

COLLABORATIVE LAW - CLIENT SUMMARY

WHAT IS COLLABORATIVE LAW?

The Collaborative Law Process is about cooperation, not confrontation. It is problem solving with lawyers where you and your spouse try to understand each other. You and your spouse are responsible for information gathering and solutions.

- Each client is represented by his or her own lawyer throughout the process
- Both lawyers help you and your spouse work as a team to:
 - find and focus on your common interests;
 - understand each other's concerns;
 - exchange information;
 - explore a wide range of possible choices; and
 - reach solutions acceptable to both of you.

HOW IS COLLABORATIVE LAW DIFFERENT?

- Both lawyers and clients sign a contract at the start of the process which provides that all four parties to the contract will not go to Court or use threats of Court to solve the dispute
- If the collaborative process fails, both lawyers and their law firms must withdraw from acting for the respective clients
- The collaborative law process is conducted on a different basis to the traditional positional bargaining approach that lawyers adopt – it is based on both clients and lawyers adopting interest based negotiation techniques
- Negotiations are carried out almost entirely in four-way meetings attended by both lawyers and both clients
- In the Collaborative Law Process both clients will:
 - treat each other with respect;
 - listen to each others' perspectives, interests and concerns;
 - explore all possible choices;
 - let go of the past in order to focus on the future;

IS THE COLLABORATIVE LAW PROCESS THE RIGHT CHOICE?

Collaborative Law is an alternative dispute resolution process that has many advantages.

- Both clients have skilled legal advisers at every stage of the process. Both lawyers understand how to reach creative settlements. You are

never on your own; your lawyer is at your side, explaining issues and helping you to achieve goals by mutual participation and agreement.

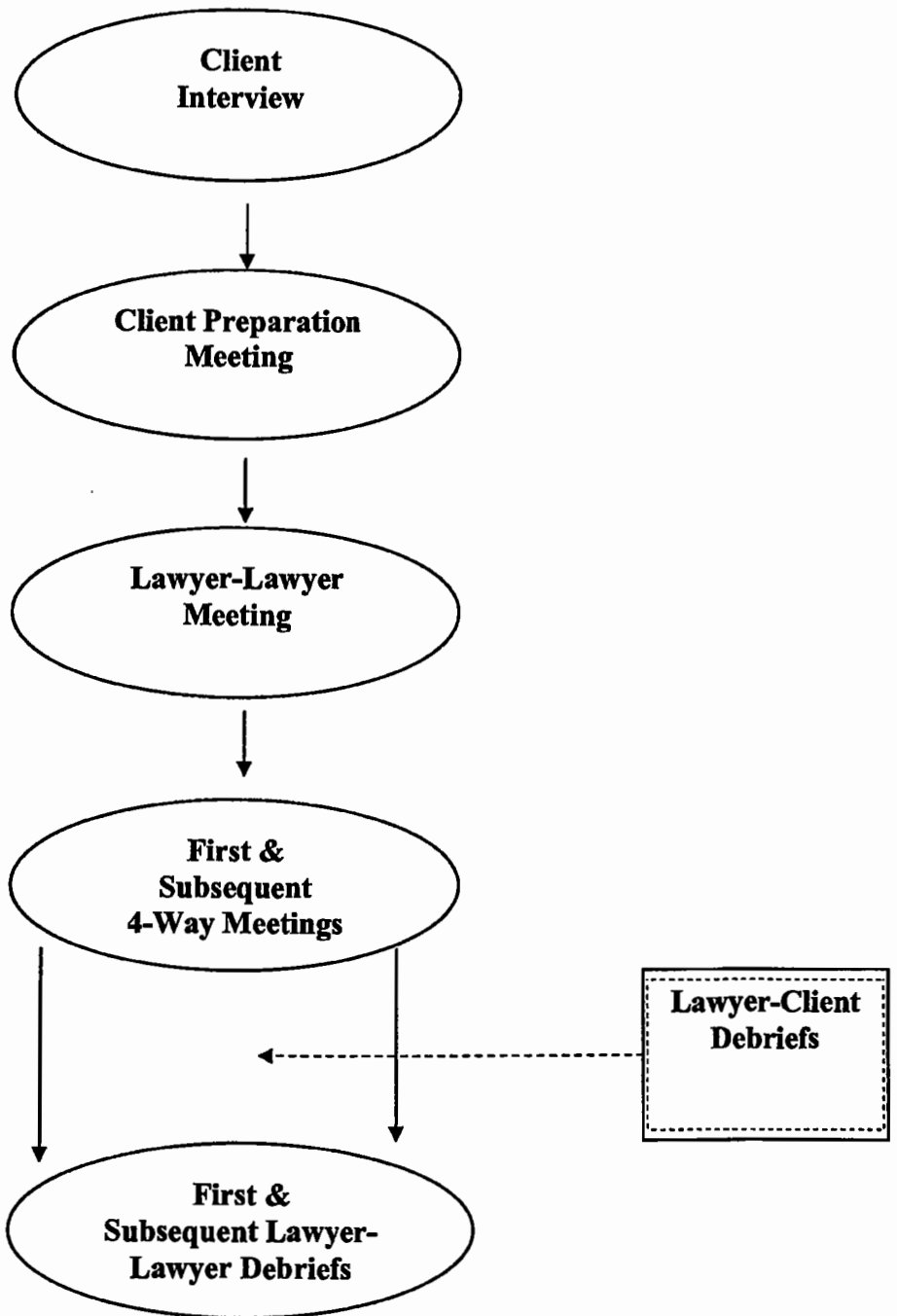
- Both clients will usually spend less money and time using the Collaborative Law Process than in other processes, particularly going to Court.
- Both clients and their lawyers agree in advance to work only toward a settlement acceptable to both clients. Litigation can never be threatened. Neither you nor your spouse will be permitted to play games or take advantage of each other.
- The lawyers share with their clients a financial incentive to make the Collaborative Law Process work. The lawyers have not succeeded unless they help you create a win-win solution. They are “out of a job” if the process breaks down.
- The lawyers are concerned about process as well as outcome.
- Clients and lawyers work together as members of the settlement team, rather than working against each other as “opposing parties”.

