

# Collaborative Law

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B R E N D A N F O R R E S T \*

## INTRODUCTION: PARTICIPATION AGREEMENTS AND THE TEAM APPROACH

**C**ollaborative Law is a dispute resolution technique focusing on cooperative problem-solving. After originating and developing in the United States, the method has spread across Canada via the Western Canadian provinces in recent decades.<sup>1</sup> In 1990, a Minnesota lawyer named Stuart Webb began using a new approach as a response to the burnout that followed 25 years of highly adversarial practice in civil litigation and family law.<sup>2</sup> Webb saw a distinction between lawyers who represented clients with the primary goal of reaching a settlement and those whose work was “clouded” by litigation.<sup>3</sup> Inspired by the work of family law lawyers who engendered a “climate of positive energy,” whereby parties contributed to a universally satisfactory settlement, Webb created a process that removed litigation from the equation by working only with lawyers who agreed to take cases with a view to settle rather than litigate.<sup>4</sup> Webb called this process “collaborative law” and declared himself a collaborative lawyer on January 1, 1990.<sup>5</sup>

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<sup>1</sup> Barbara Landau, Niki Landau & Lorne Wolfson, *Family Mediation, Arbitration and Collaborative Practice Handbook*, 5th ed (Markham: LexisNexis Canada, 2009) at 98.

<sup>2</sup> Stu Webb, “Collaborative Law: A Practitioner’s Perspective on Its History and Current Practice” (2008) 21:1 *J American Academy Matrimonial Lawyers* 155 at 156.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid* at 156-57.

<sup>5</sup> *Ibid* at 157.

At the centre of the collaborative process is the participation agreement, which is a binding contract ensuring that lawyer participation is limited to reaching a mutually beneficial settlement.<sup>6</sup> The participation agreement means that lawyers must either settle or cease representing their client.<sup>7</sup> The agreement may contain additional requirements intended to facilitate cooperative issue resolution, such as voluntary and full disclosure of information instead of traditional discovery, a requirement to negotiate in good faith, and/or confidentiality agreements.<sup>8</sup> There may also be a “disqualification agreement,” preventing either lawyer from representing their client in subsequent adversarial proceedings.<sup>9</sup> With the threat of litigation removed from the process, the parties can freely collaborate, using a team mentality in order to reach a desirable result.

Another common element of the process is the use of neutral experts, which may include child specialists, financial consultants, mental health coaches, and others.<sup>10</sup> Lawyers and clients alike may benefit from using other professionals who can help tailor outcomes to the particular needs and interests of the parties.<sup>11</sup> The Law Commission of Ontario has published a report analogizing the family justice system to the healthcare system, which has benefited greatly where health-related and non-health-related disciplines are coordinated.<sup>12</sup> In a similar way, using outside experts in collaborative family law has been argued to add value in areas that are traditionally not a part of a lawyer’s services, including the “monetary, custodial, psychological, and emotional components of a family coming apart.”<sup>13</sup> As Macfarlane has explained:

In the family area, family clients can benefit from the combined expertise of lawyers, therapists, child and family counsellors, child welfare specialists, and financial planners. In each case, the added value for clients who can afford a

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<sup>6</sup> Martha E Simmons, “Collaborative Law at 25: A Canadian Study of a Global Phenomenon” (2016) 49:2 UBC L Rev 669 at 669.

<sup>7</sup> *Ibid* at 670.

<sup>8</sup> See Webb, *supra* note 2 at 161.

<sup>9</sup> Simmons, *supra* note 6 at 670.

<sup>10</sup> Webb, *supra* note 2 at 158.

<sup>11</sup> Simmons, *supra* note 6 at 675.

<sup>12</sup> *Ibid* at 675-76.

<sup>13</sup> Sanford M Portnoy, “The Psychology of Divorce: A Lawyer’s Primer, Part 2: The Effects of Divorce on Children” (2008) 21:4 American J Family L 126 at 131.

range of integrated services is that they are able to build comprehensive, long-term solutions to planning for uncertainties, crises, or conflicts instead purchasing piecemeal advice, which may overlook opportunities for creative solutions, or which may ultimately conflict or collide with advice from other professional consultants.<sup>14</sup>

One can see the benefit of having various experts come to resolutions as a mutually informed team. The parties can arrive at holistic solutions that avoid “gaps” where issues might otherwise have been left unidentified or unaddressed. The task of addressing particular problems can be designated to appropriate experts within the team. Team members can likewise collaborate and brainstorm on the most effective way of solving problems, with a good deal of creative freedom in doing so. For example, a child psychologist can work closely with parents to find new ways of communicating in order to ensure that a child’s specific needs are always met.

