

The PROTECTING OUR CLIENTS IN THE COLLABORATIVE FAMILY LAW PROCESS

Presented to Québec Lawyers Annual General Congress, Montréal , May 2004

Our mandate as collaborative lawyers is to empower our clients to achieve their best outcome, by a process that is respectful, preserves ongoing relationships and, at minimum, does no harm. How do we protect our clients in this context?

Here are some of the steps we can take:

Recognize that one size does not fit every client - assess the level of complexity of the issues, the emotional dynamics and the capacity of our client and spouse in order to tailor the process to the parties.

- Build trusting, good faith relationships with our client, the other collaborative lawyer and other collaborative professionals.
 - Create a safe process - clients need to know they won't be ambushed or bullied or taken by surprise; that they will be helped and asked to listen; and that their problems will be solved in bite size pieces.
 - Build our communication skills - rather than listening to ambush and rebut, listen actively to understand and manage emotion; rather than speaking to persuade and argue, speak to understand and build trust.
- Ensure our clients have all information needed before any important decisions are made - including what the law might offer and all available settlement choices.
 - Help our clients understand, prioritize and articulate their interests and understand those of the other spouse.
 - Ensure that our clients have the capacity to make important decisions or provide support to build capacity.
 - Ensure settlements satisfy interests, are workable and anticipate the future
 - Draft agreements that are enforceable, will withstand judicial scrutiny and that clients can understand.
 - Do our best to practice mindfully (recognize when we are judgmental, positional or controlling), with compassion and a sense of humour.