



COLLABORATIVE
LAW ALLIANCE
- of NEW HAMPSHIRE -

COLLABORATIVE PRACTICE

A Better Approach to Conflict Resolution

Introduction

- **The Presenters**
 - **Katherine Morneau, Attorney**
 - **Caren B. Rifkin, LICSW, Coach**
 - **Kristina George, CDFA, CFP, CPA**
- **Trained in Collaborative Practice**
- **NH Collaborative Law Alliance Member in good standing**
- **Licensed Professional in each discipline**

What is Collaborative Divorce?

Collaborative divorce is voluntary alternative dispute resolution process where clients come to agreement without litigation

A Brief History

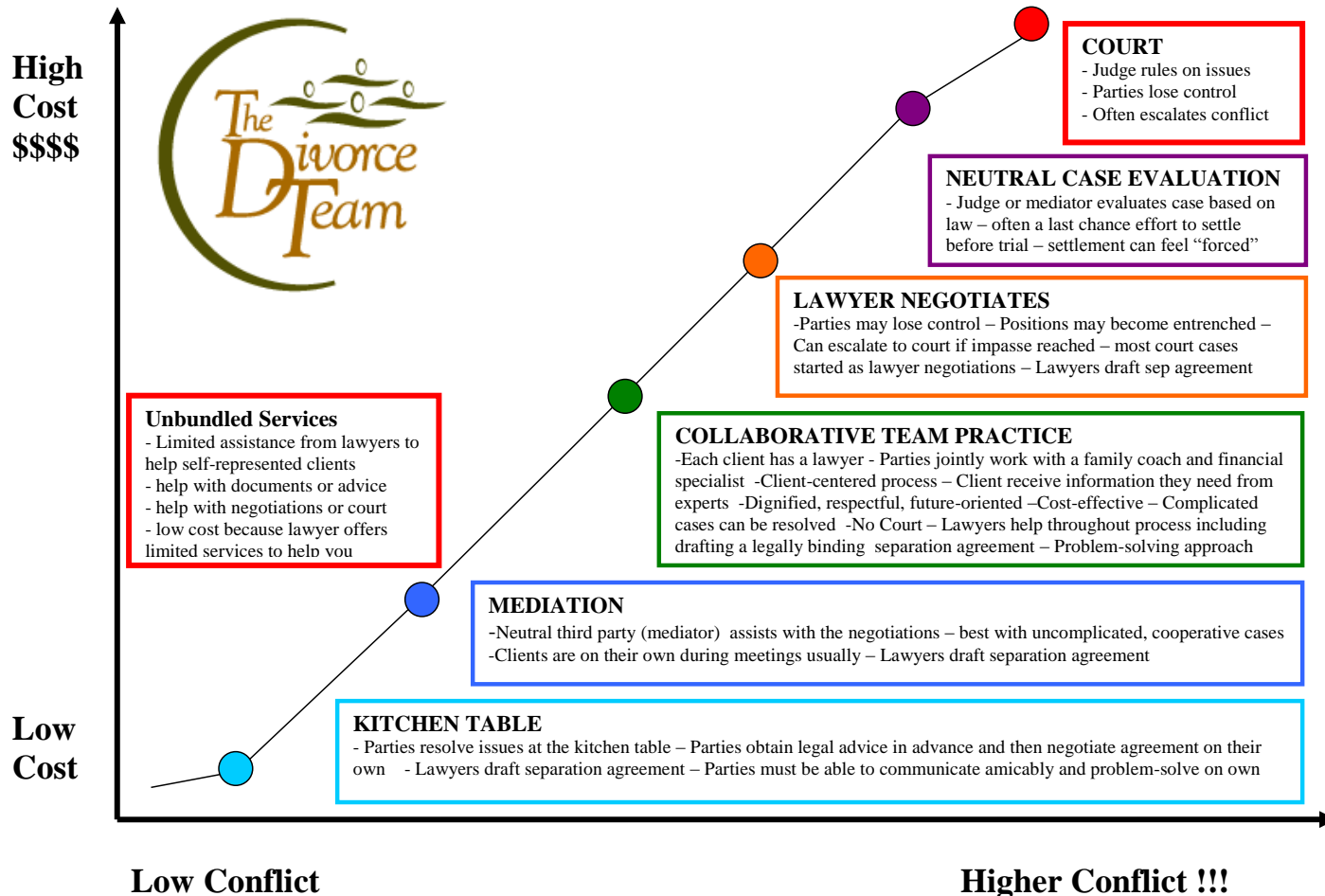
- ✦ Attorney Stu Webb develops the collaborative model in 1990 to aid families in the divorce process
- ✦ International Academy of Collaborative Practice Est. 1999
- ✦ Collaborative comes to NH in 2000 with lawyers only
- ✦ Interdisciplinary collaborative model begins in NH in 2010

What is Collaborative Divorce?