Nonetheless, collaborative practice does not necessarily require the inclusion of outside experts. In fact, collaborative law was originally conceived as a “unidisciplinary” model composed only of lawyers and their clients.<sup>15</sup> Simmons notes that while this may appear indistinguishable from non-collaborative practices, it is still distinct, owing mainly to its use of the four-way meeting as a manifestation of the ever-present “team” approach to problem-solving.<sup>16</sup> The four-way meeting is different from lawyer-to-lawyer negotiation because it includes all of the parties in the discussion. Additional differences between unidisciplinary collaboration and non-collaborative practice are numerous, including, for example, the use of participation agreements and any special requirements that they may entail. In contrast to the unidisciplinary model, there are the multidisciplinary model (where clients are referred to outside experts as needed), the interdisciplinary model (where outside experts are involved in negotiations from the start but may not share equal access to information), and transdisciplinary model (where experts are fully involved at all stages and have access to mutually-shared information).<sup>17</sup> A client may elect to

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<sup>14</sup> Simmons, *supra* note 6 at 676, citing Julie Macfarlane, *The New Lawyer: How Settlement is Transforming the Practice of Law* (Vancouver: University of British Columbia Press, 2008) at 237.

<sup>15</sup> Simmons, *supra* note 6 at 681.

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid* at 681-83.

proceed in any one of these directions, bearing in mind the increased cost of involving professionals and any other practical problems it may entail.

## STEPS IN THE COLLABORATIVE PROCESS – COLLABORATIVE FAMILY LAW, DIVORCE, AND MEDIATION

It may be beneficial to contextualize some aspects of the collaborative practice by outlining ways in which the process might proceed. The collaborative process generally follows a standard set of steps, which will likely include:<sup>18</sup>

- An initial meeting with prospective clients to present options. This step may be used as a “triage” to ensure the client is willing and their case is appropriate for collaboration.<sup>19</sup> Materials may also be provided in order to capture the interest of the other party.<sup>20</sup> Materials may include information on various experts.
- Written, informed consent is obtained in the form of a retainer. This will specify that the lawyer is disqualified from representing the client if litigation appears imminent.<sup>21</sup>
- The lawyers may meet individually to develop a positive relationship, discuss priorities and goals, outline the issues, consider ground rules, and schedule the first four-way meeting.<sup>22</sup>
- The client is prepared for the first four-way meeting. The participation agreement may be reviewed, and the importance of client participation in each meeting is emphasized.<sup>23</sup>
- The first four-way meeting is held, where the participation agreement is officially signed. The tone should be positive and reflective of the shift in the lawyer’s mindset from adversarial to

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<sup>18</sup> Landau, Landau & Wolfson, *supra* note 1 at 99.

<sup>19</sup> See Webb, *supra* note 2 at 159.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid* at 10.

<sup>22</sup> Landau, Landau & Wolfson, *supra* note 1 at 99.

<sup>23</sup> See Webb, *supra* note 2 at 161.

cooperative.<sup>24</sup> Further four-way meetings with agendas may be scheduled.<sup>25</sup>

- In between meetings, lawyers may recommend the use of neutral experts – meaning professionals with no interest in the proceedings. Divorce coaches, mental health counsellors, mediators, business valuers, and financial planners may be recommended.<sup>26</sup> Experts may attend four-way meetings where appropriate.<sup>27</sup>
- Various tasks are assigned to the parties prior to each meeting. At each meeting, one lawyer will have the task of recording and summarizing any agreements reached on that day.<sup>28</sup>
- Four-way meetings are held until a complete settlement is reached. One of the lawyers will be agreed upon by the parties to draft any documents required for court approval.<sup>29</sup>

## BENEFITS FOR CLIENTS AND LAWYERS

Collaboration is advantageous to clients in a number of ways. Perhaps most notable is the fact that no-litigation agreements eliminate the risk of losing out in court. Clients also retain “ownership” over the dispute resolution process, relying on professionals as aides and advisors. Some have cited this level of control as the key distinguishing feature of collaborative practice.<sup>30</sup> The main benefit in this regard is avoiding ceding control to judges who may lack the time or jurisdiction to make final decisions about deeply personal issues.<sup>31</sup> Avoiding the courtroom also affords divorcing couples with privacy by preventing the possibility of public statements or allegations containing personal details.<sup>32</sup> Further,

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<sup>24</sup> *Ibid* at 162.

