

January 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@cpcal.com](mailto:info@cpcal.com)

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## Those Pesky Disclosures - What is legally required?

### Tip #1

#### Minimum Disclosure Requirements

Complete the three forms:

- FL-140 Declaration of Disclosure, with two years of tax returns
- FL-142 Schedule of Assets and Debts, with all attachments
- FL-150 Income and Expense Declaration, with pay stubs, Profit & Loss

Preliminary Disclosures **must** be done, Final Disclosures **may** be waived upon agreement.

### Tip #2

#### To Characterize or not to Characterize

The team should discuss the need for characterization of various assets/debts depending on the needs of the case and the desires of the parties.

### Tip #3

#### What should the Financial Professional do if an issue comes up while working with the parties to compile data and generate reports?

- Make a note of the concern.
- Inform the attorneys.
- Team may wish to discuss how to approach clients on these issues, prior to the discussion with the clients, especially if it is known or suspected to be a sensitive issue.

- Develop approach to discuss issue with clients.

## Tip #4

### Goals for Disclosure

- Foster trust through transparency
- Identify Issues
- Opportunity for education with less drama (these are the financial facts)
- Factual basis for reality testing and negotiation
- Allows for Informed Decision Making

## Tip #5

### How much is too much? Too little?

- Must meet the minimum requirements.
- The more complicated the case, the more disclosure may be required. For example a profitable business may need a valuation. But what type of valuation? The team may not want to bog down the case by getting deep into the weeds if the clients are informed and not interested in every detail. Have an open discussion.
- Do the clients agree on characterization or value even if no documentation. For example, a separate property contribution to residence, is that ok? What if one denies the contribution but the paperwork was destroyed years ago?
- The amount and detail of the documentation needs to be acceptable to both parties.
- If parties agree to not characterize or produce all documents the attorneys should discuss how to memorialize this to prevent future attempts to set aside the agreement.
- Discuss with team how to approach these issues.

## Tip #6

### What if the clients don't want to disclose?

Remind the clients of:

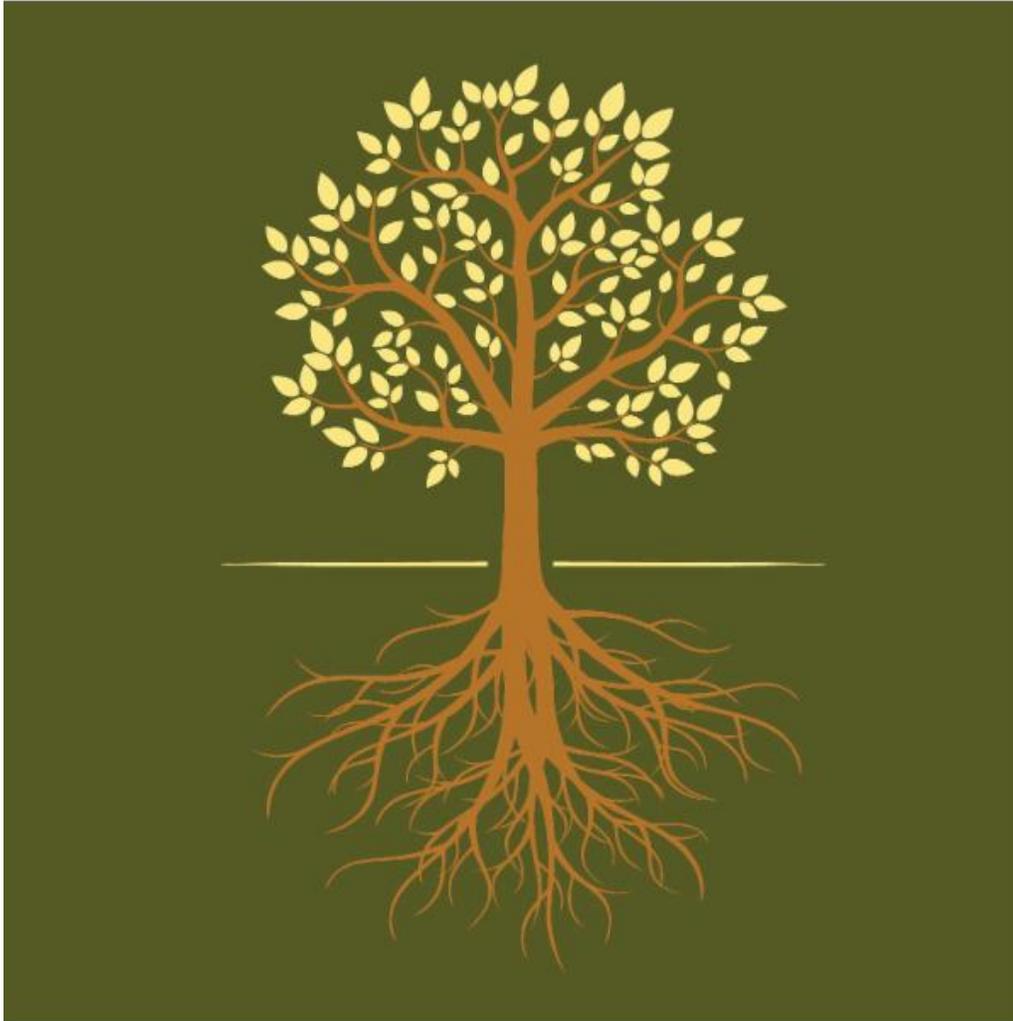
- the legal requirement for disclosure no matter which process they use
- the consequences of not disclosing
- their commitment to the collaborative process
- the impact on trust between the parties should they refuse to disclose
- the obligation of the professionals in collaborative to the clients and the process
- grounds to terminate the collaborative process
- Discuss with the team how to approach this issue and who should do it.

**The Practice Excellence Committee wishes all in the Collaborative Community, and the families we work with, a Happy New Year!**

# SAVE THE DATE!

## CP Cal Conference XIII

The Roots and Branches of Collaborative Practice



April 27- 29, 2018, San Mateo Marriott, San Francisco Airport



Join the Conversation #cpcal



CP Cal c/o 767 Brannan Place, Concord, CA 94518 925-566-8590 [info@cpcal.com](mailto:info@cpcal.com)

CP Cal, c/o Christine Maderos, 767 Brannan Place, Concord, CA 94518

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