

Collaborative Divorce

Is there really such a thing?

If you have found yourself in the difficult position of researching divorce in the last few years, you may have come across the term “collaborative divorce.” For many people, separating from a spouse can be one of the most painful experiences of their lives. As such, it seems far-fetched that the process can be anything but contentious.

However, collaborative divorce often provides a path for an amicable separation. Before diving into the details of collaborative divorce, let’s first review the other ways that a couple can divorce and the financial and emotional support individual can seek out as they navigate this challenging life event.

Self-Filing (Uncontested Divorce)

To file for an uncontested divorce, the couple agrees on the division of assets/liabilities, alimony, child support and parenting plan on their own. They then fill out the paperwork, either by themselves or with the assistance of an attorney who specializes in family law, and file it with the court.

Mediation

Mediation involves a court-certified and trained independent professional. This professional’s background could be legal, financial or mental health. The couple meets with the mediator to work through various issues and agree on a separation plan that is fair to both parties. It is the mediator’s job to be independent and not advocate for one spouse or the other. After all issues are resolved, the mediator drafts the marital settlement agreement and files it with the court.

Litigation


Litigation is usually the most expensive method of getting divorced. This method is also the most contentious as each spouse retains his/her own attorney, whose objective is to get the most for his/her client. In many instances, litigation makes an already painful situation even more difficult. In those cases, no one wins; already fragile relationships get irreparably damaged, especially when there are minor children involved.

Collaborative Divorce

Collaborative divorce is an alternative dispute resolution method similar to mediation; independent professionals work with the couple to educate them on key issues and help them reach an agreement. In this type of divorce, each spouse retains an attorney.



The attorneys decide together which independent financial professional and neutral facilitator (typically a mental health professional) they would like to use. All four of these professionals have received specialized training in collaborative divorce. Together, they form a team whose sole purpose is to move the couple through the process and reach an agreement that is fair to both spouses. Although each spouses' attorney advocates for his/her client, there is no attorney-client privilege in collaborative divorce. Each attorney shares key information provided by their client with the rest of the team for the purpose of everyone making informed recommendations.



One very important aspect of collaborative divorce is that if the process breaks down without finalizing the marital settlement agreement, all four of the professionals involved must recuse themselves from participating in the case going forward. This means that each spouse must retain a new attorney, as well as new financial and mental health professionals as needed, and the process starts all over again. This can be an expensive consequence of not being able to mutually agree on a plan. Thankfully it does not happen often.

Choose a Professional Support Team

Divorce can be a time consuming, emotional and expensive process. Regardless of which method a couple chooses to use, it's absolutely crucial to have experienced professionals who understand family law and the key financial issues that arise in such cases.

Look for attorneys whose main practice area is family law as well as financial professionals who hold the CDFA® designation (Certified Divorce Financial Analyst). Having the right team of professionals involved gives you peace of mind throughout the separation process and into the future.

At Mariner Wealth Advisors, we have wealth advisors who have obtained the Certified Divorce Financial Analyst™ designation and specialize in helping individuals manage the financial and emotional aspects of a divorce. They will listen and understand the emotional toll individuals experience.

Your wealth advisor will partner with in-house teams and any outside legal counsel to review estate planning documents, assist with personal insurance planning and provide trust services, all to help ensure your assets and family are provided for and protected.

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