

Frequently Asked Questions

Family Law



1 What are the different processes for getting divorced and resolving other family law conflicts and how do I know which to use?

There are many processes available to choose from regarding divorce and other family law conflicts including: mediation, Collaborative Law, litigation, and limited assistance representation. It can be challenging to figure out which process is best for you. A consultation with an attorney or other family law professional can be very helpful in reviewing the facts of your case, your goals and expectations, and the various approaches so that you can select the process which best serves your needs and those of your family.

2 When should I use mediation?

Mediation offers a straightforward approach for couples who want to be involved in the resolution of their divorce. In mediation, parties negotiate in a private and confidential setting using a skilled and neutral mediator to guide them through the process. The parties are transparent in making full financial disclosures and work in a respectful way to amicably develop solutions that work for the family. The mediator is not acting as counsel to either party, but rather as a facilitator in helping the parties gather information, review options and make decisions that get the parties to resolution. The mediator makes sure both parties are heard and that their concerns are addressed as part of any final settlement.

3 When should I use a Collaborative law approach?

Collaborative Law like mediation is private and confidential, but both parties have attorneys who are advocates for their clients, but not adversaries. In Collaborative Law the clients and lawyers are working together to craft a mutual resolution of all issues. Other professionals such as a coach/ facilitator and financial professionals are used as needed. The focus is on the clients as they exchange information and ideas and as they formulate their goals and work together to develop the best short- and long-term solutions for their family. The process involves a series of settlement discussions that allow for all aspects of the case to be discussed and resolved thoroughly and respectfully.

For help

[Email us >>](#)

Access our Directory

[Online Directory >>](#)

USA *500 Clubs* | SELECTIVITY
CONNECTIVITY
PRODUCTIVITY

NE FAMILY LAW ROUNDTABLE

4 When should I use litigation?

In litigation you will work with your attorney at every step along the way. It is court based and is governed by court rules. Unless you are able to address by mutual agreement either temporary issues, or final settlement, you may have to appear for court hearings or at a trial and the Judge will make the decisions. While litigation tends to be the costliest alternative, litigation may be needed if you are unable to reach any compromise, if there is an extreme power imbalance or one party is very uncooperative.

5 When should I use Limited Assistance Representation (LAR)?

LAR is a great way to obtain legal services on a limited basis. You can hire a lawyer to represent you in court for a particular hearing, to do some legal research for you, draft documents or to advise you about your rights. Many people in mediation hire an attorney to provide legal advice behind the scenes or to review a mediated agreement. You can also hire an attorney to help you negotiate an overall settlement “behind the scenes” or to go to court with you for a challenging hearing. You will enter into an agreement with the lawyer that clearly defines the role the lawyer will play in your case.

6 My spouse and I want to handle our own divorce and save money. Why do we need an attorney or other professionals to help us?

Many couples find the divorce process can be overwhelming. There are many issues to consider as part of the divorce, including a parenting plan for the children, child support, college education expenses for the children, spousal support, health insurance coverage, asset division, debt division, tax issues and life insurance. There are no standard solutions to divorces and so much depends on your individual situation and your family. Divorce can have short- and long-term consequences that need to be understood as part of settlement as they can have lasting impact. It can be invaluable to have an attorney and sometimes other professionals as well, to help you through the process.

7 What is the role of the financial advisor before, during and after a divorce?

Financial professionals such as a Certified Public Accountant (CPA), Certified Divorce Financial Analyst® (CDFA®) or Certified Financial Planner® (CFP®) participate in divorces in many ways before, during and after divorce. Financial professionals can assist in evaluating overall settlement options and helping you understand how the financial decisions made today will impact your financial future, including identifying the short-term and long-term effects of support and property division, and any tax implications. Following divorce, financial professionals can help the newly divorced client establish a new financial plan, evaluate their obligations under the court orders and help them meet those obligations, such as life insurance, and assist with management of assets.

For help

[Email us >>](#)

Access our Directory

[Online Directory >>](#)

USA *500 Clubs* | SELECTIVITY
CONNECTIVITY
PRODUCTIVITY

NE FAMILY LAW ROUNDTABLE

8 When are professionals such as valuation experts used in divorce?

You may need a valuation professional to determine the fair market value of a family-owned business, real estate portfolio or pension. This requires specialized expertise to satisfy court and tax requirements.

9 Why would I need a divorce coach, case facilitator, career counseling or other form of coaching?

A divorce coach, case facilitator, career counseling or other form of coaching may be used in family law cases. These professionals may have mental health or executive coaching backgrounds, but they have a very different role than a therapist and are not serving in that capacity.

