

# THE BULLPEN: BRINGING IN YOUR PARALEGAL

## Navigating Your Paralegal's Influence in a Collaborative Case from Start to Finish

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### Part I

#### I. INTRODUCTION

Having a successful collaborative law practice while solely managing countless responsibilities of a full case load can be difficult. While looking to pursue more collaborative divorce cases, the attorney should also be open to involving the paralegal to join for a constructive and full team effort. Knowing how to properly utilize your paralegal as your secret weapon on and offline during the course of a collaborative case can guarantee seamless and productive collaborative case management, as well as satisfied clients.

#### II. CLIENT INTAKE

One of the most important roles your paralegal can play in your collaborative divorce practice is screening for the individuals who will benefit from the process. If your paralegal participates in your collaborative divorce cases, your paralegal will have the foundation needed to determine whether to pitch the process to the client after the conflict check has cleared. The client intake method needs to be more involved than a standard conflict checks when trying to achieve a solid collaborative divorce practice. Connecting with potential new clients immediately by providing a sense of empathy and acknowledgement of their situation will make them feel comfortable to further engage with the paralegal. The potential client may share more key information or rather, imply his or her goals, around the divorce. With experience in the collaborative divorce process, the paralegal can find similarities with current cases and recognize prospective cases to continue a successful collaborative-based practice.

Pitching the collaborative divorce process to the potential client can be cued by two categories of topics mentioned in the initial conversation: the Relationship Dynamic and Special Family or Individual Circumstances. The potential new client is already calling because of the broken state of the marriage, but he or she will typically refer to how "in tune" the current relationship is now that divorce is on the table. The parties' relationship could be considered productive if the potential client refers to "we want" versus "I want." Further, if the client communicates that both parties are civil or mutually agreeable that the divorce should take place but fear lack of control over the process, this client and the spouse might be excellent candidates for the collaborative divorce process.

The potential client may also refer to the state of the relationship by mentioning the care of their children. If the client states that both parties have been adequate co-parents or their mutual divorce goals surround what is ultimately best for their children, then the paralegal can pitch the process in this case. If the paralegal can sense any common ground in the state of the relationship, then the paralegal can be confident about suggesting and explaining the collaborative divorce process. Even when the client does not specifically refer to the relationship but states the client or both parties have the desire to avoid Court involvement and therefore remove the spiteful battle component from the divorce, this conversation opens the door to pitch.

Sometimes the initial conversations with a potential new client may not focus on the relationship at all, but those individuals should not be automatically ruled out for a conversation about collaborative divorce. Potential clients can mention certain circumstances in their life that the collaborative divorce process can manage more professionally and efficiently. The target client or both parties might be mainly concerned about the impact of the divorce on the family's financial state or the family's reputation or social status. The potential client might mention that there are complex investments or a complex estate in general that requires more attention and assistance to navigate through to a successful resolution. In the alternative, the client may advise that his or her estate is modest (or that the client or the couple is very cost conscious), and the goal is to keep as much of the estate intact as possible. Both financial circumstances should be allowed the opportunity to remain out of the Court's control and receive the help of a neutral team of professionals and their expertise to analyze and divide the estate.

Another unique circumstance can again arise because of the potential client's description of the children who will be affected by the divorce. The party could state that one of their primary concerns is for their child and/or children with special needs. The client's concern and fear can be appeased because the process allows extra guidance while planning for the unknowns. Specifically, the collaborative process and its professionals can provide an abundance of resources to both clients when creating or restructuring any special trusts and establishing concrete orders concerning the livelihood and care for the children well into their adult lives.

