

Litigation Process vs. Collaborative Process Comparisons

Litigation Process

Parties in disputes often feel intimidated, fearful, anxious, powerless, out gunned, and not in control. Litigation does nothing to calm this uneasiness and, in fact, a common successful litigation tactic is to make the other side so uncomfortable they are coerced into settling.

Process focused on determining blame for problems.

Unpredictable Results.

May get results that you do not want or agree with.

Unsafe atmosphere - subject to cross examination, subpoenas and depositions.

Public.

Inconvenient scheduling - court and other side may determine the parties' schedules.

Filtered process -information often exchanged subject to discovery rules and lawyer/party discretion. Often negotiate indirectly through lawyers.

Much time, money and energy spent getting ready for a trial that most likely will never occur. 90% of cases settle but 90% of legal fees are not spent on settlement efforts.

Legal expenses are not all within your control. Other side can force you to spend money on depositions, discovery and hearings that you do not want.

Cannot just "try" litigation.

Collaborative Process

Collaborative process affirmatively seeks to make both parties feel safe, respected, in control of their lives and as comfortable as possible while working towards resolution - coercion is not part of the process. The goal of the process is to allow the safe expression and resolution of conflict.

Process focused on reaching solutions to problems.

Predictable results.

There will be no result without your express agreement

Safe atmosphere -civil, dignified, respectful.

Private and confidential.

Schedules for meetings are by agreement.

Transparent process -same information available to all parties/attorneys at same time. Parties develop options and negotiate for resolution in "four way" meetings.

100% of all time, money and creative energy is spent on settlement efforts -fewer wasted financial, emotional and mental resources.

All legal expenses are discussed and agreed upon. Legal resources and expenses are more efficiently used.

Can try collaboration - if it does not work, you can always litigate.

