

ALTERNATIVE DISPUTE RESOLUTION TO LITIGATION

COLLABORATIVE FAMILY LAW

ARBITRATION, SPECIAL MASTER,
AND PRIVATE JUDGES IN FAMILY LAW

FAMILY LAW MEDIATION

Discover the “ins and outs” of the different forms of Alternative Dispute Resolution, (ADR) options to avoiding or limiting the extended, complicated and expensive legal system during divorce, child custody, child and spousal support, and community property litigation.

Explore your alternatives with a professional who is ready, experienced, trained and prepared to represent your interests, while minimizing both stress and financial hardship to you. and your family.

Delilah Knox Rios Attorney at Law



Has practiced law for over 30 years with an emphasis in Family Law including Divorce, Paternity, *Child and Spousal Support*, *Complex Child Custody and Community Property Issues*, *Small Business Contracts*, *Wills*, *Trusts*, and *Probate*.

Attorney Delilah Knox Rios, as an Advocate of *Collaborative Family Law and Family Law Mediation*, and a Certified Family Law Specialist, State Bar of CA, Board of Legal Specialization, provides not only Alternative Dispute Resolution (ADR) but litigation services, to clients in all counties of Southern California.

As a Mediator she has received training through Claremont Dispute Resolution Center, Los Angeles County Bar Association DRS and Pepperdine University, Straus Institute for Dispute Resolution. As a Collaborative Divorce Attorney she has received training through Collaborative Divorce Trainings, Inc. and is a Board member of the Collaborative Divorce Professionals Inland Empire. (CDPIE).

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COLLABORATIVE FAMILY LAW

What is Collaborative Family Law as opposed to litigation, mediation and arbitration? How does it work?

Alternative Dispute Resolution (ADR) is a term used by professionals in the field to refer to methods of settling matters other than litigation which would otherwise involve trial lawyers, judges and courts. Mediation in Family Law is a process somewhat familiar to the general public, however, a new and exciting direction of ADR has come of age - Collaborative Family Law, which offers divorcing parties the opportunity, with the assistance of collaborative attorneys and an interdisciplinary team truly dedicated to helping the parties resolve their disputes by an agreement reached by the parties, for the parties, instead of a court imposing judgment.

In Collaborative Family Law, the parties are able to avoid the high cost of litigation, both financially and as it affects interpersonal relationships between parents and their children. Each party retains a Collaborative Family Law attorney from those specifically trained. These attorneys are retained for settlement purposes only and agree to be precluded from litigating the case. There are no hidden agendas and settlement for the best interests of all parties and children is the ultimate goal of the parties and the professional team.

In Collaborative Family Law, an interdisciplinary team is assembled by adding team members as the needs arise or as a complete team from the beginning, allowing each party to be confident, focused, and comfortable. Each party is represented by a Collaborative Family Law attorney who provides legal advice, guidance and expertise in the legal process. Also, each party has a Coach who is a mental health professional assisting that party in dealing emotionally with negotiation and resolution of the case. A Child Specialist is on board to provide input from the children, an assessment of how each parent can assist the children in minimizing the negative impact of the divorce process, and maximizing the emotional well being of the child while maintaining bonds with divorcing parents. A neutral Financial Analyst provides a thorough picture of the parties' finances, presenting an unbiased assessment and possible settlement options.

The parties make the decisions, resolve their conflict preserving their property with assistance of these professionals, decrease their attorney fees/costs, and work to safeguard their minor children/family relationships. If parents truly want to dance together at their children's wedding, survive their divorce with dignity and privacy, and prosper afterward, Collaborative Family Law is the answer.

ARBITRATION, SPECIAL MASTER, AND PRIVATE JUDGES IN FAMILY LAW

What is Arbitration as opposed to Litigation, Mediation and Collaborative Family Law? How does it work?

