



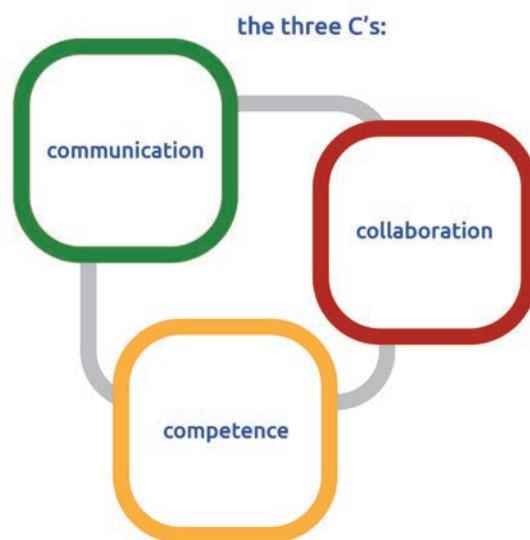
A Guide to Collaborative Divorce

Offering an alternative solution to traditional divorce.

Introduction

The mission of Cleland Collaborative Solutions is to provide people with a better approach to divorce.

Our approach emphasizes the three C's: communication, collaboration and client competence through education and counseling.



Why?

Because the results are simply better and less costly to you.

Our approach to divorce can avoid the traditional litigated divorce altogether and can keep you firmly in control of your future rather than giving it away to attorneys, judges and legislators.

Our approach also offers better results to clients who find themselves faced with a traditional litigated divorce.

About Divorce

A divorce requires making many emotional and financial decisions. All of the decisions have the ability to become the subject of conflict. The traditional view of the divorce is that resolving these potential conflicts requires a dueling and adversarial attorneys, a labyrinth Court. Why?

Once it was the only way to get a divorce. Prior to the 1960s divorce was only granted by a Court upon a finding of fault. This fault finding required a ruling based on evidence and proofs, which are the proper domain of Courts and lawyers. Today, no finding of fault is required to get a divorce. In order to keep a steady stream of adversaries coming into the adversarial legal system, lawyers have now reframed divorce as combat between competing classes of people – men versus women.

Those who choose to engage in a combative divorce are effectively choosing to let their attorneys control communications about your possessions and your children. They are also choosing to transform their family and possessions into the objects of negotiation.

The sole focus becomes: who owns what? Who owns your home? Your children? Any agreements you reach with your spouse will be motivated in part by threats and fear. When you cannot reach agreements, decisions will be made for you by a Judge who doesn't know you, but will make decisions about your family's future based on the few minutes that the Court spends reading a handful of pages in a thin legal brief. Ownership and your time with your children will be determined by the law – rules that the Court and legislature have deemed important – not the family actually going through divorce.

The impact of the combative divorce process on people facing divorce is low expectations. It is expected to be ugly, inhumane and expensive. Too often these expectations are met. But it's not unavoidable.



Our Mission

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Don't accept low expectations. Choose the better process. Choose Cleland Collaborative Solutions.

Sean Cleland



Paths to Divorce - The Combative Divorce Path

Filing a lawsuit to get divorced is the traditional way to get divorced. A litigated divorce is structured to end in a trial, yet 99% of litigated divorces end through settlement agreement rather than trial. In a litigated divorce, the process of reaching a settlement is dominated by **competitive negotiation**. Each side will take a position on children and property at the outset. More aggressive attorneys will counsel their clients to take a position on one issue in order to help them to achieve a position on another issue. Consequently, every issue in a litigated divorce can be the subject of dispute. Once the positions are taken, the attorneys will spend time and money searching for information that will support these positions and weaken their opponent's position.



Once the information is gathered, the attorneys handle all settlement discussions. Clients are often counseled by their attorney not to discuss positions and resolutions with the opposing side for fear that this will weaken their respective bargaining positions. Agreements are reached by a contest of battling positions. Compromise is motivated by fear of what the judge would decide if agreement cannot be reached. All of this is done under the oversight of the Court, which will hold several conferences and hearings to oversee the progress of the divorce.

A litigated divorce involves a number of factors outside of your control. The personality of the opposing attorneys influences the process and every Judge brings his or her own background, experience, biases and concerns to the bench.

