3. Clients have the right to have a written retainer agreement describing the financial terms of the relationship between the client and the attorney.
4. Clients have the right to refuse to enter into any unacceptable fee arrangement or modification of a fee arrangement.
5. Clients have the right to be provided information as to the attorney(s) who will be primarily responsible for their matter and all other legal staff who will be working on the matter as well as information as to the costs for those individuals.
6. Clients have the right to be provided bills on a regular basis itemized as to the charges and time spent on each activity.
7. Clients have the right to be informed of and be present at any court proceeding involving their case unless otherwise directed by the court.
8. Clients have the right to be provided copies of all documents presented to the court by any party in their matter unless otherwise ordered by the court.
9. Clients have the right to be afforded reasonable access to their attorneys.
10. Clients have the right to make the final decision as to whether, when, and how to settle their cases and as to economic and other positions to be taken with respect to issues in the case.

### B. Client Responsibilities

1. Clients shall provide full and accurate information to their attorneys regarding their matter.
2. Clients shall be available to participate in a timely fashion regarding their matter and to respond reasonably to requests from their counsel.
3. Clients shall advise their attorneys promptly of any change in their lives that might reasonably be expected to affect the handling of their matter.
4. Clients shall pay for the legal services rendered on their behalf within the time period set forth in the retainer agreement.
5. Clients shall be required to review diligently all bills submitted by their attorneys and within a reasonable time to raise any objections regarding billing.
6. Clients shall not take any position in their matter for any improper purpose, such as to delay the proceeding or intentionally to increase the cost to other litigants.
7. Clients shall not seek to use their attorneys for any improper means.
8. Clients must recognize and be responsible for the costs associated with any action initiated or requested by the client.
9. Clients shall provide sufficient time for their attorneys to explain to them the financial costs and other ramifications of a potential action in their matter and reasonably to consider the advice of their attorneys.

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