<sup>25</sup> Landau, Landau & Wolfson, *supra* note 1 at 99.

<sup>26</sup> *Ibid* at 99-100.

<sup>27</sup> Webb, *supra* note 2 at 163.

<sup>28</sup> Landau, Landau & Wolfson, *supra* note 1 at 99.

<sup>29</sup> Webb, *supra* note 2 at 163.

<sup>30</sup> Mallory Hendry, “Collaborative practice comes into its own” (31 July 2017), online: *Canadian Lawyer* <canadianlawyermag.com> [perma.cc/FHQ6-YJ3B].

<sup>31</sup> *Ibid*.

<sup>32</sup> Sherrie R Abney, “The Evolution of Civil Collaborative Law” (2009) 15:3 *Tex*

with parties in charge of scheduling, individuals may tailor meetings to suit their personal schedules, avoiding confined time slots within overcrowded dockets and potentially speeding up the process.<sup>33</sup> Other advantages include the building or restoration of trust between parties, increased cooperation, better understanding of needs, the saving of money by using valuers and appraisers, enhancing the chance of a lasting settlement, and the avoiding of unpredictable litigation fees.<sup>34</sup> Essentially, the model allows clients to come to compromises and solutions that “work” for their particular situation without unduly disadvantaging the other side or risking disadvantage to themselves.

Data dictates that collaboration correlates with the creation of social and economic value, as compared to non-collaborative dispute resolution. A December 2017 survey by the Canadian Research Institute for Law and the Family (CRILF) of 166 lawyers who use collaboration in Canada analyzed the Social Return on Investment (SROI) of various dispute resolution techniques.<sup>35</sup> SROI is a technique traditionally used for measuring the economic, social and environmental impact of investment in organizations and programs.<sup>36</sup> CRILF has used the technique to determine the social value created for every dollar input into collaboration, mediation, arbitration, and litigation, respectively.<sup>37</sup> Notably, in low-conflict disputes, collaboration was found to create far more social value than arbitration and litigation. The analysis shows that for every dollar spent on collaborative dispute settlement, \$2.06 of value is created, compared to \$0.57 and \$0.39 for arbitration and litigation respectively.<sup>38</sup> Mediation was found to be the most valuable in low-conflict disputes, with \$2.78 of social value created for every dollar spent on

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Wesleyan L Rev 495 at 502.

<sup>33</sup> *Ibid* at 502-03.

<sup>34</sup> Landau, Landau & Wolfson, *supra* note 1 at 107.

<sup>35</sup> Joanne J Paetsch, Lorne D Bertrand & John-Paul E Boyd, “An Evaluation of the Cost of Family Law Disputes: Measuring the Cost Implication of Various Dispute Resolution Methods” (December 2017) at 41, online (pdf): *Canadian Forum on Civil Justice* <cfcj-fcjc.org> [perma.cc/E445-WU9J].

<sup>36</sup> *Ibid* at 37.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid* at 42.

mediation in such circumstances.<sup>39</sup> In high-conflict disputes, collaboration was found to create more social value than any of the other processes, with \$1.12 created for every dollar spent.<sup>40</sup> Under the same metric, mediation, arbitration, and litigation came in at \$1.00, \$0.38, and \$0.04, respectively.<sup>41</sup> These numbers highlight the economic efficiency of increased cooperation. The relative value created by collaboration and mediation to that of litigation and arbitration creates a stark contrast between cooperative and adversarial processes in terms of the cost efficiency to clients. Collaboration fits squarely at the high end of the cost-efficiency spectrum.