You will find that divorce and other major life changes can impact your well-being in many ways. A divorce coach can work with you individually in several ways providing help as you overcome the practical and emotional challenges you face before, during and after the process so that you can make the best decisions regarding outcome. A coach will work with you to focus on the positive – your vision and your strengths and can help you to reach your full potential.

In a mediation or Collaborative Law case a divorce coach, sometimes called a case facilitator, will have a different role. This coach or case facilitator works for both parties and helps manage the process of the divorce or other family law settlement negotiations and team meetings. With the emotional content of divorce managed, the parties and counsel are able to stay focused on resolution and getting to agreement.

Many people going through a divorce or other family law conflict are experiencing significant life changes related to employment. Perhaps you are in the market for a career change, for a better position or are reentering the workforce after a lengthy absence. A career coach or career counselor can work with you to help you decide the best career path for you, assist with networking, update or create a resume or help you prepare for interviews.

10 How would a private investigator help my divorce case?

In difficult cases, your spouse may not be forthcoming with the information you need to settle your case. A private investigator may be used to discover hidden assets, liabilities or spending or to uncover behavior relevant to your divorce. Private investigators are more commonly used in litigation rather than the other divorce processes.

For help

[Email us >>](#)

Access our Directory

[Online Directory >>](#)

USA *500 Clubs* | SELECTIVITY
CONNECTIVITY
PRODUCTIVITY

NE FAMILY LAW ROUNDTABLE

11 Will my estate plan be impacted by my divorce?

Your estate plan will be impacted by your divorce, and it is a great idea to review it prior to divorce and arrange to update it as part of thinking of your future post-divorce. Your estate planning attorney will discuss the significant changes that impact you and advise you about completing new beneficiary designations and updating your estate documents so that your estate passes according to your wishes. Even if you aren't getting divorced, you should have an estate plan or update your existing estate plan regularly as life changes occur.

12 What other considerations are there in family formation and reformation?

A Why do I need a prenuptial or postnuptial agreement?

Prenuptial agreements are not only for people of great wealth but are recommended for many other individuals contemplating marriage. Perhaps this is a second marriage for one or both of you, you may have assets or inheritance that you want to protect, or you may want to have flexibility in your estate plan and leave certain assets to your children or other loved ones. A prenuptial agreement is a way for you and your future spouse to define what happens if either of you pass away or if your marriage ends in divorce. A postnuptial agreement is similar to a prenuptial agreement but instead it is entered into after you are married. A postnuptial agreement is something to think about if you are having difficulties in your marriage and think you may divorce in the future, but still want to work on the marriage. It can address similar topics as a prenuptial agreement, what happens if either of you passes away or what happens if you divorce. Prenuptial and postnuptial agreements can be mediated, developed using Collaborative Law or negotiated directly with attorneys.

B We are thinking of having children and will be using assisted reproductive technology or pursuing adoption. Do we need legal advice?

A consultation with an attorney will help you navigate this complex area of law. You may need assistance with donor and surrogacy screening or with donor or surrogacy agreements. You may need assistance obtaining birth orders or with the adoption process if adopting a child.

For help

[Email us >>](#)

Access our Directory

[Online Directory >>](#)

USA *500 Clubs* | SELECTIVITY
CONNECTIVITY
PRODUCTIVITY

NE FAMILY LAW ROUNDTABLE

C What if I am not married, but am buying a home with my partner, or my partner and I have children together. Do I need a lawyer?

Cohabitation agreements have become very common with many people deciding not to marry but buy property together. A cohabitation agreement is a way that the parties can agree on what happens to the property if one party decides they no longer want to cohabitate. You can also address ongoing finances of the home including payment of the mortgages, taxes, insurance, utilities, maintenance, capital improvements and other living expenses. Parties who are not married and have children, often require assistance with parenting plans, support and child related issues. Lawyers and other professionals can be very helpful not just to married parties but unmarried couples as well.

D I am already divorced and want to modify or enforce my agreement. What do I need to do?

If you want to modify your divorce or other family law agreement, you generally need to show a material change of circumstances. You may be seeking to enforce the current terms of the judgment. You can either do so by agreement using mediation, Collaborative Law or Limited Assistance Representation or, if you are unable to reach agreement, pursue litigation. It is important to consult counsel when considering modifying a court order to understand your rights and responsibilities before going forward with a modification.



If you have other questions, consider a consultation with one of our NE Family Law Roundtable members.

[Email us >>](#)

[Online Directory >>](#)