There are three types of communicative divorce paths: pro-se divorce, mediation and collaborative practice.

Paths to Divorce - The Communicative Divorce Path

There are three types of communicative divorce paths:

pro-se

mediation

collaborative practice

Pro-Se divorce

The legal term for self-representation; it is also called the “kitchen table” approach. Both spouses make all agreements and complete all legal documents without the assistance of counsel. This approach requires a couple able to work together collaboratively without assistance.

Mediation

For couples who cannot work together at the kitchen table. **Mediation** utilizes a neutral third party (a trained lawyer mediator) helps to educate and guide couples through all necessary decisions and documents needed to complete a divorce. The couple meets together with the mediator to gather information, discuss options and create your own agreement. The lawyer mediator will assist the two of you by providing education and professional resources so the two of you can have productive discussions, identify goals, and resolve issues.

Collaborative practice

Both spouses are represented by attorneys who agree to work cooperatively and constructively to find a mutually acceptable agreement. It also relies heavily upon the use of education and experts to help clients grasp their situation and make informed decisions.

Communicative Divorces Paths are Better

Communicative Divorce Paths get better results for clients and achieve those results quicker and at a lower cost. They do so by maximizing the Three C's: **communication, collaboration** and client **competence** through education and counseling. Here is the proof:

Save Time

Communicative divorce methods resolve the issues in divorce in substantially less time than that taken by litigation. Some studies suggest that mediation takes half as long as traditional litigation. Other studies have also shown that mediation saves divorcing couples up to 3.5 months in time to achieve a resolution. Collaborative practice cases take less than three months 15% of the time, less than seven months 47%, less than a year in 80% of the cases.

Save Money

Several years ago the Boston Law Collaborative, a large Boston law firm that provides litigation, mediation and collaborative services, conducted an internal survey of approximately 200 of its cases to compare the costs between litigation, mediation and collaborative processes. What they found was that the average litigated case that went to trial cost about \$77,746. Litigated cases that settled averaged \$26,830. In contrast, collaborative cases averaged \$19,723 and mediated cases cost only \$6,600, on average.

In one study, couples in the adversarial sample reported spending 134% more (more than twice as much) for their divorces than those in the mediation sample.

It Works

Studies have found that mediators achieve full divorce agreements in 50 to 80 percent of cases. Collaborative Practice results in settlement agreements in between 83% and 92% of cases, with only 10% terminated without agreement or reconciliation. Even in those instances where mediation or collaborative practice does not result in an agreement on all issues, it does result in an agreement on one or more issues. That means the couple has reduced the number of issues that remain to be resolved in litigation, which translates into a significant reduction in litigation expenses.

Make Better Financial Decisions for less cost

Divorce often raises financial challenges. For the first time, people need to budget for everyday living expenses in order to start their new post-divorce life. Not everyone is equipped to do this on their own. Added to the complexity is the many tax implications of divorce. Getting you or your spouse up-to-speed on financial issues allows educated decisions to be made and allows the process moves forward more easily.

Better Outcomes for You and Your Family

One of the central issues facing parents when getting a divorce is deciding how decisions involving the children will be made in the post-divorce future. Either one parent has control over the decisions or both share this control. When parents decide to share this responsibility they are faced with a challenging task. It takes communication and collaboration on the part of both parents to effectively share this control. Creating a structure for both parents to effectively communicate and work together regarding the welfare of the children is too often ignored by attorneys and courts. As part of our mission to improve your post-divorce life as a family, our approach gives this issue priority.

Our approach offers better financial expertise to clients – and at a lower cost – than through litigation. In litigation, both sides often hire financial experts out of their common savings. These experts have a personal financial interest to providing biased reports to the attorneys who hire them in the hopes of acquiring more business. Our approach eliminates these biases because our experts work for both sides. In addition, this impartial advice is delivered at a lower cost because you only need to hire one expert, not two.

Often the most difficult issue facing divorcing parents is how to share time with the kids. Because attorneys and the Courts in litigation communicate only through bargaining and negotiation and are focused on rights of their clients rather than the children, the practicalities of parenting are too often ignored. This often results in an impractical parenting time agreement.