For lawyers, there is also an abundance of potential benefits. Collaboration has been described as less stressful than litigation. Further, it may have a higher likelihood of being paid by clients.<sup>42</sup> Additionally, there is a perception in Canada that clients are overwhelmingly satisfied with results achieved through collaboration. The CRILF survey found that 94.1% of participants agreed or strongly agreed that their clients were satisfied with results achieved through collaborative processes.<sup>43</sup> Further, 61.9% of the group surveyed agreed or strongly agreed that collaborative processes are usually fast and efficient, while only 8.3% disagreed with the statement.<sup>44</sup> The adequacy of disclosure was also addressed in the survey, with 65.5% of individuals agreeing or strongly agreeing that getting adequate disclosure is rarely a problem when using collaborative processes to resolve family disputes, and only 11.9% disagreeing with that statement.<sup>45</sup> The survey paints a picture of a streamlined model for resolving disputes in a much timelier and low-stress way than via litigation. Given the benefits of the cooperative approach, it is easy to see why many lawyers prefer collaboration to other methods. Satisfied clients and accelerated resolution of issues may allow lawyers to develop strong reputations, better manage their practices, and achieve more personal satisfaction in their ability to help clients.

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<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid* at 43.

<sup>41</sup> *Ibid.*

<sup>42</sup> Landau, Landau & Wolfson, *supra* note 1 at 107-08.

<sup>43</sup> Paetsch, Bertrand & Boyd, *supra* note 35 at 8.

<sup>44</sup> *Ibid* at 10.

<sup>45</sup> *Ibid.*

## WHO IS COLLABORATIVE PRACTICE FOR?

It is true that for individuals in a broad array of situations, collaboration will be an appropriate and helpful route to take. Aside from the obvious usefulness of collaboration in a divorce context, it has been argued that it may be desirable in pre-marital, post-marital, and “living together” or cohabitation agreements.<sup>46</sup> Collaborative lawyers, it is argued, can help move along negotiations that are not going smoothly, as well as ensure that written agreements reflect the intentions of the parties.<sup>47</sup>

However, there can be many circumstances for which a collaborative approach is not suitable. For example, where there is a power imbalance in a relationship, litigation may still be the better course. Such a situation might arise in a divorce context where one spouse holds a majority or all of the assets in a relationship, the nature of which the other party is unaware.<sup>48</sup> The ability of the courts to compel complete disclosure could be far more valuable to an individual in a weak position than the benefits associated with collaboration.<sup>49</sup> For these reasons, lawyers have noted that it would be untrue to say that simply because a settlement is reached in dispute, that is necessarily a better outcome than in litigation.<sup>50</sup> What will be better for either side will truly depend on the nature of the case and the needs of each party.<sup>51</sup>

Heather Hansen, a family lawyer in Toronto, has pointed out to *Canadian Lawyer* magazine that there is a good reason that family law, unlike civil litigation, does not have mandatory mediation.<sup>52</sup> Given the “complex circumstances and diametrically opposed interests” in family disputes, the structure provided by courts – i.e. rules, the adversarial process, disclosure and other benefits – must be there to achieve the best

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<sup>46</sup> Katherine E Stoner, *Divorce Without Court*, 1st ed (Berkeley: Nolo, 2006) at 350.

<sup>47</sup> *Ibid.*

<sup>48</sup> Aidan Macnab, “Family lawyers prefer alternative methods, but many cases will always require a courtroom” (8 March 2018), online: *Canadian Lawyer* <canadianlawyermag.com> [perma.cc/LR9U:UNUR].

<sup>49</sup> Webb, *supra* note 2 at 161.

<sup>50</sup> Macnab, *supra* note 48.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*



outcome in many cases.<sup>53</sup> Further, where substance abuse, violence, mental health issues and other elements are present, cooperation may not be a realistic expectation.<sup>54</sup> In fact, the CRILF survey data dictates that while 85.6% of lawyers felt they could deal with complex issues through collaboration, only 36.1% agreed that collaboration is well-suited to “high conflict” family disputes.<sup>55</sup> Also, while 53.9% of those surveyed felt that collaboration could be somewhat or very useful in high conflict disputes, these numbers were easily eclipsed by those of litigation, as 95% of respondents indicated that litigation is at least somewhat useful in high conflict scenarios.<sup>56</sup> In particular, litigation was heavily preferred in terms of usefulness for urgent problems, examples of which might include risks for adults, children, and property, or in dealing with allegations of violence, abuse, or alienation.<sup>57</sup>

