

PERSPECTIVE

Collaborative Law in Qld

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Special points of interest:

- The first Collaborative Law experience in Queensland.
- Want to find out more?
- A Canadian Study

**The Australian Story**— Collaborative Lawyering of family law matters commenced in mid 2005 in Canberra. Two firms in the Canberra CBD decided to trial the use of the collaborative process and to this point in time several collaborative matters have been dealt with in Canberra.

The Law Institute of Victoria (LIV) President became interested in Collaborative Law after attending a conference and listening to Sherri Slovin (a Collaborative Law practitioner and trainer in the US) extol the virtues of the process. A training course was arranged and undertaken by Sherri Slovin in Melbourne in April 2006. It was this training program that I at-

tended.

**The Queensland experience** commenced in February 2006 with three family lawyers from the Gold Coast undertaking training in the US and then returning to Queensland and founding the Queensland Collaborative Law Group of which I am a member.

I have had the privilege of undertaking what I understand to be the first collaborative matter in Queensland. I have commenced a further two matters with one of those matters ending in an agreement after three four way meetings.

These are the beginnings of a more productive method of resolving issues in family law mat-

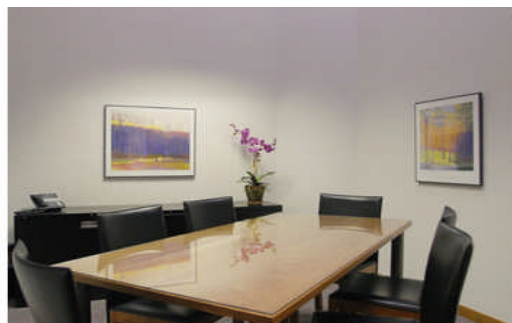
ters. As more lawyers become trained and the process is more widely understood the practice will, I am sure, become wide spread.

FIND OUT MORE—ATTEND OUR SEMINARS

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We will be running seminars on alternative dispute resolution processes for interested persons at our new premises commencing in November 2006. Visit our website News page at [www.fblawyers.com](http://www.fblawyers.com) for more information



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### LITIGATION OR CFL?

The journey through separation can be controlled by you and your spouse  
**or**  
 by others who do not know your family.

## A CANADIAN STUDY

A research study undertaken for the Department of Justice Canada reported after a three year study that “*CFL (Collaborative Family Law) offers a chance for separating spouses to negotiate durable, realistic and creative outcomes that they deem “fair”. It creates a forum for frank dialogue and dignified closure. Family lawyers who are embracing CFL see it as a dispute-resolution process that has integrity, empowers clients and helps families move*

*through difficult transitions.”* (p.85 Postscript— Research Report The Emerging Phenomenon of Collaborative Family Law (CFL): A Qualitative Study of CFL Cases 2004)

The study found client satisfaction in most cases with the process and the outcomes of the process. Interviewed lawyers commented that there was little difference between the CFL outcome and a traditional litigation-negotiation outcome.

What was the difference was how the parties got there and how they felt about the outcomes. One client reported “*This CFL allows me some sense of dignity and having done the right thing.*” (p. 58 *ibid*)

The study noted that not every matter is suited to CFL and not every lawyer has the necessary skills for every CFL case but concluded by stating “**.....CLF will flourish”**

## FAIR OUTCOMES

It has been said that the Courts dispense justice. Do you want justice as determined by a Judge who has no knowledge of your circumstances or your family, other than what he or she has heard in evidence during a trial, which might only last hours or a day or more, **or** do you really want a “fair outcome” for you and your family.

This is what the Collaborative process can achieve.

Courts are only interested in those “facts” which are relevant to the applicable principles of law. The Courts abilities to creatively formulate outcomes which the parties really want is stifled and limited by the legislative framework within which they operate and the time and resources available.

The Collaborative process is about generating options, by the lawyers and the clients, which the

parties can agree on and which they think are “fair”.

**Fairness as opposed to justice.**

A judicial outcome is not necessarily a fair one. Ask any couple who receive a judgment from a Court. There is likely to be a loser but, from my experience, there is rarely a winner.

## Fair Outcomes (cont.)

At the end of the day it is your family, not the Judges, not the lawyers. Particularly where children are involved you, the parents, should make decisions for your children.

The Collaborative process can positively create fair outcomes

which in turn allow relationships to continue.

My experience after being involved in family law litigation for 15 years allows me to categorically state that you, your children and your wider family will benefit from resolution of

your family law matter through Collaborative or other alternative dispute resolution methods (eg Mediation).

Litigation should always be seen as the last resort.