

# FAMILY LAW NEWS

New Jersey

New Jersey Family Law News

June 2007

## **Publisher of the Family Law News Recognized as 2007 "Super Lawyer"**

Donald D. Vanarelli, Esq., with offices at 242 St. Paul Street, Westfield, NJ, has been selected as a "Super Lawyer". The selection of outstanding lawyers identifies the top 5% of all lawyers in New Jersey who have attained a high degree of peer recognition and professional achievement.

The rigorous multi-step selection process includes peer evaluation, a review of credentials and current bar status, and review and approval from a blue ribbon panel of leading attorneys.

Mr. Vanarelli represents divorcing couples in cases involving property distribution, maintenance (alimony), child support, custody and visitation and pre-nuptial, post-nuptial and separation agreements. In addition, Mr. Vanarelli is designated as an Accredited Professional Mediator by the New Jersey Association of Professional Mediators. He is a founder of the Elder Mediation Center of New Jersey. Mr. Vanarelli mediates family law matters, and cases involving elder law, guardianship, and probate issues.

Mr. Vanarelli received an "AV" rating from the Martindale-Hubbell rating system, an independent service which has rated attorneys nationwide for more than a century. An "AV" rating is the highest rating available, meaning that the lawyer is recognized by his peers as having achieved very high to preeminent legal ability and very high ethical conduct relevant to the discharge of professional responsibilities. Only about 20% of all lawyers who have been rated have achieved an "AV" rating.

Mr. Vanarelli is a graduate of Montclair State College and Rutgers University Law School. He served as Law Clerk to Hon. Herbert S. Alterman, J.S. C., and as a Peace Corps Volunteer in Nepal. ☒

## **Collaborative Law: An Alternative To Divorce As Usual**

### **What is collaborative law?**

Collaborative law is a new dispute resolution model in which both parties to the dispute retain separate, specially-trained lawyers whose only job is to help the parties settle the dispute. If the lawyers do not succeed in helping the clients resolve the problem through settlement, the lawyers are out of a job and can never represent either client against the other again. All participants agree to work together respectfully, honestly, and in good faith to try to find mutually-satisfying solutions to the legitimate needs of both parties. No one may go to court, or even threaten to do so, and if that should occur, the collaborative law process terminates and both lawyers are disqualified from any further involvement in the case. Lawyers hired for a collaborative law representation can never under any circumstances go to court for the clients who retained them.

### **What is the difference between collaborative law and mediation?**

In mediation, there is one neutral third party who helps the disputing parties try to settle their case. The mediator cannot give either party legal advice, and cannot help either side advocate its position. If one side or the other becomes unreasonable or stubborn, lacks negotiating skill, or is emotionally distraught, the mediation can become unbalanced, and if the mediator tries to deal with the problem, the mediator is often seen by one side or the other as biased, whether or not that is so. If the media-

(Continued on Page 2)

tor does not find a way to deal with the prob-

*(Continued from Page 1)*

lem, the mediation can break down, or the agreement that results can be unfair. If there are attorneys for the parties at all, they may not be present at the negotiation and their advice may come too late to be helpful.

Collaborative law was designed to deal more effectively with all these problems, while maintaining the same absolute commitment to settlement as the sole agenda. Each side has quality legal advice and advocacy built in at all times during the process. Even if one side or the other lacks negotiating skill or financial understanding, or is emotionally upset or angry, the playing field is leveled by the presence of the skilled advocates. It is the job of the lawyers to work with their own clients if the clients are being unreasonable, to make sure that the process stays positive and productive.

**What kind of information and documents are available in collaborative law negotiations?**

Both sides sign a binding agreement to disclose all documents and information that relate to the issues, early in the process, fully and voluntarily. "Hiding the ball" and stonewalling are not permitted.

**What happens if one party "hides the ball," or is dishonest in some way, or misuses the collaborative law process to take advantage of the other party?**

That can happen. But it happens more often in conventional divorce litigation. What's different about collaborative law is that the collaborative agreement requires a lawyer to withdraw if his/her client is being less than fully honest, or participating in the process with less than full good faith.

For instance, if documents are altered or withheld, or if a client is deliberately delaying matters for economic or other gain, the lawyers have promised in advance that they will withdraw and will not continue to represent the cli-

ent. The same is true if the client fails to keep agreements made during the course of negotiations, such as an agreement to consult a vocational counselor, or an agreement to engage in joint parenting counseling.

**How do I know whether it is safe for me to work in the collaborative law process?**

The collaborative law process does not guarantee you that every asset or every bit of income will be disclosed, any more than the conventional litigation process guarantee that. In the end, a dishonest person who works very hard to conceal money can sometimes succeed, because the time and expense involved in investigating concealed assets can be high, and the results uncertain.

You are generally the best judge of your spouse or partner's basic honesty. If s/he would lie on an income tax return, he or she is probably not a good candidate for a collaborative law divorce, because the necessary honesty would be lacking. But if you have confidence in his or her basic honesty, then the process may be a good choice for you.

**Is collaborative law the best choice for me?**

It isn't for every client (or every lawyer), but it is well worth considering if some or all of the following statements are true:

- a. You want a civilized, respectful resolution of the issues necessary to end the marriage.
- b. You would like to keep open the possibility of friendship with your partner down the road.
- c. You and your partner will be co-parenting children together and you want the best co-parenting relationship possible.
- d. You want to protect your children from the harm associated with litigated dispute-resolution between parents.