Lastly, there needs to be consideration for the process when dealing with more personal and sensitive matters where the individual's reputation or social status can be negatively altered during a publicly accessible divorce. Some clients desire to remain out of the Court's limelight due to the fact they are dealing with a major struggle such as substance abuse or working towards recovery from the same. A lot of times this type of case will be in the center of a courthouse battle, and unfortunately, the litigation component usually causes more harm to the individual and family in the long haul of the case. A client or party dealing with substance abuse or recovery should not be deemed unworthy to participate in the collaborative process and if willing, should be encouraged to try the process for the benefit of the whole family. In addition to this scenario, those individuals who are subject to celebrity limelight can also find safety and dignity away from the courthouse via the confidentiality of the collaborative process. While these are all unique scenarios, there is a correlation in the fact that they each have been examples of collaborative divorce cases that our paralegals bring into the practice. These are only a few examples of cases that strong collaboratively trained lawyers and neutrals can successfully settle. The collaborative paralegal's sharp ability to spot and connect cases with other successfully settled cases provides a pathway to a reassuring future for the clients in a multitude of ways.

As the paralegal develops further collaborative experience, the more his or her understanding grows about those who can find personal gratitude and prosperity from the process. After being able to recognize which cases can be collaboratively handled, the paralegal needs to tailor and sharpen the pitch about the process to seal the commitment. If your paralegal is just joining your collaborative team with little to no experience, the first lesson should be to establish the paralegal's comprehension about the core commitments and benefits of a collaborative divorce. The paralegal should be able to emphasize four core values: Honesty, Transparency, Confidentiality, and Customization. The paralegal should present the values to the client in a way that the client can personally identify based on his or her divorce. Once the client finds a connection with the collaborative model, the paralegal should be able to answer most follow-up questions from the potential client about the structure and method of collaborative law. If the paralegal becomes part of your professional team, the paralegal can be more prepared to address these questions with the client. This conversation will prepare the client for the initial consultation and save time for more in-depth discussion with the attorney.

After the pitch is given, the paralegal can further educate the prospective client about the process by sending a follow-up email with resources. When sending an email after the call to confirm the consult and further intake instructions, there is an opportunity to provide resources whether in-house or third-party materials about collaborative divorce. Examples of viable resources can be pamphlets, a link to the Collaborative Divorce Texas website, and links to the collaborative attorney's blogs, podcasts or videos discussing different aspects of the process. The attorney has most likely spent time and funds for influential marketing and these marketing tools should be used in addition to being available on a firm's website. If the attorney has any additional recommended reading materials such as a book, the paralegal can provide or recommend this material to the individual before or immediately after the consult. When your paralegal puts in more effort to educate a potential client about the process, the more appreciative the client will be. Even if the individual does not end up filing for divorce and/or committing to the process, the effort will more than pay off when that individual refers others to your practice.

As much as the paralegal should be confident and should develop an understanding about when to pitch the process, the paralegal should also exercise the same judgment for those who will likely not benefit from the process. This skill takes time and experience

to master and usually is a final judgment call for the attorney to make. The effective collaborative paralegal knows that collaborative divorce is not one-hundred percent appropriate or valuable for all individuals and cases. We should not push or force the process on every incoming client just because we believe in the process, or the attorney/paralegal team is attempting to move their practice entirely to collaborative divorce. If the attorney/paralegal team is part of a larger firm, the paralegal can connect the prospective client with another in-house attorney who is seasoned to assist with litigation matters, thereby keeping the case with the firm. If the paralegal is working with a sole practitioner, that paralegal should be knowledgeable about his/her attorney's litigation referrals. The attorney, with the help of a tenured collaborative paralegal, may consider creating an outline or other training tools for current and future staff. Sharing informative tools will promote proper screening for new staff and streamline intake. Overall, the duty of a collaborative paralegal is to serve both the client needs and the process. It is important to preserve the value and unique nature of the collaborative process by avoiding cases that can potentially opt out and require the Court's assistance.



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*Sarah Milinsky, Law Clerk. Sarah decided to study family law because it aligned with her values and built on her undergraduate major in psychology. Helping clients act with logic rather than emotion to achieve their goals is a primary emphasis in her practice. Sarah graduated cum laude from the University of North Texas Dallas College of Law. She served as a law clerk at Goranson Bain Ausley prior to joining the firm as an associate. While in law school, Sarah participated in a volunteer program at a low-income middle school, mentoring at-risk and troubled children who needed guidance both in school and at home. She also founded and served as president of the Student Animal Legal Defense Fund, which explores the link between domestic violence and cruelty to animals.*



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