- ❖ Focuses on short and long term financial, emotional and legal health of the individuals and re-organizing family
- ❖ A team of professionals supports families in the divorce process
- ❖ Cooperative practices replace adversarial practices
- ❖ Parties actively participate in all negotiations
- ❖ Honest, voluntary and good faith exchange of information
- ❖ An agreement not to use litigation



Conflict Resolution Options





Adversarial Communication Reality



Adversarial Practice Problem Solving Reality





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Conflict Resolution Options

Collaborative Practice Communication Reality





Collaborative Practice Problem Solving



How Does It Work?

- ❖ Instead of clients being treated as adversaries in a lawsuit, clients are intimately involved in the entire process by:
 - ❖ Participating in information gathering
 - ❖ Developing, communicating and refining interests
 - ❖ Brainstorming options in team meetings



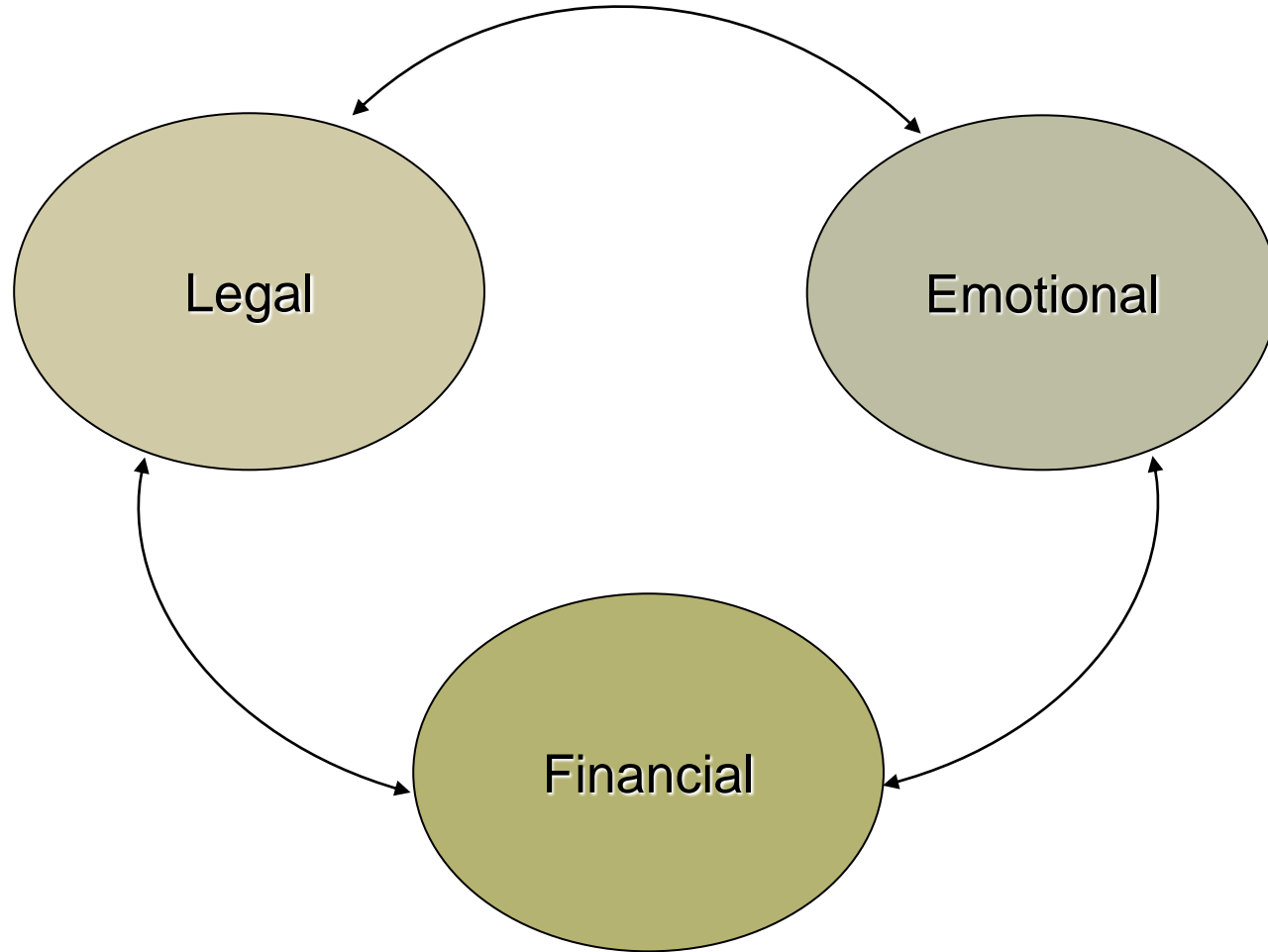
Paradigm Shift

- ✦ The ultimate result is decided by the clients with support, education and advice from their collaborative professionals





