

Collaborative Divorce

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Collaborative divorce is a relatively new and lesser known way for families to divorce outside of the court system. It's a very supportive process that lets spouses resolve all legal issues of their divorce through respectful communication and private agreements rather than with a trial or adversarial process. It's quicker and cheaper than a traditional divorce, and it does wonders to preserve a co-parenting or ex-spouse relationship. I can't recommend it enough!

How Does It Work?

If you want to have a collaborative divorce, both spouses need to hire attorneys who do this work. There is a relatively small, but very warm, group of attorneys who work in the Triangle. Once both spouses retain collaborative counsel, the group of four will schedule an initial meeting to talk through the collaborative process and specific logistics of your family's case. The spouses will gather financial documents and the team of four will create spreadsheets, data, and openly brainstorm the many ways that the family can create two, new functional households.

The group of four (or more, see below) will hold multiple sessions together to work through issues one at a time, with guidance and support from counsel on the law, communication, and creative solutions. Everyone works toward mutually agreeable solutions, rather than playing a zero-sum win-lose game. The process ideally ends with a legally binding separation agreement that resolves division of assets and debts, any support payments needed, and a parenting plan, if there are children from the marriage.

Neutral Specialists

For families who want extra insight or support, the collaborative process encourages the addition of neutral child and/or financial specialists to some of the meetings. A neutral child specialist, like Dr. Katrina!, would be hired by both parents to be an advocate for the child(ren) of the marriage. The parties agree on the specialist, meet with her, share her costs, and invite them and their insight into the process. A financial specialist does the same for families with especially complicated finances – maybe businesses, complex real estate, tricky pensions, or unpredictable investments. These specialists can bring a lot of helpful expertise and are more effective (and cost-efficient) than the “dueling experts” that are often used in a trial.

What if my Family is High-Conflict?

My personal opinion is that collaborative divorce can work for 90% or more of divorcing families. Many many successful collaborative cases have included high-conflict, mental health diagnoses, substance abuse, personality disorders, infidelity, domestic violence, and sexual assault. If a family has one or more of these issues as part of their story, the best chances for a successful outcome include as much support as possible.

For mental health or substance abuse, reliable treatment helps tremendously and can very much complement a collaborative divorce. A litigated divorce is likely to exacerbate these problems. For domestic violence and/or sexual assault, I recommend that survivors hire collaborative attorneys who are trained in these areas and are especially familiar with the power dynamics involved to make sure that any agreements made are based on true and willing consent rather than intimidation. Most collaborative lawyers will have extensive training in communication techniques and conflict resolution that can help struggling couples work through lifelong communication problems. If the idea of court and battling with your ex makes you squirm, absolutely consider collaborative divorce as early in the process as possible.

Questions? Feel free to contact me at nicole@twofamilieslaw.com or through www.twofamilieslaw.com with any questions you have. I'll happily talk about the process to all who are interested!