It may not be possible to simplify the applicability of collaboration into one particular niche of family issues, but data suggests lawyers feel there are several types of situations in which it is particularly useful. CRILF’s survey shows that more respondents found collaboration “very useful” compared to litigation in disputes about the care of children and parenting, child support or spousal support, the division of property and debt, and low-conflict disputes in general.<sup>58</sup> On the other hand, those dealing with urgent, high conflict, and high-risk scenarios, where cooperation is not a realistic or helpful option, generally prefer litigation.<sup>59</sup> Therefore, the question seems to essentially boil down to whether or not the parties require authoritative intervention to create a level playing field between them. If they are decidedly incompatible with cooperation, the courtroom may be more appropriate than the boardroom, so to speak. This may be doubly true where urgent circumstances necessitate the avoiding of impasses with no decision maker to make a definitive ruling one way or the other.

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<sup>53</sup> *Ibid.*

<sup>54</sup> Rebecca Aviel, “Family Law and the New Access to Justice” (2018) 86:5 Fordham L Rev 2279 at 2282.

<sup>55</sup> Paetsch, Bertrand & Boyd, *supra* note 35 at 46.

<sup>56</sup> *Ibid* at 25.

<sup>57</sup> *Ibid* at 26.

<sup>58</sup> *Ibid* at 25.

<sup>59</sup> *Ibid* at 54.

## DRAWBACKS TO THE COLLABORATIVE MODEL

Collaboration is a departure from some traditional views on family dispute resolution for its eschewal of the courtroom as a means of settling problems. Katherine E. Stoner, a lawyer and mediator based in the United States, has noted several controversies inherent to this innovation. For example, some resist the idea of collaborative divorce by arguing that it poses a financial risk to the parties, who may have to pay even more money to hire new lawyers and bring them up to speed if there is a breakdown in the collaborative process.<sup>60</sup> In such a situation there is also the cost of the energy expenditure required in building a relationship with a new lawyer at a time of great emotional stress.<sup>61</sup> Additionally, some worry that “no court” agreements increase the likelihood that one spouse will feel forced into accepting an undesirable settlement by threats from the other side to end the process and go to court.<sup>62</sup> Further, a failure in the collaborative process could engender particularly grave contentiousness between spouses who “give up” on collaboration.<sup>63</sup> It has also been posited that the collaborative model may result in lawyers representing their clients less zealously than they might in an adversarial setting, owing to more collegial relationships with other counsel and a commitment to finding common solutions.<sup>64</sup>

Proponents of collaborative law have recognized the inherent risk of additional financial and emotional costs in failed “no court” agreements. However, it has been pointed out that the agreements are crucial to achieving the benefits of collaboration by preventing the use of unproductive adversarial tactics inherent in the litigation process.<sup>65</sup> And, because collaboration makes it possible to proceed in a civil and constructive fashion, it has been argued that the potential benefits are “worth the gamble” for clients.<sup>66</sup> Further, even in the case of a failed

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<sup>60</sup> Stoner, *supra* note 46 at 60.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

collaboration, beneficial informational exchanges and insights into the other party's concerns can be achieved.<sup>67</sup>

As for a potential lack of enthusiasm in the way lawyers advocate for their clients, this can also be attributed to the nature of collaboration. There simply must be some reduction in the level of competitiveness between lawyers on either side of a legal dispute in order to effectively work together as partners. Nonetheless, the *Family Mediation, Arbitration and Collaborative Practice Handbook* explains that in collaborative dispute settlement, lawyers do remain advocates, a role which becomes clear when compared to the explicit impartiality of a mediator.<sup>68</sup> It is true that the role of the collaborative lawyer is different from that of a traditionally-defined advocate, and some might prefer the potential benefits of zealous courtroom advocacy. Nonetheless, the intensity with which litigators argue for their clients in court comes with an increased cost and at a greater risk to clients. As previously noted, lawyers feel that in most scenarios, the many benefits of collaboration outweigh the possibility of winning-out in court. The diminished fervour with which lawyers advocate in a collaborative practice is an essential element to the process and is the price paid for a cooperative environment.<sup>69</sup>

