

## Client Information About Collaborative Representation

*This chart was published in Forrest S. Mosten, Collaborative Law Practice: An Unbundled Approach to Informed Client Decision-Making, 2008 J. DISP. RESOL. 163, 190–93, which is available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1661132](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1661132). Copyright Forrest S. Mosten 2008. You are welcome to use or adapt this chart for your practice. You may reproduce it for other purposes only with permission.*

ELEMENTS OF COLLABORATIVE REPRESENTATION	BENEFITS	RISKS
<p><b>COLLABORATIVE GUIDELINES AND PRINCIPLES</b></p> <p>The Collaborative process involves treating each other respectfully and satisfying the interests of all family members rather than trying to gain individual advantage.</p>	<ul style="list-style-type: none"> <li>● The Collaborative process sets a positive tone so that you and your spouse can work to satisfy your interests.</li> <li>● The process can reduce unnecessary and destructive conflict and avoid litigation.</li> </ul>	<ul style="list-style-type: none"> <li>● This process may not produce a constructive agreement if your spouse will respond only to threats, litigation, or a decision by a judge.</li> <li>● The Collaborative process may not be appropriate if you or your spouse do not have the ability to participate effectively.</li> <li>● Domestic violence, substance abuse, or mental illness may make the process inappropriate.</li> <li>● You may feel unprotected if you want your Attorney to advocate strongly to protect your interests (including your concerns about your children).</li> </ul>

ELEMENTS OF COLLABORATIVE REPRESENTATION	BENEFITS	RISKS
<p data-bbox="204 317 578 527"><b>PARTICIPATION AGREEMENT REQUIRING DISQUALIFICATION OF ATTORNEYS IN LITIGATION</b></p> <p data-bbox="204 569 578 1146">Clients and Attorneys sign a Participation Agreement that includes a Court Disqualification Clause, which states that if the parties do not resolve the matter in the Collaborative process, neither attorney will represent the parties in any contested litigation between you. If you would want to hire an attorney to represent you in court, you would need to hire another attorney.</p>	<ul data-bbox="610 317 984 1188" style="list-style-type: none"> <li>● The process can increase the motivation of all parties and Attorneys to reach a settlement. If negotiations break down and a law suit is filed, both parties need to hire new Attorneys and the Collaborative Attorneys are out of a job. As a result, everyone in the Collaborative process focuses exclusively on reaching agreement.</li> <li>● All parties and Attorneys focus on negotiation from the very beginning of the process.</li> <li>● Collaborative Attorneys work to negotiate constructively and avoid attacking the other side.</li> </ul>	<ul data-bbox="1016 317 1438 1367" style="list-style-type: none"> <li>● If the Collaborative representation ends, you and your spouse will need to spend additional time and money to hire new Attorneys and may lose some information or momentum during a transition of Attorneys. After developing a relationship of trust and confidence with your Collaborative Attorney, you might feel abandoned emotionally and/or strategically at a time of contentious conflict.</li> <li>● You may feel a lot of pressure if your spouse is willing to terminate the process and you want to stay in it.</li> <li>● You should be cautious about using a Collaborative process If you do not trust that your spouse will negotiate honestly and sincerely.</li> </ul>
<p data-bbox="204 1419 496 1524"><b>TRAINED COLLABORATIVE PROFESSIONALS</b></p> <p data-bbox="204 1566 578 1810">The Collaborative process may involve a team of Collaborative professionals who have specialized training in collaborative divorce skills. Separate divorce</p>	<ul data-bbox="610 1419 984 1810" style="list-style-type: none"> <li>● You and your spouse may benefit from using a team of Collaborative professionals with different skills.</li> <li>● Collaborative professionals usually have had special training to help promote constructive settlements.</li> </ul>	<ul data-bbox="1016 1419 1438 1587" style="list-style-type: none"> <li>● You or your spouse may feel some pressure to use more professionals that you want or feel that you can afford.</li> </ul>

ELEMENTS OF COLLABORATIVE REPRESENTATION	BENEFITS	RISKS
<p>coaches help each party to deal with emotional, relationship, and parenting issues. Child development specialists and financial professionals may be hired jointly to provide unbiased information and advice.</p>	<ul style="list-style-type: none"> <li>• By investing the time and money for professional training, Collaborative professionals demonstrate a commitment to constructive negotiation.</li> </ul>	

ELEMENTS OF COLLABORATIVE REPRESENTATION	BENEFITS	RISKS
<p><b>DIRECT COMMUNICATION AND DECISIONMAKING BY THE PARTIES</b></p> <p>Parties are the key decision makers and you communicate directly with each other and the Attorneys.</p>	<ul style="list-style-type: none"> <li>● You and your spouse control the decisions that affect your lives and families.</li> <li>● You and your spouse can discuss both non-legal and legal issues.</li> <li>● You and your spouse can develop communication skills and learn how to communicate more effectively in the future.</li> </ul>	<ul style="list-style-type: none"> <li>● You and your spouse might increase conflict without making any progress if your communication styles are disrespectful or harmful to each other and you cannot work together constructively.</li> </ul>
<p><b>VOLUNTARY DISCLOSURE OF ASSETS, OBLIGATIONS, AND IMPORTANT INFORMATION</b></p> <p>You and your spouse make a binding commitment that you will fully disclose assets and will not to hide important relevant information.</p>	<ul style="list-style-type: none"> <li>● You and your spouse agree to provide each other with full information of marital and separate assets so that you can make informed decisions.</li> <li>● The Collaborative process can include a protection against parties' failure to disclose fully. If either party does not make the required disclosures, the agreement can be set aside.</li> <li>● The Collaborative process does not use formal court "discovery" processes to investigate the facts of your case. This can save money and avoid conflicts. Discovery does not necessarily</li> </ul>	<ul style="list-style-type: none"> <li>● Your spouse may hide assets and other critical information unless you use a formal discovery process.</li> </ul>

ELEMENTS OF COLLABORATIVE REPRESENTATION	BENEFITS	RISKS
	produce full information.	
<p><b>CONFIDENTIALITY OF COLLABORATIVE PROCESS</b></p> <p>Communications in the Collaborative process are generally confidential and inadmissible in court.</p>	<ul style="list-style-type: none"> <li>● Confidentiality can encourage you and your spouse to talk openly and reach creative solutions.</li> <li>● Confidentiality permits your family business to remain private by avoiding public testimony in court and keeping sensitive documents out of the public records.</li> </ul>	
<p><b>DIVORCE PROCESS MAY SAVE TIME AND MONEY</b></p> <p>The Collaborative process may save you and your spouse time and money in handling your divorce. Some courts give Collaborative cases priority within their court system and cases may not have to follow strict court schedules.</p>	<ul style="list-style-type: none"> <li>● The Collaborative process can help you reduce the length of negotiations and the cost of your divorce.</li> <li>● You may save money by avoiding litigation procedures. Specialized Collaborative professionals can help resolve disputes that might otherwise go to court.</li> <li>● Settlements can be processed quickly in court so that you can move on with your life.</li> </ul>	<ul style="list-style-type: none"> <li>● Collaborative cases can take a long time if there are no court deadlines to keep the process moving.</li> <li>● The use of a team of professionals can increase the cost of your divorce.</li> </ul>

I have read this chart and I understand Collaborative representation and its benefits and risks.

I have had an opportunity to discuss any concerns and questions I may have with my attorney before signing an Attorney-Client Engagement Agreement and before signing a Collaborative Participation Agreement with my spouse.

I also understand that if I have additional questions or concerns about the Collaborative representation after it begins, I am encouraged to discuss them with my attorney.

Date \_\_\_\_\_

\_\_\_\_\_

CLIENT