Paradigm Shift



Professional Roles

The Team

Each client represented by their own **attorney**

Neutrals

Coach/Facilitator

Licensed Mental Health Professional

Financial Specialist

Certified Divorce Financial Analyst

Collaborative Interdisciplinary Team

- ✦ Focused on needs
 - Financial
 - Coaching
 - Educating
- ✦ Common purpose, best results for all
- ✦ Supporting both parties
- ✦ Acknowledging mutual interdependence
- ✦ Modeling teamwork
- ✦ Achieving efficiencies
- ✦ Working together to identify and achieve goals
 - Clients
 - Lawyers
 - Neutrals
 - Coach/Facilitator
 - Financial Specialist
 - Child Specialist
 - Other Professionals as needed

Attorney's Role

- ✦ To advocate collaboratively
- ✦ Represent, educate and counsel their client about legal issues and settlement options
- ✦ Assist clients to articulate interests and reach agreements
- ✦ Prepare legal documents and settlement agreement
- ✦ Work collaboratively with counterpart attorney and professional team
- ✦ Guide negotiations

Coach/Team Facilitator's Role

- ❖ Assist clients to manage emotions, address anxieties, encourage emotional regulation and healthy communication skills
- ❖ Identify priorities, goals, concerns and expand options
- ❖ Help develop parenting plan and encourage effective co-parenting skills
- ❖ Resource for post-divorce related issues
- ❖ Organizes process, facilitates communication among team members and assists professionals' understanding of couples dynamics

Financial Specialists Role

- ❖ Gather and analyze financial data
- ❖ Assist clients with budgets and cash flow
- ❖ Educate clients on financial settlement options
- ❖ Evaluate tax implications of financial decisions
- ❖ Brainstorm possibilities with team

How Does Collaborative Work?

- ✦ Sign Participation Agreement
- ✦ Develop interests, concerns and goals
- ✦ Address immediate concerns
- ✦ Gather necessary information
- ✦ Brainstorm possible solutions
- ✦ Select mutually acceptable solutions





Participatory Meetings

❖ Structure

- ❖ Agenda
- ❖ Environment
- ❖ Privacy

❖ Conduct

- ❖ Modeling behavior
- ❖ Parties are central
- ❖ Respect emotions

❖ Working Cooperatively

- ❖ Obtaining information
- ❖ Exploring options
- ❖ Problem solving



Participatory Meetings (continued)

- ❖ **Negotiating Transparently**
- ❖ **Managing the Process**
 - ❖ Expectations
 - ❖ Pace
- ❖ **Follow Up**
 - ❖ Homework
 - ❖ Meeting minutes
 - ❖ Prepare for next meeting



Participation Agreement

- ❖ Set the ground rules and expectations
- ❖ Define and limit the engagement of the lawyers
- ❖ Explain the expectations about **confidentiality**, **voluntary disclosure**, and “**opting out**” of the adversarial court system while in the collaborative process

When Does It Work?

When Collaborative Works Best

- ❖ When clients want control over outcome and are willing to participate
- ❖ Desire to preserve financial resources
- ❖ Maintain or improve emotional well being for the family
- ❖ When privacy and flexibility are valued by the clients
- ❖ Clients are committed to reach an out of court settlement

Breakdown in the Collaborative Process

- ❖ Voluntary Termination
- ❖ Misuse of Process
- ❖ Resort to the Courts
- ❖ Assistance in Transition

Where Does It Work?

- ✦ Family Law
 - ❑ Pre-nups and Post-nups
 - ❑ Divorce
 - ❑ Guardianships
 - ❑ Child Protection
- ✦ Special Education
- ✦ Estate Contests
- ✦ Employment Disputes
- ✦ Civil Disputes



How to Practice Collaboratively

- Basic Training – Next June 2019
- Advanced Training – June 8, 2018
- Attend a Local Practice Group
- Attend Annual IACP Conference

Learn more at collaborativepractice.com
and CollaborativeLawNH.com

Acknowledgements

New Hampshire Collaborative Law Alliance

International Academy of Collaborative
Professionals

Questions?