Through an emphasis on communication, collaboration and your role as parents, our approach creates parenting plans that incorporate sufficient details to ensure children will not experience ongoing arguments and conflicts between their parents about the arrangements they are putting in place. A comprehensive plan offers children a predictable pattern to their lives, regardless of the quality, frequency and reliability of parent-to-parent communication.



Studies indicate that our approach is superior to litigation when it comes to improving the post-divorce lives of parents and children. The *Journal of Consulting and Clinical Psychology* (2001, Vol. 69, No.2, 323-332) has reported a study on families who had been randomly assigned to mediate or litigate their child custody disputes. In comparison with parents who litigated custody, parents not living with their children who mediated custody maintained more contact with their children and had a greater influence in co-parenting 12 years later. The 12-year follow-up data indicate that, even in contested cases, mediation encourages both parents to remain involved in their children’s lives after divorce without increasing co-parenting conflict.

In one survey, ninety-three percent of those clients with children said that the interests of the children were better served by a CP process. Gay Cox & Syd Sharples, *Wouldn’t You Want to Know?*, 8 COLLAB. REV. 10, 11 (Summer 2006).

Maintain privacy and confidentiality

Unlike litigated divorces in which hearings and documents are open to the public, all proceedings and documents are confidential in mediation and collaborative practice.

Retain control over final decisions

All issues decided by a Court in a litigated divorce are based upon the law, which are rules that the Court and legislature have deemed appropriate. Our approach allows the family actually going through divorce to decide what factors are determinative. Spouses may choose to follow the law in whole, part, or not at all in reaching their agreement.

Maximize the three C's: communication, collaboration and competence.

Our Approach to Divorce

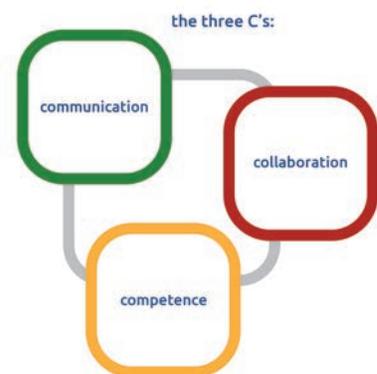
Cleland Collaborative Solutions recognizes that how people go about getting divorced has a major impact on their lives and the lives of their children, during and enduring after the divorce. We also recognize that the best results for clients who are faced with divorce maximize the three C's: **communication**, **collaboration** and client **competence** through education and counseling. The more of the three C's that are involved in a divorce the better the outcome and the lower the cost of achieving it. We encourage our clients to pick a divorce process that will maximize the effective use of the three C's in their situation.

For those clients who can communicate freely and collaborate without active guidance, the options for divorce can include a pro-se divorce. We offer these couples our "Coached Pro-Se" services, which aim to help these clients avoid the problems and pitfalls.

The vast range of volatile emotions and stress in a divorce make it simply too difficult, if not impossible, for many couples to sit together at the kitchen table and reach agreements. For these clients we recommend mediation or collaborative practice. These aren't methods that seek to eliminate the raw and powerful emotions clients are experiencing, but to let the couple make informed decisions and reach agreements in spite of them. Both methods are proven to work and allow clients to achieve a better divorce at a lower cost and without lawsuits and Courts.

Our clients who are faced with a litigated divorce are best represented by an attorney with the skills and disposition to maximize the three C's: **communication**, **collaboration** and **competence** in litigation.

If you are considering divorce, let Cleland Collaborative Solutions assesses your circumstances and identify the best divorce options suitable for your situation.



Our Approach to Divorce - Coached Pro-Se Option

Generally, couples considering divorce on a pro se basis are willing to put aside their differences in order to communicate about their divorce and collaborate in order to reach an agreement. They are motivated at least in part by cost savings. When children are involved, parents generally share a vision of the way the children should be raised.

There are tangible benefits to a successful pro se divorce. Foremost, a successful pro se divorce carries the lowest cost of all of the divorce paths. The long-term outcome is more favorable than in a combative litigated divorce because it will most likely include less conflict, and the parties are far more likely to fulfill their commitments to each other.

