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Barristers & Attorneys, Notary Public

### **DIVORCE IN AN ECONOMIC DOWNTURN WITH COLLABORATIVE LAW**

Divorce is almost always hard on everyone. Breaking up is emotionally tough and even more so when it is set against the backdrop of an economic downturn. Emotions run high and stress levels rocket. Uncertainty about the future raises its ugly head and fear, anger, bitterness, resentment and hostility can take root. For those facing divorce in tough economic times of plummeting house values, sagging investments, job concerns and losses, health care worries, and school fees, wondering how best to split your assets can be more difficult than ever.

Do you draw your sword in preparation to fight even though you say to yourself you want things to be amicable? Do you retain the most aggressive litigator to lead you onto the battlefield of costly acrimonious divorce proceedings? Do you fight a battle to win without necessarily considering the long-term effects this might have on your children and possibly negate a working co-parenting relationship with your ex?

These are all questions that many people facing divorce may not necessarily stop to really consider because emotions are understandably running high and by merely drawing the sword you pave the way for the other side to seek to protect themselves with their shield in preparation for the lawyers to battle it out.

There is, however, another option where the swords can be lowered, the shields put down and the divorcing couple can work 'with each other' and not 'against each other' and create a settlement or a solution and outcome that they both feel comfortable with. I hesitate to use the word 'settlement' because it can conjure up an incorrect image of 'just settling' or 'giving in'. This is NOT the case.

While some couples are able to achieve a 'kitchen table' settlement, for many or most divorcing couples the issues that have to be dealt with are far more complicated and too complex and therefore require legal guidance. We are all creatures of habit and follow trends and proven outcomes so head straight for the best soldier to fight for us and take us into the clutches of the court and the hands of the judges who have the final say and ultimately, who don't have to pay your legal bill.

You and your spouse can choose to avoid the above by choosing a process known as Collaborative Law. This process is proving to be extremely popular in the UK, US and Canada with more and more couples exploring this route especially in view of the economic downturn. There are several compelling reasons for choosing this process especially for those who are concerned about the cost of divorce and the impact it will have on their finances:



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### (1) Start off how you intend to continue.

- In the Collaborative Law process each person hires their own Collaborative Lawyer who will ascertain their needs, wants, the issues and the concerns. Every dollar spent by the client is dedicated towards achieving the goal of reaching a solution that is workable and achievable for both parties. No money is spent on preparation for trial or court because Collaborative Lawyers work together not against each other and cannot threaten the other side with court because they are not allowed to represent you in court. If there is no settlement then the clients will have to hire another trial lawyer to take the matter to court. Because clients decide they do not wish to draw the sword and the beginning of the process most client do reach an amicable agreement and outcome.

### (2) Affidavits and financial disclosure.

- In the Collaborative Law process there is no need to file lengthy Affidavits that not only clock up the mileage of thousands of dollars but forces you to reveal all of your spouse's dirty laundry which is hurtful and creates a battle of point scoring and nasty, hurtful words. As with traditional divorce litigation both spouses also have to spend thousands of dollars on their lawyers fighting over which documents need to be disclosed and produced. The goal of which is to make sure no stone is unturned and to beat the other spouse at the expense of providing copies of years and years of personal documents. In the Collaborative Law process, financial disclosure is necessary and mandatory but it is done in good faith and is far less costly. Some spouses may wonder whether they will be shown the full financial picture of the other spouse if the lawyers don't fight over this issue. Collaborative Lawyers understand these concerns and work with their clients to make sure that honest and full and frank disclosure does take place because the goal is to reach a 'fair' settlement to both parties

### (3) Spouses can control and contribute to the outcome.

- In traditional divorce litigation spouses think they contribute and control the outcome when in fact the lawyer will clock up hefty legal fees bashing out letter after letter on behalf of the spouse. If the other side does not agree, then applications are made to the court and the conveyor belt of court hearings, judge's decisions and further fighting continues while clocking up the legal bills. In Collaborative Law all four parties sit together and questions can be asked, creative solutions can be put forward and the reasons behind these solutions and ideas can be questioned and understood. There will be no legal



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letters going back and forth with threatening court action. The spouses have the final say with the advice of their lawyers.

### (4) Joint experts can be engaged.

- In the Collaborative Law process both spouses can agree on the instruction of joint experts to value their homes or businesses. These experts remain neutral and do not take sides. There are no costly lawyers letters going back and forth arguing over which experts should be hired. This is also a huge saving.

### (5) Children's needs are considered.

- An extremely compelling reason for choosing the Collaborative Law process is to protect the emotional wellbeing of the children. Even though a marriage breaks down, parenting does not stop. Sadly with the breakdown of a marriage and the bitterness that can arise as a result of the breakdown in addition to costly traditional divorce litigation, many spouses are not able to look at the 'long term' picture and the impact the divorce will have on the children. They are understandably emotionally distraught and fighting for what they think is fair. This sadly does not protect the future relationship that both parents will need to have with each other when it comes to co-parenting. Each parent plays a vital and important role. With the Collaborative Law process, the mere fact that the spouses have decided to have a say and create a fair settlement for themselves will hopefully reduce any existing bitterness, will help each spouse to understand why they feel the way they do about all the issues involved, will encourage each spouse to be more respectful and will focus both parents on the long term picture which involves co parenting.

### (6) Time.

- In traditional divorce litigation, because the court is involved, the process of sorting out your financial affairs can take months or even years. The divorcing parties are at the mercy of the court timetable. In the Collaborative Law process the divorcing couple can dictate their timetable and hopefully wrap everything up within a very short period of time depending on the complexity of the case.

In difficult times it is so hard to see the future and envision a positive happy outcome. The breakdown of a marriage is utterly draining both emotionally and financially. Through this weight of emotions and uncertainty it is important to stop and remember that there are alternatives to getting through this. One can either decide to draw the sword and engage in a fight that might ultimately win the battle but at a huge financial and emotional cost or one can chose to collaborate with a



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view to engaging in a creative outcome that is less costly and less emotionally painful to both of you.

The current economic client may create an unknown future but if you are sadly facing divorce amidst this time of economic uncertainty then there is no need to walk through the door of traditional divorce litigation as there is another door that where you can keep control over the process, the costs and the outcome and maintain your self respect. For more information on Collaborative Law see [www.cla.bm](http://www.cla.bm)

To schedule an appointment to talk, call 295 6467.