

ABA Section of Dispute Resolution
Fact Sheet on the Uniform Collaborative Law Act

The Uniform Collaborative Law Act (“UCLA”) will be presented to the ABA House of Delegates in February 2010 for approval. The UCLA was approved by a *unanimous* vote of the Uniform Law Commission (“ULC”) (formerly known as the National Conference of Commissioners on Uniform State Laws) in July 2009. Some basic facts:

- Three states already have Collaborative Law statutes – California, North Carolina, and Texas. The UCLA will prevent a patchwork quilt of statutes.
- The UCLA is supported by Section of Dispute Resolution, Section of Family Law, and Section of Individual Rights and Responsibilities. The Litigation Section opposes the UCLA.
- The use of Collaborative Law was approved by the ABA Standing Committee on Ethics and Professional Responsibility (Formal Opinion #07-447 - “Ethical Considerations in Collaborative Law Practice”).
- The ABA published the first text on Collaborative Law (Pauline Tesler, *COLLABORATIVE LAW: ACHIEVING EFFECTIVE RESOLUTION IN DIVORCE WITHOUT LITIGATION*) in 2001, with a second edition published by the ABA in 2009.
- Courts in California, Florida, Louisiana, Minnesota, and Utah have promulgated rules providing for the use of Collaborative Law. Hon. Judith S. Kaye (ret.) of New York established the first court-based Collaborative Family Law Center in the U.S.
- Collaborative Law is practiced throughout the United States, every Canadian province, England, France, Germany, and 12 other countries.
- Legal ethics opinions in nine states have addressed Collaborative Law (Colorado, Kentucky, Maryland, Minnesota, Missouri, New Jersey, North Carolina, Pennsylvania, and Washington) and all of them except Colorado approved the use of Collaborative Law. Even in Colorado, the process was approved if the parties, instead of the lawyers, sign the CL agreement.

What is Collaborative Law? Collaborative Law is a *voluntary* process in which the lawyers and clients in a negotiation agree that the lawyers will represent the clients solely for purposes of negotiation, and that the clients will hire new counsel if litigation is needed. The lawyers and the clients agree to engage in good faith negotiation, the sharing of relevant information, the use of joint experts (if experts are needed), client participation in the negotiations, respectful communications, and the confidentiality of the negotiation process.

Benefits of Collaborative Law. The Collaborative Law process provides lawyers and clients with an option for amicable, non-adversarial dispute resolution. Like mediation, it promotes problem-solving and permits solutions that cannot be obtained in court. As with the division of labor between solicitors and barristers, lawyers in a Collaborative case can focus solely on settlement.

Why is the UCLA needed? The UCLA will promote a more uniform approach to the development of Collaborative Law and it provides for

- Informed consent by the clients
- Exchange of relevant information by the clients
- Emergency orders by a court if they are needed
- Screening for instances of domestic violence or other coercive behavior
- Appropriate exceptions for governmental entities and low-income clients
- Evidentiary privilege (like the Uniform Mediation Act, approved by the ABA House of Delegates and enacted in 10 states and D.C.) for negotiations in the Collaborative process
- Withdrawal at any time by any party to the Collaborative Law process.

The UCLA explicitly states that standards of professional responsibility of lawyers are *not* changed by their participation in the Collaborative Law process.

For more information, please contact the co-chairs of the Collaborative Law Committee of the ABA Section of Dispute Resolution: David Hoffman (DHoffman@BostonLawCollaborative.com, cell: 508-254-7297) and Larry Maxwell

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