

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

ADMINISTRATIVE ORDER S-2012-041

COLLABORATIVE FAMILY LAW PRACTICE

In the 1990s the collaborative family law practice model was adopted in jurisdictions both in the United States and abroad by common law and by statute. In Florida, the creation of family law divisions and necessary support services in the 1990s and the adoption of the Model Family Court in 2001 reflected the recognition of the Florida Supreme Court and Florida Legislature that families in conflict needed a non-litigation forum to restructure family relationships. The Florida Supreme Court recognized that family cases needed “a system that provided nonadversarial alternatives and flexibility of alternatives; a system that preserved rather than destroyed family relationships; . . . and a system that facilitated the process chosen by the parties.” *In re Report of the Family Law Steering Committee*, 794 So. 2d 518, 523 (Fla. 2001).

The Florida Supreme Court’s acceptance of recommendations for a model family court is consistent with the principles of the collaborative practice model because the collaborative process empowers parties to make their own decisions guided and assisted by counsel in a setting outside of court. The Thirteenth Judicial Circuit supports the philosophy that the interdisciplinary collaborative practice model may be a suitable alternative to full scale adversarial litigation in family law cases if the parties agree to such a model.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is therefore ORDERED:

1. Collaborative Practice Model

The collaborative practice model is confidential and utilizes interest-based negotiation to resolve disputes through the structured assistance of collaboratively trained professionals, including but not limited to lawyers, financial professionals, mental health professionals, mediators, and other neutral professionals. The collaborative practice model is authorized in the Thirteenth Judicial Circuit of Florida to resolve dissolution of marriage cases and other family law matters according to the following procedures.

2. Role of Collaborative Professionals

A. Collaborative Lawyers

The collaborative lawyers advise and counsel their respective clients, facilitate negotiation, and create written agreements.

B. Neutral Mental Health Professionals/Neutral Facilitators

The neutral mental health professional, mediator, or other neutral facilitator is available to both parties and may work to:

- i. Prioritize parties’ concerns;
- ii. Help develop conflict resolution skills;

- iii. Develop co-parenting skills;
- iv. Help the parties focus on the needs of the children;
- v. Enhance communication skills;
- vi. Reduce misunderstandings;
- vii. Assist in focus on working toward resolution; and
- viii. Perform any other activity agreed upon by the team.

C. Neutral Financial Professional

The neutral financial professional is available to both parties and may assist in the following activities:

- i. Provide the parties with necessary financial scenarios and analyses regarding the division of assets, liabilities, and support, both child and spousal;
- ii. Provide analysis of the nature and composition of specific marital assets (e.g. retirement, capital gain consideration, tax implication, etc.);
- iii. Take responsibility for gathering all relevant financial information;
- iv. Assist development of and understanding of any valuation processes;
- v. Assist with estate planning issues; and
- vi. Perform any other activity agreed upon by the team.

3. Participation Agreement

If the parties and professionals desire to use the collaborative practice model, they must enter into a contractual commitment (Participation Agreement) to negotiate a settlement without using the court system to decide any issues of the parties. The lawyers and other retained professionals or consultants, who are entitled to be paid for their services in the collaborative process, will be paid by the parties in accordance with the terms of their Participation Agreement. The Participation Agreement must provide that if a full settlement of all issues is not reached then the collaborative attorneys must withdraw. The Participation Agreement should also contain a provision on the extent of maintaining confidentiality of oral or written communication exchanged during the collaborative process. This confidentiality provision must comply with Florida law and rules of court. As a resource for Participation Agreements and other documents, practitioners and parties may review the website of the International Academy of Collaborative Professionals, which is accessible at the following link: <http://www.collaborativepractice.com>.

4. Timing of Process

The parties may participate in the collaborative practice model either before or after a petition for dissolution of marriage or any other family law matter is filed.

A. Pre-Filing Collaborative Cases

If the collaborative process is utilized prior to filing a petition for dissolution or other family law matter, the parties must file the Participation Agreement with the Clerk of the Circuit Court (Clerk) as a separate document at the same time as the petition. If the parties have come to a full settlement of all issues prior to filing, then the parties may jointly petition for an uncontested family law action and set this matter for an uncontested final hearing. In such a case, the 20-day waiting period will be deemed waived by the parties.

