

Collaborative Practice

Collaborative practice is a method of settling disputes in a respectful, reasonable, and rational manner. It is based on a set of principles that significantly changes the dynamics between clients from adversarial to collaborative. The process is client-centered and client-driven, requiring attorneys (and clients) to make critical and essential shifts in thinking and control.

Central to collaborative practice is that clients and attorneys agree to use consensus building or a negotiation structure and forego the threat or use of litigation. They further commit to a completely open exchange of relevant information. Central collaborative practice principles include:

- A promise to reach a resolution without court intervention or threatening court intervention.
- A pledge that if either client seeks court intervention, both attorneys (and their law firms) must withdraw from representation of both clients.
- A commitment by all participants to negotiate in good faith by remaining open and flexible, disclosing all pertinent information, and using constructive and respectful communication methods during the process.
- An agreement that all communications which occur during the process, as well as all documents prepared in connection with the collaborative process, remain confidential and are inadmissible in future court proceedings.
- The concept of collaborative law was conceived in 1989 by a family law attorney who postulated that trials in domestic cases were inflicting greater injury upon families than the underlying divorce itself. Since 1989, the practice of collaborative law has developed and grown and is now successfully practiced across the United States, Canada, and Europe, not only in family law but in business, commercial, probate, and employment law.

Collaborative practice is a viable way to resolve legal disputes and is an effective alternative to win-or-lose litigation, but generally requires more of a time commitment than mediation.