

## Worried about the breakup of your marriage? *It doesn't have to result in a vicious battle.*

Make your situation better. Read the wise advice in this article series authored by experienced family lawyers. Then consider how you'll proceed in the best interests of yourself and your family.

### Article 6: Resolving your family law dispute: how do we do this?

*This is the sixth of ten articles designed to help people understand the complex area of family law. The articles are not a substitute for legal advice. They are meant to help you focus on the issues that you should consider when faced with family conflict.*

If your safety or the safety of your children isn't an issue, there is no need for a family law matter to go to court. Courts cannot right wrongs or punish misbehavior. Their only power is to define rights and obligations and distribute property. The law the courts apply to the resolution of your matter is a "no fault" law; it distributes property and defines rights, based on principles laid out in the *Divorce Act* (federal law) and *Family Relations Act* (provincial law). It does not base decisions on how each spouse behaved.

Taking your family law matter to court is extremely costly. The outcome is often unpredictable. The things that need to be said in court can cause damage that gets in the way of normal relations between people for a lifetime.

Negotiation offers a better way to resolve your issues after a breakup. If you choose to negotiate, you will have several options to resolve your matter. Each option is designed to minimize the conflict and resolve it as cost-effectively and efficiently as possible.

Your first step should be to talk to an experienced family lawyer. When you tell your lawyer that you want to stay out of court and negotiate a resolution, he or she will explain the options available to you. Those options are like a tool box, that your lawyer uses to help you resolve your matter. Your lawyer will also explain what your rights and obligations are, and what information you will need to gather to make sound decisions.

Two formal negotiation procedures that you could consider are Mediation and Collaborative Family Law. In Mediation, you and your spouse will meet with a neutral third party (a mediator), with or without your lawyers, who will help you reach a resolution. Mediators are available privately for a fee, or through the Family Justice Center (no fee but limited to the issues they can deal with).

Collaborative Family Law is another option worth considering. In this process, you, your former spouse and both your lawyers sign an agreement that the case will not be taken to court. Collaborative cases tend to be sensitive to the unique needs of each spouse. They take on a flavor of consensus building rather than conflict. For more information about Collaborative Family Law visit [www.collaborativefamilylaw.ca](http://www.collaborativefamilylaw.ca).

Our motto is: doesn't "lets talk" sound better than "see you in court"? Negotiation allows you and your spouse to talk about and consider the things that are important to you, not just what is important to the law. After all, it's your life and your future. Negotiation keeps you in control of the outcome.

*Ronald J. Smith and Glenda Peacock are family lawyers and mediators based in Kelowna, BC. They wrote this article series to help people learn about preparing for collaborative and constructive solutions to the legal issues involved in marriage breakup.*

You can contact Smith Peacock for a consultation by phoning 250.860.7868 or 888.787.6484.

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