## CIVIL COLLABORATIVE LAW?

While collaborative practice has found its greatest application in the realm of family law, there is a natural attraction to apply the framework to other areas of law as well. Indeed, some argue that the collaborative law framework is easily adapted to civil and commercial disputes and could yield similar benefits.<sup>70</sup> In business, for example, litigation has the potential to sour or end relationships between partners. In this context, collaboration can reduce the risk of this happening and may lend itself to mutually beneficial resolutions. Efforts have been made to introduce collaborative practice into a number of corporate and business-related

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<sup>67</sup> *Ibid.*

<sup>68</sup> Landau, Landau & Wolfson, *supra* note 1 at 103.

<sup>69</sup> For further discussion on the ethical implications of collaborative practice, see Ronalda Murphy, "Is the Turn toward Collaborative Law a Turn Away from Justice?" (2004) 42:3 *Fam Ct Rev* 460.

<sup>70</sup> Abney, *supra* note 32 at 498.

areas, including employment discrimination, consumer rights, and landlord/tenant issues.<sup>71</sup>

It is easy to see some of the benefits of involving outside professionals for business clients. As Macfarlane points out, business clients benefit from “the combined services of lawyers, accountants, financial planners, investment advisors, merger and acquisition specialists, tax specialists, human resource and organizational development specialists, and labour-relation specialists.”<sup>72</sup> To Macfarlane, the value that family clients derive from being able to “build comprehensive, long-term solutions to planning for uncertainties, crises, or conflicts instead of purchasing piecemeal advice” is equally applicable to business clients. Most other benefits of using collaboration in family law also exist when it is used in civil disputes. Abney lists a number of these: client participation, the preservation of relationships, cost efficiency, voluntary full disclosure, privacy, increased expediency, and customized scheduling are among the benefits shared between collaborative civil and family law.<sup>73</sup>

The popular literature discussing collaborative practice in Canada focuses heavily on collaborative family law.<sup>74</sup> This indicates a dearth in the use of collaboration in civil or business matters in Canada. Conversely, in the United States, there has been a growing trend in the use of collaborative law outside of the family context. Currently, 21 states have enacted the *Collaborative Law Act* (UCLA) developed by the Uniform Law Commission in 2009.<sup>75</sup> Of these 21 states, only six have enacted versions that pertain specifically to family law matters, meaning that 15 states will apply their respective versions of the UCLA to any matter for which parties elect to use collaboration— including those that are not family-related. Whether or not Canada will follow suit in enacting legislation to create uniformity among collaborative practices is unclear. However, the existence of several provincial and local organizations aimed at the promotion of collaborative law indicates an opportunity for the emergence

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<sup>71</sup> Webb, *supra* note 2 at 167.

<sup>72</sup> Simmons, *supra* note 6 at 676, citing Macfarlane, *supra* note 14 at 237.

<sup>73</sup> Abney, *supra* note 32 at 498-503.

<sup>74</sup> See Hendry, *supra* note 30; Macnab, *supra* note 48.

<sup>75</sup> “Collaborative Law Act” (2010), online: *Uniform Law Commission* <[uniformlaws.org](http://uniformlaws.org/perma.cc/S7G8-RV64)> [perma.cc/S7G8-RV64].

of a more universal attempt to standardize collaborative law in Canada.<sup>76</sup> Though it has not materialized yet, there have been efforts to establish Canada's first interdisciplinary national organization - Collaborative Practice Canada.<sup>77</sup> While the existing organizations focus entirely on collaborative family law, establishing a national organization such as Collaborative Practice Canada may support the increased use of collaborative law in other civil areas as well.

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<sup>76</sup> See e.g. Ontario Association of Collaborative Professionals, online: <oacp.co> [perma.cc/74GM-XLS7]; Collaborative Practice Manitoba, online: <collaborativepracticemanitoba.ca> [perma.cc/PJE7-DTWU]; Collaborative Divorce Vancouver, online: <collaborativedivorcebc.com> [perma.cc/2EKZ-MRZS].

<sup>77</sup> Hendry, *supra* note 30.