*(Continued on Page 3)*

(Continued from Page 2)

e. You and your partner have a circle of friends and extended family in common to whom you both want to remain connected.

f. You have ethical or spiritual beliefs that place high value on taking personal responsibility for handling conflicts with integrity.

g. You value privacy in your personal affairs and do not want details of your family restructuring to be available in the public court record.

h. You value control and autonomous decision-making and do not want to hand over decisions about restructuring your financial and/or child-rearing arrangements to a stranger (i.e., a judge).

i. You recognize the restricted range of outcomes and "rough justice" generally available in the public court system, and want a more creative and individualized range of choices available to you and your spouse or partner for resolving your issues.

j. You place as much or more value on the relationships that will exist in your restructured family situation as you place on obtaining the maximum possible amount of money for yourself.

k. You understand that conflict resolution with integrity involves achieving not only your own goals but finding a way to achieve the reasonable goals of the other person.

**My lawyer says she settles most of her cases. How is collaborative law different from what she does when she settles cases in a conventional law practice?**

Any experienced collaborative lawyer will tell you that there is a big difference between a settlement that is negotiated during the conventional litigation process, and a settlement that takes place in the context of an agreement in which there will be no court proceedings or even the threat of court. Most conventional family law matters settle figuratively, if

not literally, "on the courthouse steps". By that time, a very great deal of money has been spent, and a great deal of emotional damage has occurred. The settlements are reached under conditions of considerable tension and anxiety, and both "buyer's remorse" and "seller's remorse" are common. Moreover, the settlements are reached in the shadow of trial, and are generally shaped largely by what the lawyers believe the judge in the case is likely to do.

Nothing could be more different from what happens in a typical collaborative law settlement. The process is geared from the outset to make it possible for creative, respectful collective problem-solving to occur. Collaborative divorce tends to be quicker, less costly, more creative, more individualized, far less stressful, and overall far more satisfying in its results than the settlement that results from most conventional divorce negotiations.

**Why is collaborative law such an effective settlement process?**

Because the collaborative lawyers have a completely different state of mind about what their job is than traditional lawyers generally bring to their work. We call it a "paradigm shift." Instead of being dedicated to getting the largest possible piece of the pie for their own client, no matter the human or financial cost, collaborative lawyers are dedicated to helping their clients achieve their highest intentions for themselves in their post-divorce restructured families.

Collaborative lawyers do not act as hired guns. Nor do they take advantage of mistakes inadvertently made by the other side. Nor do they threaten, or insult, or focus on the negative, either in their own clients or on the other side. They expect and encourage the highest good-faith problem-solving behavior from their own clients and themselves, and they stake their own professional integrity on delivering that, in any collaborative representation in which they participate.

(Continued on Page 4)

(Continued from Page 3)

Collaborative lawyers trust one another. They still owe a primary allegiance and duty to their own clients, within all mandates of professional responsibility, but they know that the only way they can serve the true best interests of their clients is to behave with the highest integrity themselves, and to demand the same from their clients, and the other participants in the collaborative process.

Collaborative law offers a greater potential for creative problem-solving than does either mediation or litigation, in that only collaborative law puts two lawyers in the same room, pulling in the same direction to solve the same list of problems. Lawyers excel at solving problems, but in conventional litigation they pull in opposite directions. No matter how good a lawyer you may have, your lawyer cannot succeed as a collaborative lawyer unless your lawyer can find solutions to the other party's problems that both parties find satisfactory. This is the special characteristic of collaborative law that is found in no other dispute resolution process.

**Where can I get more information about collaborative law?**

Contact Donald D. Vanarelli, Esq. in Westfield, NJ by calling (908) 232-7400. ☒

Donald D. Vanarelli, Esq. has been designated as an Accredited Professional Mediator by

**Publisher of the Family Law News  
Designated As An  
Accredited Professional Mediator**

the New Jersey Association of Professional Mediators.

Mediation is a method of dispute resolution that utilizes trained professionals to act as neutral facilitators to help disputing parties reach voluntary agreements. In selecting a mediator, it is important that the mediator be accredited to ensure that he or she possesses the necessary training and experience in mediation.

Accreditation requires a minimum of a Masters level of education such as a law degree, CPA or advanced degree in business or finance, four or more years of professional practice in a discipline in which the educational requirement was satisfied, eighteen hours of an approved mediation training course and completion of at least 15 cases and 100 hours of mediation.

Mr. Vanarelli mediates cases involving elder law, guardianship, probate, and family law. He is a founder of the Elder Mediation Center of New Jersey.

In addition to being accredited as a Professional Mediator, Mr. Vanarelli is board-certified Elder Law Attorney by the National Elder Law Foundation, accredited by the ABA. ☒

**A Publication of the  
Law Office of Donald D. Vanarelli**



**LAW OFFICE OF  
DONALD D. VANARELLI**  
242 St. Paul Street  
Westfield, NJ 07090  
Tel: (908) 232-7400  
Fax: (908) 232-7214  
Email: [dvanarelli@dvanarelli.com](mailto:dvanarelli@dvanarelli.com)  
Websites: [dvanarelli.lawoffice.com](http://dvanarelli.lawoffice.com)  
-and- [elderlawanswers.com/attorney/vanarelli.html](http://elderlawanswers.com/attorney/vanarelli.html)

**Articles: Publisher of the Family Law News Recognized as 2007 "Super Lawyer"**  
**Collaborative Law: An Alternative To Divorce As Usual**  
**Publisher of the Family Law News is an Accredited Professional Mediator**