Embarking on a Pro se divorce is not without its risks. The intention to communicate and collaborate break down, leaving you stranded. For those that are able to follow through with this intention, the road ahead is difficult to navigate alone. Property division, debt, parenting time and child support, how to pay child support, the nature of relationship going forward, the divorce process to be followed by the court ... it goes on and on. When a pro se divorce is complete, the filing is legally binding just as it would have been if an attorney had completed the paperwork. If errors are made, it can be very difficult and expensive to undo them.

Cleland Collaborative Solutions' **"coached pro-se option"** offers pro-se couples the ability to achieve a successful, low cost pro-se divorce while minimizing the risks inherent in the process. This option involves on-demand neutral guidance to couples so they can proceed with the knowledge needed to make intelligent decisions and avoid mistakes that can result in unforeseen problems. This guidance can individual legal questions, legal procedures, hearings and legal forms. For those couples stranded by the breakdown of communication and collaboration during the pro-se process, mediation of target issues can get you back on the road to success. Since you decide how much guidance you need, you control the costs.



The 8 steps of Mediation.

Our Approach to Divorce - How Does Mediation Work?

The following steps are how a typical mediation process works. You and your spouse will decide on a process that best suits you. At no point in the mediation process are you left to figure things out alone.

Step One: Building a Roadmap

When you meet with the lawyer mediator you will begin by learning about the mediation process and having an open discussion about your concerns. We make agreements on the process by which you wish to proceed. Some people may desire to learn about Michigan family law at this juncture.

Step Two: Building a Team

Together we decide upon the types of neutral specialists that will be retained to assist you in making confident and informed decisions. Once specialists are retained you have an integrated divorce team that includes, as necessary, a financial neutral, a child/family specialist, and other resources as needed.



Step Three: Gathering Financial Information

Your divorce team then assists you to gather financial and other information needed to make informed decisions.

Step Four: Identifying Needs for Temporary Agreements During Divorce Process

Often spouses must agree to rules on how finances will be handled during the divorce and, in some cases, temporary visitation schedules are necessary if the parents are living apart.

Step Five: Resolving Issues relating to children's care and drafting a parenting plan

Identify options about how decisions will be made about the children post-divorce and options for a parenting plan. A parenting plan is a communication tool and a legally-binding document. It reduces conflict between parents, encourages good parent-child relationships and minimizes or eliminates the need for court involvement. A child/family specialist can be helpful in this step. Once acceptable options are identified agreements are reached and a parenting plan is drafted.

Step Six: Resolving Financial Issues

Create budgets for separate households. Explore options about dividing debt, marital property, spousal support and child support. Identify and assess financial, insurance, tax and estate issues. A financial neutral and other specialists are a helpful resource at this stage.

Step Seven: Finalize Your Terms

Review and make changes to agreement draft, including parenting plan (if applicable). Finalize and sign agreement. A review by an independent attorney who is mediation-friendly is optional.

Step Eight: File for Divorce Judgement

You can, at your option, file the paperwork needed to achieve a divorce with the Court using an attorney provided by Cleland Collaborative Solutions or use an online service.

The 7 steps of Collaborative Practice.

Our Approach to Divorce - How Does Collaborative Practice Work?

Some persons facing divorce prefer to have a person representing them during the divorce. For these people collaborative practice is an option. **Collaborative Practice** is designed to provide people with the benefits of being represented by an attorney without the inherent contentiousness of a combative divorce. In collaborative practice, both spouses and their attorneys work cooperatively to reach a resolution out of court and communicate openly as a group. Educational and professional resources are made available to assist the couple in reaching an enlightened resolution. The following steps are how the collaborative practice process works.

Step One: Retaining a lawyer that is specially trained in collaborative law

Through Cleland Collaborative Solutions both of you retain a separate divorce lawyer that is specially trained in collaborative law (collaborative divorce).

Step Two: Entering Into a Participation Agreement

The Participation Agreement is entered into by both the attorneys and the spouses and requires that both spouses and their attorneys work cooperatively to reach a resolution out of court and communicate openly as a group. The parties further agree that if the parties do not settle within the collaborative framework, and one or both seek to litigate they must retain new lawyers.