WHAT IS THE PROCESS?

All four-way meeting in the Collaborative Law Process always follows the same steps:

1. Identify what is important to each client (interests);
2. Identify what questions the clients need to answer;
3. Gather information;
4. Create the maximum number of choices;
5. Evaluate options and modify and refine them;
6. Negotiate to an acceptable agreement; and
7. Closure.

Steps in Collaboration



CHOICES FOR SEPARATING COUPLES

	<i>Collaborative Practice</i>	Mediation	Negotiating in Court Process	Court
1. Basis for making decisions	What is important to the clients	What is important to the clients	Laws, Rules of Court and positions	Laws and Rules of Court
2. Measure of success	Solutions acceptable to both clients	Solutions acceptable to both clients	Both clients try to win	Both clients try to win
3. Role of Lawyers	Present to help each client negotiate and communicate effectively with each other and give independent legal advice preferably through the four way meeting	Rarely present; review summaries in between sessions; give independent legal advice; mediators and lawyers sometimes work at cross purposes	Lawyers present and control communication between parties	Lawyers present; examine and cross-examine witnesses, argue
4. Role of Neutral Experts (e.g. Child Specialists, Financial Consultants, Valuers)	Clients choose if they need more information to make informed decisions or to use an expert/arbitrator to determine or assist in the determination of an issue which cannot be agreed	Rarely present	Usually neutral – although sometimes Court allows each client to hire their own expert	Usually neutral – although sometimes Court allows each client to hire their own expert
5. Who makes final decision	Clients	Clients	Lawyers and clients	Judge
6. Time – estimated average	2 – 8 months	4 months – 1 year	2 months – 2 years, sometimes longer	1 – 2 years, sometimes longer
7. Cost – estimated average	\$2,500 - \$5,000 + per person	\$2,500 - \$5,000 + per person	\$5,000 - \$10,000 + per person	\$15,000 + per person
8. Likelihood of going to Court after separation (the Canadian experience)	<5%	10-20%	40-50%	90%