IACP INTERNATIONAL ACADEMY OF COLLABORATIVE PROFESSIONALS
Resolving disputes respectfully

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Civil Collaborative Practice

The same alternate dispute resolution principles that have preserved the integrity and dignity of families in conflict can also bring relief to those in disputes in many areas of civil and commercial. In theory, any matter that can be litigated is capable of resolution through the Civil Collaborative Practice.

Examples of Civil Collaborative Practice Areas

The Collaborative Process in the Healthcare Industry

Medical professionals and hospitals strive to deliver the best medical services available to keep their patients healthy and satisfied. Notwithstanding these goals, disputes will inevitably still arise in the form of malpractice claims or disputes among healthcare professionals, their hospitals and insurance companies. Collaborative Practice allows parties in the healthcare profession to resolve these disputes in a less disruptive and more cost-effective manner by engaging in good faith interest-based negotiation and a commitment by the parties not to go to court.

The process is voluntary and confidential. Civil Collaborative Practice therefore protects the reputation of the hospital and healthcare professionals and the welfare of the patient by addressing the interests of the parties involved. When necessary, Civil Collaborative Practice offers the parties the advantage of a team approach to assist them in the resolution of their conflict. The parties, their lawyers and a team of coaches, financial advisers or other specialists will work together to generate options that best meet the interests of the parties and guide them to a resolution of their dispute.

For patients, medical professionals, and other participants in the healthcare industry, resolution of disputes through Collaborative Practice gives them a better chance to continue to treat their patients, to work with each other, to protect their reputations, and to return to their shared interest of delivering excellent healthcare and services.

The Collaborative Process in Employment Disputes

Companies understand that the people they employ are their greatest assets. Sometimes, however, misunderstandings or disagreements occur in the workplace that can lead to legal disputes. Collaborative Practice offers employers and employees a way to resolve legal conflicts and employee complaints that does not result in hardening of positions, loss of productivity, emotional turmoil and large legal bills. Instead, Collaborative lawyers work closely with their clients and each other to explore options that address the interests and concerns of the parties without apprehension that positions might shift toward litigation.

Collaborative Practice can be used successfully when there are contract issues, allegations arising from discipline or termination, co-worker disputes, workplace harassment or bullying, employee requests for accommodation, and the like. Whether the employment relationship is continuing or not, the Collaborative process helps clients reach practical solutions to workplace disputes.

The Collaborative Process in Probate

Estate planning attorneys and tax counsel are usually not litigators. One thing their clients all want and plan for is avoidance of conflicts and lawsuits at death. Continuity of businesses and lifestyles, and minimization of taxes are other key planning factors. A major concern is preservation of family relationships. Many clients want to avoid their estate being involved in court. The successful marketing of the living trust nationwide has focused on the idea of avoiding probate-which is not even necessarily an adversarial process. Estate planning counsel have responded by making living trusts a core planning device-avoid probate, avoid litigation. However, the conflicts that previously arose in probate estates now are reappearing in probate court as trust litigations.

Estate planning attorneys can offer Collaborative Practice as another tool to mitigate or avoid post-death litigation. They can discuss Collaborative Practice with clients, and produce testamentary documents which require or encourage Collaborative Practice to resolve any disputes, perhaps with a tie-in to "no contest" clauses as added incentives.

The Collaborative Process in the Construction Industry

Developers, Contractors, Sub-contractors, Architects, Engineers, and Owners associated with a construction project can benefit by the application of Collaborative Practice. A serious construction dispute may halt a project for months-even years. Parties need a quick resolution to remain on schedule, avoid penalties and interest, complete the project, and free capital for other endeavors. By placing a clause in the contract that all parties will consult with trained Collaborative lawyers before proceeding to any other form of dispute resolution, parties can opt to settle matters quickly, privately, and confidentially before their disputes develop into full-blown litigation.

Collaborative Practice for Religious Organizations

Disputes arising in churches and their related religious organizations are often emotionally and spiritually devastating for members of the congregations. The last place to settle difficulties in faith-based communities is the court room. Collaborative Practice allows private and confidential face-to-face meetings of the parties and their legal representatives where they can share their interests and goals as well as hear the interests and goals of the other parties, which generally results in a better understanding of the problem and begins the journey to discovering options for peaceful resolutions.

To learn more about training for Collaborative professionals, please visit our Events Calendar.

Interdisciplinary Collaborative Trusts and Estates

For many Collaborative Practice professionals, Trusts and Estates (T&E) is a natural fit. Mental health and financial professionals who are trained in Collaborative Practice can utilize their skills in educating and facilitating discussions for those families who are faced with the often complex decisions regarding their financial and emotional legacy. Trusts and Estates lawyers who value their relationship with their clients can offer additional opportunities for themselves and their clients in a team setting.

T&E is divided up into two distinct areas: Pre-mortem and post-mortem. In the pre-mortem or planning phase, the primary challenge is to provide a safe environment for discussing the difficult topic of money, how it is to be divided after death, and as always, the emotional underpinnings that accompany these decisions. Sessions may include parents alone with their Trusts and Estates lawyer a Communication Skills Specialist and/or Financial Specialist, both of whom function as neutrals on the team. As the planning progresses, sessions usually include the siblings or other beneficiaries. In these sessions usually all professionals are present and the goal is to help the adult children develop a deeper understanding of the parent's core values and wishes, as well as for the children to express their own reactions to their parent's ideas. Through these discussions families often find that they actually can discuss the 'taboo' topics of death, money and relationships while making difficult life decisions that still preserve their family relationships.

In the post-mortem phase, often old family rivalries and differences compounded by grief and loss, have resulted in intense arguments and disagreements. The family members may already be involved in a litigated process and have lawyers representing their respective 'sides'. The roles of the Collaborative Professionals change in this setting. Either the lawyers involved, or a family member may see the emerging conflict as so destructive that a Collaborative Team is engaged to facilitate the resolution of the conflict and help the family 'put the pieces back together'. In this, clearly legal process, all Collaborative professionals need to sign the stipulation not to represent any of the clients in a litigated process, and to withdraw if they continue in such a process. The Collaborative Team may include a neutral lawyer, communications skills (mental health) professional and/or a financial professional. The end result, or goal is to help these families reach collaborative agreements while preserving their relationships. In many cases members create connections that were lost through misunderstandings or what seemed like intractable conflict. As in all interdisciplinary work, the end result is often due to the professional team's skills and support as they work together with the family for a healthier outcome.

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