

SFUFC Form 11.17

ATTORNEY FOR PARTY WITHOUT ATTORNEY (Name and Address) Telephone No.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO	
STREET ADDRESS:	
MAILING ADDRESS:	
CITY AND ZIP CODE:	
BRANCH NAME:	
PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

NOTICE OF NATURE AND AVAILABILITY OF ALTERNATIVE DISPUTE RESOLUTION METHODS IN FAMILY LAW MATTERS

A. Superior Court and Family Law Department Policy Recommending Use of Alternative Dispute Resolution Methods in Family Law Matters

The San Francisco Superior Court and its Family Law Department strongly recommend the use of alternative dispute resolution methods in family law matters. This Notice is intended to inform parties and counsel about the nature and availability of such methods. This Notice must be filed and served in the manner prescribed in Rule 11.16 of the Local Rules.

The term "alternative dispute resolution" (sometimes called "ADR") refers generally to methods of resolving disputes without going through formal adversarial court proceedings. Although there are several methods of ADR, the two methods to which this Notice applies are mediation and collaborative law (also called collaborative divorce and collaborative practice).

Mediation and collaborative law can be used at any point in a family law proceeding to resolve disputes about property division, child support, spousal support, child custody, parenting plans, and many other family law issues. Mediation and collaborative law can save time and money and can greatly increase parties' satisfaction with the outcome of their case.

The Superior Court strongly encourages the use of mediation and collaborative law in family law matters but does not favor any particular form of ADR. Other forms of ADR, including court-supervised settlement conferences and judicial case management are referenced in Rule 11 of the Local Rules. For purposes of mediation and

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collaborative law the Court does not endorse any particular attorney or group provider, nor does the Court guarantee the outcome or cost in any particular case.

To locate attorneys who maintain mediation or collaborative practices, you may contact the Bar Association of San Francisco. Contact information for the Bar Association of San Francisco can be found on its website at sfbar.org.

B. Description and Availability of Mediation and Collaborative Law in Family Law Matters

1. Mediation

Mediation is a voluntary process. In mediation a neutral attorney called a “mediator” meets with the parties together, or with the parties and their attorneys, to assist them in reaching an agreement. The mediator facilitates communication between the participants, clarifies issues, explores each party’s needs and interests, and helps the participants consider options for settlement.

In mediation the parties may resolve a single issue or the entire case. The agreements reached in mediation are not limited by the results available under the law, so mediated solutions can more easily accommodate the circumstances of individual cases. An agreement reached in mediation is binding once it is signed and later it generally becomes a court order. A party cannot be forced to accept a decision in mediation, and participating in mediation does not affect a party’s right to a court hearing. If an agreement is not reached a party may continue through the court system.

Mediation is private and confidential. The sessions are conducted in the mediator’s office. Anything spoken or written during mediation by any of the participants is confidential and may not be disclosed to the Court or any other person without the consent of the participants.

2. Collaborative Practice

In collaborative practice each party has a private lawyer. Both parties and both lawyers make a formal commitment not to initiate or engage in any type of litigation or adversarial proceedings. There is no neutral mediator. The parties and lawyers hold a series of four-way meetings designed to develop information and to find solutions to the problems presented in each individual case. The lawyers in collaborative practice, who are referred to as “collaborative counsel”, work together with the parties to enhance communication between the parties, clarify issues, identify the parties’ needs, goals, and interests, and develop options for resolution of issues. Often, collaborative

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counsel help the parties assemble a team of professionals specially suited to address the parties' unique issues. The team may include mental health professionals who serve as divorce "coaches" for the parties, child specialists, financial specialists and vocational experts. Problem-solving in a collaborative divorce is not limited to the results available under the law, so that collaborative divorce offers a broader and more flexible approach to dispute resolution than traditional litigation can provide.

An agreement reached in collaborative practice is binding once it is signed and later it generally becomes a court order. Also collaborative practice, like mediation, is private and confidential. The parties agree at the outset that all spoken and written communication is confidential and cannot be disclosed to the court or any other person unless the participants consent.

C. Mediation and Collaborative Practice Inapplicable In Certain Situations

Mediation and collaborative practice are most useful when parties are able to communicate and solve problems without fear or intimidation. For this reason these methods may not be appropriate when parties have a history of domestic violence.

The Court encourages the use of mediation and collaborative practice to resolve child custody and parenting plan issues. However, where such issues are not resolved by mediation, collaborative practice, or other forms of alternative dispute resolution, before any such dispute is submitted to a judicial officer for determination, California law requires the disputing parties to conduct child custody mediation with Family Court Services of the Superior Court. This mediation is conducted under the supervision of the Court, is limited to child custody and parenting issues, and does not address property, support, or other financial questions.