

*"My joy was boundless. I had learnt the true practice of law. I had learnt to find out the better side of human nature and to enter men's hearts. I realized that the true function of a lawyer was to unite parties driven asunder. The lesson was so indelibly burnt into me that a large part of my time during the twenty years of my practice as a lawyer was occupied in bringing about private compromises of hundreds of cases. I lost nothing thereby - not even money, certainly not my soul."*

*M.H. Gandhi*

## *Collaborative Practice Talking Points*

For use in media interviews

### **What is collaborative practice?**

Collaborative Practice is a new option for divorcing couples to resolve disputes respectfully and equitably without going to court.

The goal of collaborative practice is to help divorcing and separating couples to focus on their most important goals, especially children, throughout the divorce process. The end result is a more efficient, targeted and productive way to resolve disputes

### **What distinguishes collaborative practice from other methods of divorce?**

Collaborative Practice promotes respect and keeps spouses in control of the process, not judges.

It addresses each couple's unique concerns, as opposed to litigation which is driven by the general rule of law meant to apply to all.

Because clients agree not to go to court, the process is more open and less adversarial. The goal is to enhance communication throughout the process and lay the foundation for a healthier relationship after the divorce.

### **What is the biggest difference between collaborative practice and litigation?\***

#### *Control*

In collaborative, you and your spouse agree not to go to court. This gives you and your spouse control of the process and outcome versus litigation, where a judge makes the final decision.

#### *Collaboration*

Instead of the win-lose court setting, the entire collaborative team ensures that both spouses work with each other, not against each other, towards mutually beneficial solutions for critical issues.

#### *Communication*

One barrier in litigation is a lack of effective communication between spouses. In the collaborative process, spouses learn a framework for effectively communicating their concerns and goals.

\*These are just a few examples -- a full comparison chart is attached.

## **What is the biggest difference between collaborative practice and mediation?\***

### *Personalized counsel*

Both you and your spouse are represented by your attorney throughout the entire process.

### *Team approach*

the entire collaborative law team is there to help facilitate communication between the spouses, working towards the best possible solution for all and making sure all issues are addressed.

## **How does it work?**

Make sure to answer using a case study of a divorce you handled, that includes the following talking points:

- Utilizes specialists who leverage their areas of expertise to address children's needs and the emotional and financial aspects of divorce
- Creates a safe environment for both parties without the threat of court
- Provides a structure for communication that considers each person's needs
- Shares information that allows good decisions to be made
- Focuses on a creative and respectful approach that helps clients reach a mutually agreeable settlement.

## **Who is Collaborative Practice for?**

Be sure to answer with a case study that uses the following talking points:

- People going through a divorce who want a civilized, respectful resolution of the issues and are willing to focus on solutions rather than on blame or revenge
- People who want to maintain a productive working relationship with their (ex) spouses
- People who will be co-parenting and want to keep children's interests at the forefront, i.e. protecting children from the negative impact associated with bitter litigation
- People who want to control decision-making over child-rearing and/or financial arrangements rather than turning it over to a stranger (judge)
- People who place as much or more value on the relationship that will exist in the restructured family as on obtaining maximum resources
- People who value privacy.

### What are the benefits of Collaborative Practice?

#### *Better for children*

- Gives children a voice in the process, alleviating the potential of future trauma that sometimes persists for generations

#### *Private*

- Keeps problems and assets private

#### *Less stressful*

- Improves communication between parties
- Keeps control of process with the spouses
- Promotes respect and healthier long-term communications

#### *Focus on the future*

#### *Saves time*

- The process is more efficient, productive and targeted because of the unique structure of the collaborative team

#### *Learning Effective Communication Skills*

- Communication skills acquired during collaborative process may have positive applications outside divorce.

*(Source: Talking Points adapted from Liz Ferris of Ferris Consulting's How to Grow your Collaborative Practice workshop)*

## *Facts and Figures about Collaborative Practice*

Collaborative Practice is a new way for a divorcing couple to work as a team with trained professionals to resolve disputes respectfully, without going to court. The term encompasses all of the models that have been developed since Minnesota lawyer Stu Webb created the Collaborative Law model in the 1980s. This model is at the heart of all of Collaborative Practice. Each client has the support, protection and guidance of his or her own lawyer.

The lawyers and the clients together comprise the Collaborative Law component of Collaborative Practice.

While lawyers are always a part of Collaboration, some models provide child specialists, financial specialists and divorce coaches as part of the clients' divorce team. In these models the clients have the option of starting their divorce with the professional with whom they feel most comfortable. Then the clients choose the other professionals they need.

The International Academy of Collaborative Professionals is a worldwide membership organization committed to fostering professional excellence in conflict resolution through Collaborative Practice

### **Divorce's toll on children**

- Support is often available to adults experiencing losses, and little attention is paid to children. It's a myth that "children are resilient" to their parent's divorce.
- Include statistic—not the divorce—but the way people divorce that affects children
- Number of children affected every year by divorce
- About 25% of children experience major problems or emotional difficulties after living through divorce. This compares to 10% of children in non-divorced families who experience major behavioral or academic problems.

*Collaborative Law is one way to ease the pain of divorce for parents and their children because children's needs are given priority.*

### **The Growth of Collaborative Practice**

- There are more than 10,000 professionals trained in Collaborative Practice in the U.S.
- There are more than 200 Collaborative Practice groups around the world
- In Canada, there is a Collaborative Practice practitioner in every province and two territories

- Groups range from five to more than 300 members
- The attorneys general of Australia and Canada both have embraced collaborative practice as an appropriate alternative to litigation in those countries
- There is a Collaborative Practice practitioner in all but four states in the U.S. (ND, SD, WY and MT)
- IACP membership has grown from 200 in 2001 to more than 2,400 in 2006.