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Two Situations Where Collaborative Law Can Help Resolve Your Divorce

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Massachusetts divorce

mediator Nicole K. Levy reviews two separate situations where collaborative law can help resolve a divorce.

As more and more people try settling their divorce outside of the courtroom, new approaches have developed for resolving legal separations that do not involve litigation. One of these methods is mediation, which is familiar to most people. There is another option, besides mediation and litigation, that falls somewhere in between,

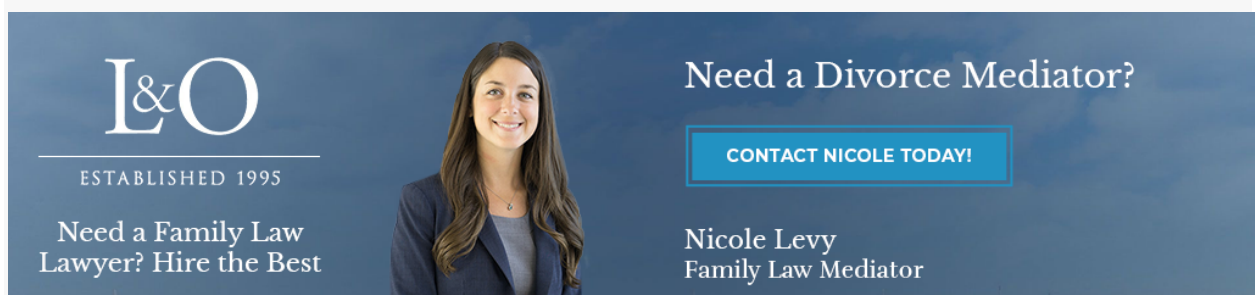
called collaborative law. With so many options for divorcing spouses, it becomes difficult to know for sure, which technique is going to be the best for your circumstances. There are many situations where collaborative law is more likely to be the right fit for you.

What Is Collaborative Law?

Collaborative law is a dispute resolution process similar to mediation, except that both parties are actually represented by attorneys. These attorneys are specially trained in collaborative law, and the collaborative law process, in that they are charged with balancing their client's individual interests as well as the general interest to avoid litigation and to towards a mutually-beneficial solution. In fact, collaborative attorneys may not represent their client in court, and it is this unique factor that allows the attorneys and their client to work together. In this way, collaborative law combines the settlement-focused and solution-driven aspects of divorce mediation with the legal sophistication of *litigation*. As stated above, when spouses elect the collaborative law route to resolve their divorce issues, the attorneys involved in the process are prohibited from legally representing either spouse, should the process devolve into litigation. This provides a strong incentive on both spouses, and both of their attorneys, to work towards settlement. Without having the threat of litigation hanging over everyone, and being at their fingertips, the collaborative attorneys are free to work towards settlement. This environment allows everyone involved to speak a bit more freely. Most importantly, it assures both parties that they are there to work towards settlement and neither is waiting for the other to pull the litigation trigger. Collaborative law is not without its detriments. It often takes longer for collaborative law's mechanism to resolve a divorce than mediation, as there are more people involved. It can also be more expensive than mediation, depending on the circumstances.

Collaborative Law Brings Everyone to the Table

*One of the weaknesses about the divorce mediation process is that it can easily be held up by one spouse's refusal to negotiate, compromise, or take the process seriously. This can be incredibly frustrating if you want to make mediation work, but your spouse only seems to be interested in derailing the process. Collaborative law can be an effective way to bring these spouses to the table. By making them invest in the process by hiring a collaborative law attorney – one who cannot continue to represent them, should the process **fail to resolve all of the issues** in your separation and necessitate litigation – collaborative law can be an effective way to make them take the situation seriously without threatening to take the divorce to trial. Additionally, collaborative law often involves a “coach,” who is usually a trained therapist, as well as a financial advisor. These parties are neutrals, and their presence is helpful in resolving common issues that arise in the Probate and Family Court. The coach will help facilitate communication, even with spouses who find it difficult to do so. The coach can also education the parties and their attorneys on how to move forward if one issue is roadblocking progress. Similarly, the financial neutral is not there to take one side or the other, but to provide an expert, neutral, opinion on what the parties' options are financially. By way of example only, there may be multiple retirement accounts, but significant mortgage debt; the financial neutral may create a solution that will relieve the parties of debts in the most beneficial way. Instead of allowing the parties to bicker over dollar and cents, the financial neutral can present options that optimize the marital funds and reduce martial debts.*



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Collaborative Law Protects Against Powerful Spouses

It is the rare divorce that involves two spouses who are on absolutely identical footings. In most, one spouse has the knowledge, skills, or power that seems to give them an advantage over the other in the process. In some cases, one spouse has an advanced degree while the other only just managed to finish high school. In some other cases, one spouse is an attorney with legal knowledge in divorce law or friends with expertise in the field. In still other cases, one spouse is adept at negotiating contracts that further their interests, while the other spouse is introverted or more prone to doubt. By bringing an attorney into the discussion to advocate on your behalf, collaborative law prevents this power discrepancy from impacting the outcome of the divorce discussions, protecting your interests from being overwhelmed by your spouse's knowledge of the law or negotiation skills.

Nicole is a divorce mediator and mediation coach for South Shore Divorce Mediation, with offices in Hingham, Massachusetts and East Sandwich, Massachusetts. She is also a collaborative law attorney Senior Associate Attorney for Lynch & Owens, P.C., where she specializes in divorce and family law issues. Nicole is a statutory mediator under [M.G.L. Ch. 233, s. 23C](#) and a proud member of the Massachusetts Council on Family Mediation. Disclaimer: *The information you obtain at this site is not, nor is it intended to be, legal advice. You should meet with an attorney for advice regarding your individual situation. You are invited to contact our office. Contacting the office does not create an attorney-client or mediator-client relationship. Please do not send any confidential information to the office until such time as an attorney-client or mediator-client relationship has been established. This blog is considered an advertisement for the Law Office of Lynch & Owens, P.C. d/b/a South Shore Divorce Mediation. The Massachusetts Rules of Professional Conduct broadly govern all advertisements and communications made by attorneys and law firms in the Commonwealth. Generally, legal websites and any other content published on the internet by*

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