B. Post-Filing Collaborative Cases

If the collaborative process is to be utilized after an initial pleading has already been filed with the Clerk, then the parties must file the Participation Agreement with the Clerk and notify the presiding judge. Upon notice to the presiding judge, the court will abate the court proceedings. A collaborative status conference will be held within six months of the abatement. The proceeding will remain abated until either an uncontested dissolution of marriage or a motion to withdraw by counsel is heard by the court. Periodic status conferences may be scheduled at the presiding judge's discretion.

5. Collaborative Status Conference

Upon the filing of a Participation Agreement, an Order Setting First Collaborative Status Conference will be entered. The Collaborative Status Conference Order will be signed by the presiding judge. The Clerk will provide the filing attorney with two copies of the Collaborative Status Conference Order, and the filing attorney must distribute a copy of the Collaborative Status Conference Order to the other engaged collaborative professionals, including the other attorney.

A. Continuance

A collaborative status conference may only be rescheduled by order of the court. Either party may move the court for entry of an order continuing the initial collaborative status conference to a later date by sending to the judge's chambers a jointly-signed stipulation and proposed order ratifying the stipulation. The stipulation must state that the new date and time of the collaborative status conference has been provided by the judicial assistant and cleared by both parties, which new date is within 60 days of the originally-scheduled date.

B. Cancellation

A collaborative status conference may only be cancelled if (i) the parties have reached a full settlement prior to the date of the conference and the parties have scheduled an uncontested final hearing prior to the date of the status conference; (ii) the presiding judge authorizes the cancellation; or (iii) the parties file and serve upon the presiding judge a joint stipulated notice to dismiss the matter.

6. Exchange of Information

During the collaborative process, no formal discovery procedures will be used, unless agreed upon by the parties. The parties will make a full and candid exchange of information so that a proper resolution of the case can occur, which will include a full disclosure of the nature and extent of all assets and liabilities, income of the parties, and all relevant information concerning the parties' children. Any material change in the information provided must be promptly updated and exchanged.

7. Case Management

During the collaborative process, the court will not set a hearing or trial in the case, except for periodic status conferences, or impose discovery deadlines. The court will not adjudicate any dispute between the parties. If a party seeks affirmative relief by petition or motion, the collaborative process will cease. If a full settlement has been reached, the

collaborative lawyers will ask the court to approve the settlement agreement. If an agreement has not been reached, the collaborative attorneys must withdraw from representation.

During the collaborative process, the parties may, from time to time, resolve temporary issues in an executed writing. If agreed upon by the parties, the court may ratify and approve any such temporary agreements by reference or otherwise. If the collaborative process breaks down, the parties agree to abide by the terms of all court-ratified temporary agreements once litigation ensues.

8. Termination of the Collaborative Process

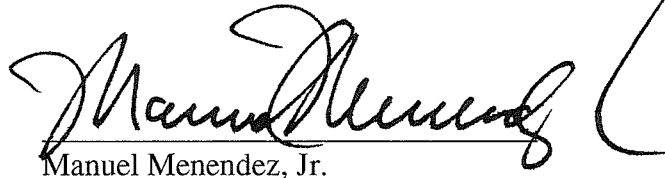
If the collaborative process breaks down or a full settlement is not reached, then

- A. Counsel for the parties must withdraw;
- B. All engaged professionals are disqualified from testifying as witnesses, experts, or otherwise, regarding the case, unless the parties mutually agree in writing; and
- C. The professionals' work product created or exchanged during the collaborative process cannot be used in any judicial proceedings unless the parties otherwise mutually agree in writing.

9. Effective Date

This administrative order is effective August 1, 2012.

It is ORDERED in Tampa, Hillsborough County, Florida, on this 31st day of July, 2012.


Manuel Menendez, Jr.

Original to: Pat Frank, Clerk of the Circuit Court
Copies to: All Family Law Division Judges
Hillsborough County Bar Association – Marital and Family Law Section