Step Three: Team Building

Expert specialists are added to the team as necessary. These specialists provide assistance with emotional, financial, or parenting issues. From financial advisors to coaches to child specialists, these specially trained resources help you keep this process more efficient and effective.

Step Four: Gathering Financial Information

Both sides identify the financial and other information needed to make informed decisions.

Step Five: Identifying Needs for Temporary Agreements During Divorce Process

Often spouses must agree to rules on how finances will be handled during the divorce and, in some cases, temporary visitation schedules are necessary if the parents are living apart.

Step Six: Four way meetings

A series of meetings with the attorneys, the couple (and as needed any specialists) are held to resolve all issues, including parenting decisions and division of marital property. During these meetings, everyone strives to remain civil and respectful to one another. While each attorney is an advocate for his or her client, both ensure that all voices are heard and all needs are considered.

Step Seven – Memorializing the Agreement

Once you reach an agreement, your attorneys create legally-binding documents and file them with the courts.



Litigated Divorce – Choose the Superior Approach

Lawyers are ethically bound to be “zealous advocates” for their client’s interests. Too many lawyers, however, have the wrong idea about what this means. Some believe that this obligation means that they should only focus only on their client’s material interests, “winning”, getting more stuff, acquiring more money or other materialistic measurables. This narrow minded interpretation of “zealous advocacy” in the field of family law has resulted in the unnecessarily high costs of divorce, intensely adversarial and stressful litigation, and harmful emotional effects on spouses and children alike. As a child of a highly combative divorce, I have experienced first-hand the short and long term impact that a highly combative divorce can have on families. Even couples that have no children are negatively impacted by the stress and high costs of combative divorce.

Our mission at Cleland Collaborative Solutions is to re-establish the proper role of an attorney in the field of family law. Lawyers historically have been responsible for peacefully resolving disputes and preventing battle, not encouraging it. Competence, not zealousness, is the actual standard of professional behavior. In practicing loyal advocacy and competence, we utilize the financial and mental health professionals who can help our clients, promote communication and collaboration to find resolutions, and recognizing health as the goal of the justice system applied to family law. It is the lawyer who heals and counsels, who prevents and ends battles that better discharges the duty of competence they owe their clients and gets better results for their clients in litigation.

Special Issues Pertaining to Children

It is estimated that 1.5 million children in the United States have parents that divorce every year. The research consistently indicates that the children of divorce are at risk for serious problems such as depression and relationship issues. New research has focused on the effects of divorce on children's education.

The results indicate that divorce correlates positively with diminished school achievement and performance:

- Elementary school children who experience parental divorce immediately begin performing worse academically than their peers from intact families. This gap persists through elementary school.
- High school students in intact families with married parent have GPAs 11 percent higher than those from divorced families.
- Children from divorced homes performed worse in reading, spelling, and math, and repeated a grade more frequently than did children in intact two-parent families. Some studies suggest that the deficit in math is most pronounced.

Children's performance at school is a concern that deserves increased attention of parents who are considering a divorce. Struggling in school can weaken a child's self-confidence and can eventually stunt their vocational future.

While the negative effects of divorce on children cannot be entirely eliminated, divorcing parents can take steps that will significantly reduce these negative effects. Research has established that after basic financial needs are met, the greatest risk to children of many serious and on-going problems for children is prolonged conflict between their parents. Therefore, parents who are considering divorce need to focus on reducing conflict in order to protect their children from the harm of divorce.



It is estimated that 1.5 million children in the United States have parents that divorce every year.

So what can parents do to reduce the destructive power of conflict in a divorce?

They can begin by choosing a divorce process that does not promote conflict. Hiring attorneys to fight with one another, in court too often leads to a combative approach to parenting during and after the divorce.

Parents should also choose a process that puts them in firmly in control of the divorce process. Research indicates that the experience of control over the divorce process has a positive effect on parent's adjustment to divorce and that the parent's own adjustment is in turn the best predictor of children's adjustment to divorce.

In addition, Parents should not simply focus on the legalities of getting a divorce. Focus on setting your post-divorce life on solid footing. Discussing and thinking about how you will co-parent after the divorce and taking steps to ensure that you start your post-divorce life on solid financial footing will help to reduce stress and conflict.

