

# Collaborative Divorce: A Viable Option for High Net-Worth Couples

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Contrary to popular belief, divorce is not always an ugly, highly confrontational affair. According to a [Forbes](#) report in 2022, approximately 90 percent of the half million divorces in the United States yearly are uncontested. Of these uncontested cases, some were settled because both parties agreed on everything, or in other cases, one party simply never responded to the divorce filing and failed to appear in court.

A percentage of uncontested divorces are collaborative divorces. Collaborative divorce involves the married parties going through an agreed-upon dispute resolution process to settle all issues related to dissolving the marriage. These proceedings are not done in a courtroom before a judge; instead, they are conducted privately between the parties, with their lawyers and a team of professionals, including forensic accountants and appraisers.

Collaborative divorce requires that the parties sign a binding agreement to participate in the collaborative divorce process. Everyone then comes together to decide on issues, such as property division, spousal support, and child-related matters, negotiating compromises until both sides are amenable to the final result.

The contract binding the parties to this collaborative agreement also includes language mandating that the parties must hire new lawyers and other professionals if the collaborative process does not work. The fear of that new huge expense encourages parties to keep coming back to the table and trying to resolve their issues throughout the process.

## A Brief History of Collaborative Divorce

Collaborative divorce is not a new concept. Stuart Webb founded the practice in 1990 in Minneapolis, Minnesota, but it was not widely embraced until 2009 when the Uniform Law Commission adopted the Uniform Collaborative Law Act. Only a handful of states have signed on, but other states participate in the collaborative law process.

I have been trained in collaborative law, interestingly in Dallas approximately two decades ago and again in Chicago in 2022. From my experience, the key to success in this form of marriage dissolution is the willingness of the parties to be transparent, roll up their sleeves, and work together

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to come up with a series of resolutions that benefit the family.

In California, we are mandated to be transparent in divorce proceedings. Still, in collaborative divorce, the parties are coming into the process understanding that they will be talking about their feelings and the things that matter most to them. Much of this would not happen in a traditional or adversarial divorce, litigated before a family law judge.

It is important to note that to succeed with collaborative divorce, you need five things: 1) good lawyers, 2) good therapists, 3) good forensic accountants, 4) (where relevant) expert custody professionals to talk about the issues and come up with a process and a schedule that works for your family, and 5) a genuine willingness to do the work. Collaborative divorce is not a shortcut to dissolution. Both parties must take the process very seriously.

Collaborative divorce should not hold any advantage to the spouse with the most money. Objectivity is baked into the work because both sides have signed a contract agreeing to only work through divorce with this group of experts and professionals. Additionally, lawyers advise the couple that should the process fail, the parties will have to go back to the beginning, hire all new attorneys and experts to represent them, and head to court. The high cost of starting over again can be a powerful incentive to keep everyone committed to the collaborative process.

### **Why Collaborative Divorce Is Appealing for High-Net-Worth Couples**

Whether a high-net-worth couple, celebrities, or any other couple is involved, a collaborative divorce can be appealing because it is private. In the case of celebrities and high-net-worth individuals, being able to control the message is often critically important for protecting their brand or public reputation. Keeping things behind closed doors is virtually impossible when divorce heads to court. Anyone can show up in a courtroom unless the court is possibly (not always) closed due to very sensitive issues involving minors. And anything filed with the court is public record (except in California, where paternity court filings are still sealed). So, if a paternity matter arises in a collaborative divorce, the participants have better control over what will and will not go out into the media.

When a collaborative divorce is revealed in the media, it is often seen as a positive process and treated less salaciously by news and social media.

Unfortunately, some people enter into a divorce thinking they will teach their spouse a lesson. These types have an unfounded expectation that they might do better in court, but they misunderstand the purpose behind collaborative divorce. By its very name, this process is not adversarial and has fairness baked into the process. With all the due diligence in a collaborative divorce, one party will not prevail at the other's expense—quite the opposite. Collaborative divorce, by design, proceeds in a more amicable and reasoned fashion. If revenge is the motive, collaboration is not the means to accomplish such an end.

### **Eyes Wide Open**

For anyone contemplating collaborative divorce, it is crucial to come into the process with eyes wide open. Collaboration and mediation are not *easy outs*. The process takes a lot of work, involving deep and thorough discovery, which is necessary to learn about assets and liabilities and any family issues underlying the relationship. Both parties have to agree on what is suitable for the children. Both spouses must be willing to come together and try to come up with solutions and resolutions.

From experience, this type of work is complex and takes time. There is no easy or fast way to get through the collaborative divorce process. If you are willing to put in the time, be completely transparent, and work together to come up with a resolution, then collaborative divorce may be the right choice. A collaborative divorce can show families and a broader community (and possibly the world) that the two spouses can act like adults—behaving with high emotional intelligence and maturity—to achieve a more amicable outcome.

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National Law Review, Volume XIV, Number 106

Source URL: <https://natlawreview.com/article/collaborative-divorce-viable-option-high-net-worth-couples>