In litigation, the parties are before a Court of law and equity. Due to the backlog of cases, the number of new filings, and increasing costs of litigation - a day in court, even one for a short Motion or Order to Show Cause can be frustrating for the parties. Parties are required to be on time but must often sit all morning and sometimes into the afternoon until their case is called. Family law trials can also be delayed for months, and delayed again, due to unavailable courtrooms and priority of other cases, such as child custody.

Alternative Dispute Resolution (ADR) includes options that the courts are unable to provide. Judges encourage mediation and collaborative law solutions, where the parties resolve their problems by reaching their own agreement, without court intervention. Mediation is a process where one neutral mediator facilitates or helps the parties reach an agreement any time before a final decision from the court is made. Collaborative law involves two parties, their attorneys and an interdisciplinary team who agree not to litigate the case. If the parties decide to litigate, the collaborative process stops. The attorneys and team withdraw and the parties start over in court. This keeps the process in a "container" and encourages settlement without any hidden agenda.

In addition, Alternative Dispute Resolution exists for individuals who are insistent upon having their case heard before a trier of fact and law. These parties and their attorneys can elect to proceed to arbitration.

Arbitration is a process in which the parties and counsel agree in writing that a neutral arbitrator will hear their case and make a decision in accordance with a written contract and applicable rules of law and procedure. Under prevailing law, courts will usually not review binding arbitration awards. The arbitrator listens to evidence presented by both parties and makes an award. This is usually handled in a faster and more private manner than in open court, although each party usually shares the cost of the arbitrator for his time.

In family law, arbitration is handled by a network of private judges-retired judges and certified family law specialists. In some instances, a court can appoint a Special Master or Parenting Plan Coordinator, usually a certified family law specialist, mental health professional or retired judge, whose job would consist of reviewing information and presenting Findings back to a court who makes the final determination.

Private judges, likewise, are certified family law specialists and retired judges who can be selected from a panel by joint stipulation and agreement between the parties and their attorneys. The hearings are then held on dates certain in the Private Judge's offices, without the threat of continuances due to court congestion. The case therefore proceeds to trial much faster and has the individual attention of the judge.

FAMILY LAW MEDIATION

What is Mediation as opposed to litigation, Arbitration, and Collaborative Family Law? How does it work?

In litigation, the parties are practicing civilized warfare before a court of law and equity, in lieu of resorting to self-help or physical violence as a means to resolve disputes. However, due to the increase in the cost and volume of litigation, individuals, business and the courts are exploring Alternative Dispute Resolution methods to litigation which may include Mediation.

In Mediation, a Neutral professional facilitates communication between two (or more) parties in order to assist them in reaching a mutually acceptable agreement and thereby avoiding or resolving litigation. This can take place in a lawyer's office, mediator's office, or other safe neutral location such as a courthouse.

Since mediation is confidential, no writing prepared specifically for the purpose of or in course of or pursuant of mediation is admissible in any arbitration, administrative adjudication, civil action or other noncriminal proceeding. Testimony of the mediator cannot be compelled. Likewise,

all communications by and between participants in the course of mediation remain confidential. The purpose of the confidentiality is to allow the parties to be free and open in their communications. Sometimes it is the motivation for the parties' actions, rather than the actions themselves, that can be the focus of resolving the conflict.

No mediator nor anyone else may submit a report to a court or an adjudicative body and a court may not consider any report, assessment, evaluation, recommendation, or finding of any kind by a true mediator other than a report that is mandated by court rule or other law unless all parties expressly agree otherwise in writing. For rules regarding non-confidential mediation, see Evidence Code Section 1117.

Most mediations result in agreements, oral or written, partial or full. In reaching an agreement, the parties find middle ground, often resolve personal and legal issues, and have an opportunity to express their thoughts, feelings, and goals. Any written settlement agreement reached as a result of mediation, signed by the settling parties, which states it is admissible or enforceable or binding is admissible into evidence. Oral agreements are not admissible unless they expressly state that it is enforceable or binding or it is reduced to writing and signed by the parties within 72 hours.