In short, reducing conflict in the divorce process, keeping control over the process and having a post-divorce focus are the key elements of a child friendly divorce. Fortunately there are divorce processes that can help you to achieve each of these goals. Parents can choose non-combative ways to achieve a divorce such as mediation or collaborative practice. These methods are non-combative by nature, keep the parents firmly in control of their divorce and provide parents the skills and opportunity to focus on their post-divorce lives. Even parents that proceed with litigation in a divorce can choose to be represented by attorneys that will help and encourage them to communicate and collaborate together and consider their post-divorce lives.

Area of Concern – Assets

Divorce is an emotional process that will usually have significant financial consequences. Because of this, divorcing parties frequently walk a fine line between attempting to achieve viable financial outcomes and facing emotionally charged and troublesome financial futures. Too often divorce settlements that appear fair and workable on the surface do not always stand the test of time. Numerous studies of the economic consequences of divorce have shown that the standards of living of the two parties often diverge dramatically over time, often with disastrous consequences – despite attempts to ensure that the outcome would be as fair as possible. These drastic reductions in standard of living, and the stress they create, frequently take their most serious toll on the children.

This outcome is not unusual because people rarely have a good understanding of what they are agreeing to. While financial settlements attempt to address the needs of all parties, they are often agreed upon with limited insight into the long-term economic consequences.

A thorough understanding of the economic impact of divorce upon a person’s financial future would involve:

- Analyzing tax implications of various scenarios for spousal and child support, and marital property division.
- Providing short and long-range projections for future cash-flow and budget needs, using charts to help you see how their impact.
- Providing an analysis of the needs of the supported spouse and the paying abilities of the higher earning spouse.
- Assessing the economic consequences of keeping one asset over another.
- Exploring “what if” scenarios – allowing you to see the impact of one, or more, aspects of a proposed financial settlement.
- Identifying behavioral issues around money – which might be family-generated or experienced, such as excessive spending, hoarding, avoiding, etc.
- Providing education and information, helping to reduce fear and anxiety, making it possible for you to find creative settlement options.
- Teaching financial literacy – how you can control your personal finances.

Cases involving divorce financial planners are often settled or resolved more quickly, with better results and at less cost, than those using more traditional methods.

In addition, the method used in reaching a financial settlement has a lasting influence on the long term effectiveness of the settlement. Although the divorce process will very often have unanticipated twists and turns, it will work best when structured in an orderly fashion. Bypassing specific stages, avoiding dealing directly with important issues, giving some stages inadequate attention or attempting to deal with them out of order or context can sometimes be problematic. As a result, this can often lead to financially unworkable or unanticipated consequences that are sometimes difficult, impossible or expensive to fix. Workable outcomes for issues involving children are often also more difficult to achieve in the context of financially problematic scenarios or in cases that are unduly prolonged.

Added Value of the Divorce Financial Planner

The divorce financial planner is a generalist with training and experience in all areas of personal finance and money management, including tax planning, retirement planning, present and future value calculations, employee compensation and benefits, economic forecasting, estate planning and risk management. This broad perspective gives the planner a unique ability to analyze assets and liabilities and income and expenses as they integrate and interact with one another in both short – and long-term divorce contexts. Because of this, cases involving divorce financial planners are often settled or resolved more quickly, with better results and at less cost, than those using more traditional methods.



Consulting Services For Therapists and Counselors

You have clients that are having marital problems and divorce becomes the topic of conversation. You well know the damaging impact that divorce has on the lives of people, especially children. You are in the pivotal position of being with your client before a divorce process has been chosen. So don't just hand out referrals to divorce attorneys and let the divorce take care of itself. Give your clients the opportunity to achieve a better, healthier divorce.

Cleland Collaborative Solutions provides consultation services to mental health professionals who have clients that are considering divorce. We meet with you and your client(s) and advise them regarding different aspects of divorce law and the different methods of achieving a divorce, from mediation to litigation. By providing your clients with information about all of the different paths to divorce before they hire an attorney, your clients will be given the opportunity to achieve a healthier divorce. We can also provide your clients with an assessment of their suitability for each path.

Let us help you to give your client(s) the guidance necessary to achieve a healthy divorce and a positive outcome.



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