

Why use Collaborative Law?

By Eric C. Trosch

Collaborative law is an excellent alternative to having your case resolved by the Court. This process resolves family law issues through settlement negotiations only without the threat of litigation. The parties and their attorneys voluntarily exchange information and are committed to full, honest, and open disclosure of all relevant facts. Additionally, experts are jointly retained to ensure neutrality and to save each party money.

The primary method of progressing toward a settlement through the Collaborative Law process is the use of four way meetings attended by both parties and their attorneys. Usually each case begins with a four way meeting, at which the participants sign a Collaborative Law Agreement and identify documents that need to be exchanged.

Once this Collaborative Law Agreement is signed any Court proceeding is immediately halted and any future Court actions would be contractually prohibited. This encourages the parties to settle their case outside of the court process. This not only can have economic advantages, but also spares the family a tremendous amount of excess emotional distress that often accompanies a lawsuit.

Then, additional joint conferences are held as needed. Through the Collaborative Law Process, the parties are often able to settle their case without ever setting foot in Court. Additionally, the parties are able to be active participants in the resolution of their case. This will have untold intangible benefits for years to come.

Collaborative Law has added benefits in custody cases such as limiting the strain on the parents' relationship and allowing the parents to more effectively co-parent with less antagonism from the beginning. For more information on the Collaborative Law Process please visit www.mecklenburgcollaborative.org or feel free to discuss this process further with one of our family law attorneys.

Advantages to the Collaborative Law Process:

Client Controlled

You and your spouse control the process and the outcome. Your destiny is in your hands rather than in those of a stranger – a judge.

Client Centered

You and your spouse are a vital part of the settlement team. You and your lawyer will work with your spouse and his or her lawyer to settle your case in an efficient and respectful manner that meets both parties' needs.

Cooperative Approach

Both parties are counseled and supported by their own attorneys as they work cooperatively with the other side to resolve issues.

Streamlined

The process requires voluntary disclosure, eliminating formal methods of obtaining information and procedural delays.

Creative Outcomes

You and your spouse are able to tailor the terms of your settlement to meet the needs of your family.

No Court

Everyone can focus on reaching a settlement without the recurring threat of going to court, the burden of the court's timetable, or the lack of privacy that comes with surrendering the details of the clients' private lives to the public record.

Family-Centered

Collaborative law emphasizes co-parenting and time-sharing arrangements that best meet the needs of parents and children.

How Does the Collaborative Process Work?

While no two cases or collaborative lawyers are alike, the emphasis is on finding a way in which lawyers can work with their clients and the other side to reach agreements cooperatively and efficiently. Often, much of the work is conducted during four-way conferences where both spouses and their respective attorneys meet to discuss issues and progress toward settlement.

Creative Approaches

Collaborative lawyers are committed to exploring various ways to achieve a fair and balanced settlement. If an impasse is reached, the clients may elect to use a neutral mediator or arbitrator to facilitate settlement.

What Happens if a Settlement Cannot be Reached?

At the beginning of the collaborative process, both the attorneys and the clients commit to reaching an out-of-court settlement, whether through informal negotiations, mediation, or arbitration. If the process is unsuccessful, then the collaborative lawyers must withdraw from the case and assist their clients in retaining trial attorneys. This requirement ensures that both spouses and their attorneys are equally motivated to work as hard as necessary to avoid a breakdown in communication or in the settlement process.