

Collaborative Divorce Myths

By Amy Wirtz, Attorney at Law

The benefits of Collaborative Divorce are many and varied. There is a need to dispel some myths that exists surrounding this resolution method. This is not an exhaustive list; rather it is some of the most common misnomers.

1. ***Couples who choose collaborative divorce experience no anger, resentment or negative emotions during their divorce.*** MYTH
 - All persons going through divorce will experience a wide range of emotions no matter what method they use to end their marriage. The beauty of a collaborative divorce is that it provides a safe and healthy support system for each person to process these emotions. Many collaborative cases have neutrals such as financial experts and mental health coaches. The team helps clients process these emotions in a way that will allow them to heal rather than fester and do further harm to themselves and those around them.
2. ***You only need one lawyer when doing a collaborative divorce.*** MYTH.
 - Both the husband and wife must have a collaboratively trained lawyer to do a collaborative divorce. This resolution method has specific steps to help the couple resolve their end of marriage issues and each must have a collaborative lawyer in the process.
3. ***If a couple works together to resolve their issues and do not sue one another, they have done a collaborative divorce.*** MYTH.
 - In order for a couple to label their dissolution a collaborative divorce, the couple and their counsel must sign a collaborative contract. This contract sets forth a requirement for transparent process (meaning voluntarily giving all information about assets, debts, and income), a commitment to interest based negotiation and to compromise, and the clients and lawyers agree that collaborative counsel cannot become litigation counsel for their clients.
4. ***A collaborative process can be utilized to gain information to hurt the other side in litigation and deplete financial assets.*** Myth.
 - Each person when ending a marriage is entitled to know all financial information regarding income, assets and liabilities. At the final hearing for dissolution of marriage and a divorce, both parties must state under oath that they have disclosed all assets and liabilities to the other party and that the agreement they have entered into is fair to them. In a filed law suit, called a divorce, the parties normally do

formal discovery where they filed official requests for this information. Contrarily, in a collaborative case, the couple works with their counsel and a financial neutral that helps collect the financial information, analyze it in a manner that is helpful and understandable to the couple, and compile reports for the team to utilize in generating options. The process demands the full disclosure of information so that good reasoned decisions can be made. Additionally, counsel can request “proof” of statements at any time. NO process is without potential for manipulation, but this process can and does provide the same protection a law suit provides.

5. *Collaborative Divorce is a cheap way to end your marriage.*

- MYTH and FACT. It is true that in comparison to most litigation Collaborative Divorce is less expense for the couple. However, it is not cheap. To me cheap means purchasing something for little money and receiving little value. The clients who select collaborative divorce will spend money to pay the lawyers and other team members, but the value added to their family is immeasurable. It is true that it is often less expense than lengthy litigation both financially and emotionally.

6. *Collaborative Divorce can only be done when couples know what they want to do before they hire lawyers.*

- Myth. Most couples who choose this method have no idea how to navigate all the issues they are facing and do not have the answers to their problems. Collaborative Divorce helps couples who want to end their marriage without litigation and with a team that will educate them about the law, how to use their assets in the best manner, and how to communicate in the most effective manner during and after this process.

7. *Collaborative Divorce only applies for couples with children.*

- MYTH. While collaborative divorce does focus on the health and wellbeing of the children in the case, it does so for all family members. I have done multiple collaborative divorces where the children are adults or there are no children. Couples who do not have children still care about their extended family and friends. Doing a collaborative divorce reduces stress for the couple and makes it safer for the extended family to keep relationships with any non-relative that they love.

8. *If a couple cannot agree on an issue in a Collaborative Divorce, they must go to litigation and hire new lawyers.*

- Myth. The couple can utilize mediation, early neutral evaluation or arbitration to settle the impasse before proceeding to litigation. The team should discuss these options at the first meeting with the team.

9. Your therapist can be your divorce coach in your Collaborative Divorce.

- MYTH. It is a conflict of interest for your therapist to also be the divorce coach in a collaborative divorce. Additionally, not all therapists can be a coach in a collaborative divorce. Neutrality is essential to the process. While all coaches in our collaborative community are also therapists, psychologist or psychiatrists, it is not true in reverse. All parenting and divorce coaches must go through extensive training to be eligible to participate in a collaborative case.

10. You can utilize the financial neutral to represent you outside of the Collaborative Case.

- MYTH. Again, neutrality is essential to the role of a coach. The financial neutral is prohibited from representing either or both parties outside of the context of the collaborative divorce. This is so that it neither party feels that the financial neutral is courting one person or the other for future representation.

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