

Appendix 2

Boston Law Collaborative, LLC

COOPERATIVE NEGOTIATION AGREEMENT

I. GOAL

We are committed to negotiating the terms of our divorce cooperatively and avoiding litigation.

In this negotiation we are committed to the principles of honesty, cooperation, integrity and professionalism, geared toward ensuring the future well-being of the participants.

Our goal is to avoid, if at all possible, the negative economic, social, and emotional consequences to the participants of protracted litigation. In addition, the parties wish to avoid the publicity and potential harm to our son that could be caused by litigation.

II. PROCESS

We will make every reasonable effort to settle our case without court intervention.

To discourage either party from seeking court intervention, the parties agree to give each other no less than 60 days notice before filing any complaint, motion, or petition in court, in order to provide a “cooling-off” period that will enable the parties to re-assess whether court involvement is needed. During this “cooling-off period” the parties shall make a good faith effort to resolve the matter through mediation. This paragraph shall not prevent either party from seeking court intervention in the event of exigent circumstances.

We agree to give full, prompt, honest and open disclosure of all information pertinent to our case, whether requested or not, and to exchange Rule 401 Financial Statements in a timely manner.

We agree to engage in informal discussions and conferences with the goal of settling all issues.

We recognize that, while the attorneys share a commitment to the process described in this Agreement, (a) each of the lawyers has an attorney-client relationship solely with, and a professional duty to diligently represent, his or her client and not the other party; (b) as such, each of the lawyers may have confidential and privileged communications with his/her client, and (c) such communications are not inconsistent with a cooperative process.

We agree to direct all attorneys, therapists, appraisers, as well as experts and other consultants retained by us, to work in a cooperative effort to resolve issues, without resort to litigation or any other external decision-making process, except as agreed upon.

We agree that commencing immediately: neither party will borrow against, cancel, transfer, dispose of, or change the beneficiaries of any pension, retirement plan or insurance policy or permit any existing coverage to lapse, including life, health, automobile and/or disability held for the benefit of either party without the prior written consent of the other party.

We agree that commencing immediately, neither party will change any provisions of any existing trust or will or execute a new trust or will without the prior written consent of the other party or an order of the court.

We agree that commencing immediately, neither party will sell, transfer, encumber, conceal, assign, remove or in any way dispose of any property, real or personal, belonging to or acquired by either party, without the prior written consent of the other party or an order of the court, except in the usual course of business or investing, payment of reasonable attorneys fees and costs, or for the necessities of life.

We agree that neither party will incur any further debts that would burden the credit of the other, including but not limited to further borrowing against any credit line secured by the marital residence, or unreasonably using credit cards or cash advances against credit or bank cards or will incur any liabilities for which the other may be responsible, other than in the ordinary course of business or for the necessities of life without the prior written consent of the other.

III. CAUTIONS

The parties understand that there is no guarantee that the process will be successful in resolving our case.

We understand that the process cannot eliminate concerns about the irreconcilable differences that have led to the current conflict.

We understand that we are each still expected to assert our own interests and that our respective attorneys will help each of us to do so.

IV. ATTORNEY'S FEES AND COSTS

We agree that both parties' attorneys are entitled to be paid for their services, and an initial task in this matter is to ensure payment to each of them. We agree to make funds available for this purpose.

V. PARTICIPATION WITH INTEGRITY

We will work to protect the privacy and dignity of all involved, including parties, our children, attorneys and consultants. We will refrain from disparaging each other to colleagues, mutual friends, and acquaintances. We will treat as confidential all information about the other party's

medical, psychiatric, or psychological treatment, and refrain from disclosing any such information (except to our own lawyers, therapists, or others with a need to know).

We shall maintain a high standard of integrity and, specifically, shall not take advantage of each other or of miscalculations or inadvertent mistakes of others, but shall acknowledge and correct them.

VI. EXPERTS AND CONSULTANTS

If experts are needed, the parties will consider retaining them jointly, ensure their payment, and share their work product. In the event that either party wishes to consult an expert separately, s/he shall do so with his or her own resources and not with jointly held funds.

VII. NEGOTIATION IN GOOD FAITH

The parties acknowledge that each of our attorneys is independent from the other and represents only one party in this process.

We understand that the process, even with full and honest disclosure, will involve vigorous good-faith negotiation.

We will take a reasoned position in all disputed issues. We will use our best efforts to create proposals that meet the fundamental needs of both of the parties. We recognize that compromise may be needed in order to reach a settlement of all issues.

Although we may discuss the likely outcome of a litigated result, none of us will use the threat of litigation as a way of forcing settlement.

VIII. THE CHILDREN

The parties agree to make every effort to reach amicable solutions about sharing the enjoyment of and responsibility for the children that promote the children's best interests. The parties agree to act quickly to mediate and resolve differences related to the children to promote a caring, loving, and involved relationship between the children and both parents.

The parties acknowledge that inappropriate communications regarding their divorce can be harmful to their children. They agree that settlement issues will not be discussed in the presence of their children, or that communication with the children regarding these issues will occur only if it is appropriate and done by mutual agreement, or with the advice to both parties of a child specialist. The parties agree not to make any changes to the residence of the children without first obtaining the written agreement of the other party.

IX. CONFIDENTIALITY

All communications exchanged within this process will be confidential and without prejudice. If subsequent litigation occurs, the parties mutually agree that (a) neither party will introduce as evidence in Court information disclosed to each other during this process, offers or proposals for settlement, or other statements by any of the parties to the process or their attorneys; and (b) neither party will subpoena the production at any Court proceedings of any notes, records, or documents in the lawyer's possession or in the possession of one of the consultants. However, non-privileged information which is independently obtained (i.e., not in this process) and admissible shall not be rendered confidential or inadmissible because it is referred to or produced in this process. In addition, neither party will offer as evidence the testimony of either attorney, nor will they subpoena either of the lawyers to testify, in connection with this matter.

X. VOLUNTARY TERMINATION OF THIS PROCESS

Either party may unilaterally and without cause terminate this process by giving written notice of such election to his or her attorney and the other party.

Either attorney may withdraw unilaterally from this process by giving fifteen (15) days written notice to his or her client and the other attorney. Notice of withdrawal of an attorney does not terminate this process; to continue the process, the Party whose attorney withdraws will seek to retain a new attorney who will agree in writing to be bound by this Agreement.

Upon termination of this process or withdrawal of either counsel, the withdrawing attorney will promptly cooperate to facilitate the transfer of the client's file and any information needed for continued representation of the client to successor counsel.

XI. ABUSE OF THE PROCESS

We enter this process with the expectation of honesty and full disclosure in all dealings by all individuals involved in the spirit of collaboration.

Each party understands that his/her attorney will withdraw from our case as soon as possible upon learning that his or her client has failed to uphold this Agreement or acted so as to undermine or take unfair advantage of the process. Such failure or abuse of the process would include the withholding or misrepresentation of information, the secret disposition of marital property, the failure to disclose the existence or the true nature of assets and or obligations, or otherwise acting to undermine or take unfair advantage of this process.

XII. PLEDGE

Both parties and their attorneys hereby pledge to comply with and to promote the spirit and letter of this agreement, unless modified by written agreement signed by both parties and their attorneys.

Name of Party
Date:

Name of Party
Date:

Name of Attorney
Attorney for _____
Date:

Name of Attorney
Attorney for _____
Date: