

SACRAMENTO COLLABORATIVE PRACTICE GROUP

GUIDELINES AND PRINCIPLES GOVERNING THE COLLABORATIVE PRACTICE PROCESS

I. INTRODUCTION

- 1.01** The essence of Collaborative Practice is the shared belief of the participants that it is in the best interests of the participants and their families in Family Law matters to commit themselves to resolving their differences with minimal conflict and without litigation. We, who participate in Collaborative Practice, seek to adopt a conflict resolution process that does not rely on a Court imposed resolution. The process relies on an atmosphere of honesty, integrity and professionalism focused on the well-being of the participants and their children.
- 1.02** One of our major goals of the Collaborative Practice process is to maximize the settlement options to the benefit of the participants and minimize, if not eliminate the negative economic, social and emotional consequences of litigation to the participants and their families. We commit ourselves to the Collaborative Practice process and agree to resolve our differences justly and equitably.
- 1.03** The Collaborative Practice process is confidential.

II. NO COURT OR OTHER INTERVENTION

- 2.01** By electing to participate in the Collaborative Practice matter, we, as participants and attorneys, are committing ourselves to resolving the case without court intervention. The participants shall give complete, full, honest and open disclosure of all relevant information, whether requested or not, and engage in discussions and conferences for the purpose of reaching a resolution of all issues.

III. LIMITATIONS OF COLLABORATIVE PRACTICE PROCESS

- 3.01** In electing to participate in the Collaborative Practice process, we understand that there is no guarantee of success. We further understand that we cannot eliminate concerns about the disharmony, distrust and irreconcilable differences which may have led to the current conflict. While we are intent on striving to reach a cooperative and open solution, success will ultimately depend on our own commitment to making the process work.
- 3.02** It is consistent with the Collaborative Practice process that we act in our own best interests. Cooperation does not mean either of us must put the interests of the other ahead of self-interest. It is also true that the making of open and

cooperative agreements increases the likelihood of maximizing the beneficial outcome for each of us. We may continue to act in our own best interests in areas which are outside the dispute, such as in changing estate plans and future financial, and other activities.

IV. PARTICIPATION WITH INTEGRITY

- 4.01** As participants in the Collaborative Practice process, we are concerned about protecting the privacy, respect and dignity of all involved, including the participants, attorneys, other team members and consultants. All participants shall uphold a high standard of integrity, and shall not take advantage of inconsistencies or miscalculations of other participants, but shall disclose them and seek to have them corrected.

V. THE COLLABORATIVE PRACTICE TEAM

5.01 DIVORCE COACHES/COMMUNICATIONS SPECIALISTS

- A. Each of us will consult a divorce coach/communications specialist who is a licensed mental health professional and has been trained in the Collaborative Practice process to assist us in effectively, efficiently and successfully move through the divorce process.
- B. Each of us will meet with a divorce coach/communications specialist before our second Collaborative Practice meeting with our attorneys or earlier if we wish to do so.
- C. A divorce coach/communications specialist shall have no prior professional relationship with either of us.

5.02 FINANCIAL SPECIALISTS

- A. Additional members of the Collaborative Practice Team may include financial specialists. These specialists (usually one for both of us as a combined specialist) will gather the financial information, provide various options for resolution of financial issues and provide answers to financial questions we may have in accordance with their protocols which the attorneys will provide.

5.03 CHILD SPECIALISTS

- A. Additional members of the Collaborative Practice Team may include child specialists, who will provide us with information about child development generally and our child(ren) in particular so that we are better able to assist our child(ren) through this divorce period. He or she will be the

voice of our children in accordance with their protocols which the attorneys will provide.

- 5.04** All Collaborative Practice Team members shall be appropriately licensed in their field and trained in the Collaborative Practice process.
- 5.05** All Collaborative Practice Team members' involvement terminates when the Collaborative Practice process ends.

VI. JOINT EXPERTS OR CONSULTANTS

- 6.01** There may be times when it is advisable to retain joint experts or consultants for specific issues who are part of the Collaborative Practice Team. These joint experts or consultants shall be jointly retained and shall be directed to follow the spirit and directions of these Guidelines and Principles Governing the Collaborative Practice process.
- 6.02** It is not necessary that these jointly retained experts or consultants be trained in the Collaborative Practice process.

VII. CHILDREN'S ISSUES

- 7.01** In resolving issues about sharing the enjoyment of and responsibility for any minor children, the parents, attorneys and child specialists shall make every reasonable effort to reach amicable solutions that promote the best interests of the children. The participants agree to act quickly to mediate and resolve all differences related to the children in a manner that will promote a caring, loving and involved relationship between the children and each parent.
- 7.02** The separation of parents is distressing for children. To minimize this discomfort, we agree to protect our children from direct involvement in our disputes. We also agree to maintain attitudes of respect and cooperation toward each other. Consistently demonstrating these positive attitudes will help foster our children's perception of each of us as a worthy, caring parent.

VIII. NEGOTIATION IN GOOD FAITH

- 8.01** We understand that the Collaborative Practice process, even with full and honest disclosure, will involve vigorous good-faith negotiation. Each of us will be expected to take reasoned positions in all disputes, and, where such positions differ, each of us will be encouraged to compromise where necessary to reach a resolution of all issues. Although we should be informed by our attorneys, other team members, and consultants about the litigation process and the result it

might attain, we and team members shall not use threats of proceeding to court as a way of forcing resolution.

