

September 2017

# COLLABORATIVE Practice Tips

A monthly bulletin from the CP Cal Practice Excellence Committee

The Practice Excellence Committee is pleased to offer tips to help you increase your Collaborative cases and achieve *practice excellence*.



Please send us your comments and questions! Email us at [info@cpca.com](mailto:info@cpca.com)

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## The Role of the Law in Collaborative Practice

While parties in Collaborative Practice often choose the process because of the ability to exercise self-determination, the law does still matter. Informed decision making needs to be based on information and that must include information on the relevant law. In addition, there are certain legal processes that must be observed, such as the filing of the Collaborative Stipulation, court orders - temporary and otherwise, filing of the Petition, and eventually the final agreements and court forms.

### Tip #1

**Informed decision making** protects the parties, the attorneys and the other professionals involved in the case. Informed decisions are more likely to be honored and agreements kept by the parties. In addition, it keeps Collaborative Process from being a place to which one party can go to take advantage of the other.

### Tip #2

**A clear understanding of basic legal concepts and boundaries** help the parties to make more reasonable proposals by providing a reality check. The law gives clients information about their rights and responsibilities that may help shift their understanding of what is expected or acceptable. For instance, with the sharing of the children, child support, day care, health care etc., certain legal standards are clear. With spousal support, an explanation of the public policies underlying legal guidelines may help clients understand why there are expectations of employment and self-sufficiency.

Importantly, it reminds parties that the process must be conducted with transparency and honesty. This is critical in the area of financial disclosures which are required by law and must be signed under penalty of perjury. Transparency encourages an open exchange of information, brainstorming of

ideas and the generation of options. It discourages strict positioning and the kind of strategic positioning that often leads to impasse.

### Tip #3

**The law provides a framework** for topics to be discussed and for information to be gathered and shared before decisions are made. Topics such as parenting, support, the division of property and retirement plans all must be discussed and addressed when applicable.

For example, if the couple owns a house, the couple knows that the law requires the house to be addressed. In order to make a decision on what to do with the house, the couple must gather information on the value of the house, the balance on any loans associated with the house, review a budget on the cost of maintaining the house, assess any separate property interests in the house etc. The parties must then understand the legal requirements and consequences for various options. By assessing the legal and financial options the couple can then make an informed decision about the disposition of the house.

While information about the law is necessary for informed decision making, it is not the answer on how to resolve all issues. A couple who understands the law is free to make decisions that deviate from the law, provided they both agree. The key is having the information, understanding the options and making an informed and mutual decision.

### Tip #4

**Consideration should be given as to who should explain what parts of the law to whom and when, and where and how this should happen.** Attorneys should give legal information; financial professionals should give financial information. How legal information should be presented in any particular case should be discussed among the professionals on the case in the first meeting without the clients. This should be reassessed as the process moves forward as needed.

Each attorney may want to inform their own client of the basic tenants of applicable law in a private meeting. This lets the client ask questions and contemplate how the law may affect their proposals and decision making. It prevents one party from gaining a legal or emotional advantage over the other in a team meeting.

If a legal question does come up for the first time in a team meeting, legal information should be presented in a neutral and informative way. If the information is sensitive or clearly favors one party over the other, a break may be needed for each party to consult with their own counsel.

**In conclusion**, the Collaborative Process takes place in the shadows of the law. The law is ever present and how it is handled should shine a light into those shadows allowing for discussion and informed decision making.



**Fall is upon us!**



**On behalf of CP Cal  
and the Practice Excellence  
Committee, we wish you all a  
wonderful Autumn!**



**CP Cal Conference XIII**  
**"Roots and Branches of Collaborative Practice"**  
April 27, 2018 - April 29, 2018

## CALL FOR PRESENTERS

**Got skills? Come share them at the  
13th Annual Collaborative Practice Conference**

**Submit your proposal or nominate a colleague for an outstanding and dynamic workshop. Our theme this year is "Roots and Branches of Collaborative Practice."**

**Deadline for submitting proposals is October 2, 2017!**

*Submitting your proposal online is easy! And, we have set it up so that you may start the process on the [Proposal Submission Form](#) and finish at any time before October 2, 2017.*



**San Mateo Marriot,  
San Francisco Airport in San Mateo**

## Events & Trainings

**Be sure to check [cpcal.com](http://cpcal.com) for upcoming Events and Trainings:**

Oct 04, 2017 - Oct 06, 2017

[Mediation Training with Steven Rosenberg](#)

Oct 11, 2017 - Oct 13, 2017

[Mediation Training with Steven Rosenberg](#)

Oct 12, 2017 - Oct 15, 2017

[18th Annual IACP Networking and Educational Forum](#)

Oct 20, 2017 - Oct 21, 2017

[Two-Day Basic Interdisciplinary Collaborative Training](#)

Oct 23, 2017 - Oct 27, 2017

[Essentials of Mediation & Divorce Mediation](#)

Oct 26, 2017 - Oct 27, 2017

[Advanced Mediation Training with Steven Rosenberg](#)

Nov 1, 2017 - Nov 5, 2017

[Working Creatively with Conflict: 40 Hour Mediation and Conflict Resolution Training \(West Coast\)](#)

Nov 2, 2017 - Nov 4, 2017

[Collaborative Practice Training for Resolving Trust and Estates Disputes](#)

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**Save the Date!**  
**CP Cal Conference XIII**  
April 27, 2018 - April 29, 2018

[San Mateo Marriott, San Francisco Airport](#)

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