



## **COLLABORATIVE LAW AS A METHOD OF RESOLVING A FAMILY LAW CONFLICT**

### The Traditional Adversarial Approach

Maybe you are going through a divorce or the breakdown of a common-law relationship. Perhaps, you are looking to change your parenting schedule. These and many others are all issues that have traditionally been dealt with within the paradigm of the adversarial system. The adversarial system contemplates the almighty Judge as the ultimate decision maker. Although in many situations, matters are settled before going before a Judge, this model proceeds as though it is on its way to the courts until either the parties get there or they settle. Unfortunately, the adversarial model has served to tear families apart and to create even wider divides than were there before the process began. Usually the biggest losers in this model are the children. The high conflict approach often serves to destroy the relationship between the parents and unfortunately, the children are not immune to the effects. Is there a better way?

### The Collaborative Way

Absolutely, there is a much better way. It is called Collaborative Law, and it is a model of resolving disputes that is gaining popularity and having much success in the area of Family Law. Collaborative Law is a form of dispute resolution that occurs outside of the Court process. It is a form of negotiation that seeks to minimize conflict and reach a resolution that addresses everyone's legal, financial, and emotional needs.

Within the Collaborative Law process, each party has their own lawyer. The couple and their lawyers meet in four-way sessions to negotiate.

### The 4-way Meeting

In the first 4 way meeting, the parties review and sign a Participation Agreement which sets out the guidelines to be followed to facilitate respectful communication. Then the issues are clarified, prioritized and any urgent matters are addressed. Subsequent 4-way meetings are then held until an agreement satisfactory to the parties is reached. Once a resolution has been reached, an agreement is signed.

### No Threat of Court

In the Collaborative Law process, the parties agree that they will not go to court; or threaten to go to court. In the unlikely event that the Collaborative Law process breaks down and one or both of the parties want to go to Court, then both parties have to

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retain new lawyers, as the lawyer they used in the Collaborative Law process cannot represent them in a court action. This aspect of the process is very liberating, as it reduces anxiety and fear, freeing the parties to really focus on the matter at hand rather than on the process they are maneuvering within.

### The Advantages

There are a plethora of advantages to using the Collaborative Law process to resolve a family law dispute.

1. The parties remain in control. With the help of their lawyers, the parties take responsibility for shaping the settlement.
2. In cases where children are involved, their best interests are often emphasized and rarely overlooked during this process.
3. The parties do not do any further damage to the relationship. The Collaborative Law process is a resolution based approach as opposed to a conflict based approach. The parties are respectful so that the relationship can be preserved, which is especially beneficial to any children involved.
4. Collaborative Law is generally a much more cost-effective approach to resolving family law matters.

Collaborative Law is becoming widely used in the area of Family Law. The results are proving to be excellent, both in terms of being cost-effective and minimizing conflict. If you would like more information regarding Collaborative Law, I invite you to go to [www.collaborativepractice.ca](http://www.collaborativepractice.ca).

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