IX. ABUSE OF COLLABORATIVE PRACTICE PROCESS

- 9.01** Collaborative Practice counsel shall withdraw from a case as soon as possible if they learn that his or her client has withheld or misrepresented information or otherwise acted to undermine or take unfair advantage of the Collaborative Practice process. Such actions may include, but are not limited to, (1) the secret disposition of community, quasi-community or separate property in violation of the Automatic Temporary Restraining Orders, (2) failure to disclose the existence or the true nature of assets and obligations, (3) ongoing emotional or physical abuse of the minor children, (4) intention to flee the jurisdiction of the court with the children, (5) withholding a minor child from the other parent, or (6) consistent and/or ongoing interference with the parenting plan.

X. DISQUALIFICATION BY COURT INTERVENTION

- 10.01** We understand that our respective attorney's representation is limited to the Collaborative Practice process and that neither of our attorneys can ever represent either of us in court in a proceeding against the other spouse.
- 10.02** In the event court litigation is unavoidable, the attorneys for us are disqualified from representing either of us.
- 10.03** On termination of the Collaborative Practice process, all members of the Collaborative Practice team and joint consultants and/or experts shall be disqualified from appearing as witnesses for either of us, and any reports and/or work product of the Collaborative Practice team and consultants and/or experts shall not be admissible as evidence unless we agree otherwise in writing.

XI. WITHDRAWAL OF ATTORNEY

- 11.01** If the attorney for either of us deems it appropriate to withdraw from the case for any reason, then the attorney shall immediately provide a written Notice of Withdrawal to the court and to the other attorney.
- 11.02** A Notice of Withdrawal does not terminate the status of the case as a Collaborative Practice case. The participant whose attorney has withdrawn may continue in the Collaborative Practice process but must retain a new attorney for the Collaborative Practice process, provided that the new attorney agrees in writing to be bound by these Guidelines and Principles. The Collaborative Practice process cannot proceed with a self-represented party.

XII. ELECTION TO TERMINATE COLLABORATIVE PRACTICE PROCESS

- 12.01** If either of us decides that the Collaborative Practice process is no longer appropriate, and elects to terminate the status of the case as a Collaborative Practice matter, then either shall do so immediately with written notice of his or her Termination Election to the court and to the other participant and attorney.
- 12.02** The termination of status as a Collaborative Practice case shall occur automatically in the event a party deems it necessary to proceed to court in an emergency to protect himself or herself, our children, or the property of either party. This process is outlined in the Stipulation for Order and Order Re: Collaborative Practice.
- 12.03** Once the status of the case as a Collaborative Practice matter is terminated, our attorneys shall aid us in the selection of a new attorney.
- 12.04** We understand that retaining new attorneys upon termination of the status of the case as a Collaborative Practice matter, each of us may incur an additional attorney fee/retainer in an amount comparable to that paid to the present attorneys representing each of us in the Collaborative Practice process.

XIII. CONFIDENTIALITY OF COLLABORATIVE PROCESS

- 13.01** The parties agree that their Collaborative case is a confidential process, and acknowledge that the communications covered by this section remain confidential regardless of when or how the Collaborative case ends, except as described below.
- 13.02** Written Communications. All documents and writings of any type or kind, prepared by any designated collaborative professional who is under written contract to either party, shall be treated as confidential, and the parties agree that these documents shall be inadmissible as evidence in any non-criminal proceeding involving the parties. The only exceptions to this prohibition shall be as follows:
- A. Judicial Council forms that are prepared in the course of the Collaborative Case;
 - B. Written agreements of the parties that have been executed by the parties and their attorneys; and
 - C. Documents that both parties agree, in a stipulation of the parties, should be admissible in any particular legal action.

13.03 Oral Communications. All oral communications made to or from either party, and to or from any designated collaborative professional who is under written contract to either party, shall be treated as confidential, and the parties agree these oral communications shall be inadmissible as evidence in any non-criminal proceeding involving the parties. The only exceptions to this prohibition shall be as follows:

- A. Oral communications which evidence an intent to endanger the health or safety of any person in any way;
- B. Oral communications which evidence an intent to conceal assets or information which should have been disclosed;
- C. Oral communications both parties agree, in a stipulation of the parties, should be admissible in any particular legal action.

13.04 Party Communications. All written and oral communications between the parties, except those which evidence an intent to endanger the health or safety of any person in any way, or which evidence an intent to conceal assets or information which should have been disclosed, are confidential and inadmissible in any non-criminal legal proceeding.

- A. By initialing below, with their respective attorneys, the parties mutually agree that all communications between them are non-confidential and admissible in any legal action:

(Wife)

(Husband)

(Wife's Atty.)

(Husband's Atty.)

XIV. PLEDGE

14.01 We and our attorneys agree to comply with and to promote the spirit and intent of these Guidelines and Principles and to execute and incorporate the Stipulation for Order and Order Re: Collaborative Practice.

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XV. ACKNOWLEDGMENT

15.01 We and all members of the Collaborative Practice Team shall sign these Guidelines. All joint experts and consultants shall acknowledge receipt and review of the same.

DATED: _____

DATED: _____

WIFE

HUSBAND

DATED: _____

DATED: _____

Collaborative Attorney for Wife

Collaborative Attorney for Husband

DATED: _____

DATED: _____

**Divorce Coach/Communications
Specialist**

**Divorce Coach/Communications
Specialist**

DATED: _____

DATED: _____
