

## SPOTLIGHT ON PRO BONO

By Sandra Crawford, JD, Mediator and Collaborative Lawyer

The Collaborative Divorce Process is a limited scope representation model of conflict resolution. It has been under development for the last 30 years and has been practiced in Illinois since 2002. In 2018 the Illinois Legislature and the Illinois Supreme Court adopted rules which govern the practice. While the model has applications to all areas of disputes where maintaining a future relationship is important, currently in Illinois it is practiced primarily in family law.

This model offers a unique opportunity for couples to separate and divorce in more supported and productive ways, then are traditionally experienced when a family law matter is litigated. In Collaborative Divorce an interdisciplinary team of trained and compassionate legal, mental health and financial professionals forms a network around the couple and work together to help them restructure their relationship in a respectful and dignified way. Doing that not only helps the couple but where there are children it can have a profound impact on how children experience separation and divorce.

Divorce is traditionally an expensive process. Families facing divorce often lack financial resources and often find the prospect of hiring a team to work on the specific aspects of the restructuring of their family legally, emotionally, financially, too costly to even contemplate. Recognizing this challenge, the non-profit group, Collaborative Divorce Illinois (CDI), has created a “low bono” program, call the **Modest Means Program**. This program is a groundbreaking effort aimed at making Collaborative Divorce available to low and middle-income couples at a deep discount.

### **The Professionals Involved in the Modest Means Collaborative Divorce Services**

The CDI [Modest Means Collaborative Divorce Program](#) is made up of CDI members, called “Fellows”. These are divorce professionals trained in Collaborative Law and who have at least one 40-hour mediation skills training. They meet the stringent continuing education and licensure/certification requirements set for CDI Fellows. Each Collaborative Divorce Team in the Modest Means Program will include: a lawyer for each spouse, a Financial Neutral, who holds a Certified Divorce Financial Analyst (CDFA) designation, and, depending on the circumstances of the family, either one or two mental health professionals who serve a “divorce coach” or “child specialist.”

## **Professional Fees for Modest Means Collaborative Divorce Services**

In keeping with the program's goal of making Collaborative Divorce services available and affordable to those of modest means, the professional fees are significantly discounted below traditional rates for one divorce lawyer which can range from \$200 to \$500 depending on the community in which that lawyer practices.

## **Modest Means Program Coordination and Supervision**

The CDI Modest Means Program Committee consists of a group of Fellows from all professional disciplines. This Committee is responsible for the overall operation and supervision of the program. The Committee Chair serves as the Modest Means Volunteer Program Coordinator with the assistance of CDI's Administrator. The Chair and Administrator serve as the point of contact for initiating the applicant screening process, attorney referrals and professional team recruitment.

## **How a Modest Means Collaborative Divorce Case Is Started**

For couples interested in participating in a Collaborative Divorce through the [Modest Means Program](#), here is how the process works.

### **1. Online Application and Certification Form**

Each spouse must complete a brief online application. This application provides basic information about each spouse. The application also requires each spouse to agree to comply with the rules of the program.

### **2. Online Preliminary Financial Information Form**

In addition to completing the online application, one of the spouses must also complete the Preliminary Financial Information Form. This provides basic financial information for both spouses.

### **3. Screening Process**

a. The Volunteer Program Coordinator will review the online applications. If the Preliminary Financial Information Form indicates that the couple is eligible for services, the Volunteer Program Coordinator will send the couple a more detailed Financial Statement. The couple must complete and return this form to the Volunteer Program Coordinator.

b. If the couple meets the financial eligibility guidelines, a mental health professional, i.e. Divorce Coach, who is participating in the Modest Means Program will contact the divorcing couple. The Coach will meet with each spouse individually and with both spouses jointly. The Coach will determine whether the case is appropriate for the Collaborative Divorce Process. These meetings will be conducted with no charge to the divorcing couple.

#### **4. Professional Team Recruitment and Composition**

- a. Once the Divorce Coach determines that a case is appropriate for a Collaborative Divorce, the Modest Means Volunteer Program Coordinator will assemble a list of divorce professionals who are available to participate on the Collaborative Professional team.
- b. Each spouse will be provided with a list of Collaborative Lawyers who are available to participate in their Collaborative Divorce case.
- c. Each spouse will hire one of the lawyers at Program's reduced hourly fee (ranging from \$15 to \$40 depending on the couple's eligibility) to represent him/her in their Collaborative Divorce case. That way, each spouse can choose his/her own Collaborative Divorce Lawyer.
- d. Unless the Coach who screened the spouses declines to participate, that Coach will become the Collaborative Divorce Coach for the case. By using the same coach, the Collaborative Divorce professional team have a deeper understanding of the spouses and their situation right from the start.
- e. Once the Collaborative Lawyers have been hired, they will select a Financial Neutral from a list of available Collaborative Divorce financial professionals.

#### **5. Case Initiation**

Once the Collaborative Professional Team has been assembled, the case will begin. The Modest Means Collaborative Divorce case will follow the same protocol as any other Collaborative Divorce case. It will start with a meeting where everyone will discuss and sign the Collaborative Divorce Participation Agreement. The Collaborative Divorce Participation Agreement sets forth the guidelines for the Collaborative Divorce Process. It includes a requirement that the professional team must disqualify themselves if either spouse terminates the Collaborative Divorce process or threatens litigation.

#### **Eligibility Guidelines**

For couples to be eligible to participate in the [Modest Means Program](#) (and get significantly discounted fees), they must meet the following requirements:

##### **1. Both spouses must submit the initial online application.**

That means that both spouses must be committed to participating in the Collaborative Divorce Process.

One of the key aspects of the Collaborative Divorce process is that both spouses must willing participate in the process. They must both agree to voluntarily disclose their financial information to each other and to the Collaborative Divorce Professional Team. They must both participate in the Process in good faith. That's why BOTH spouses must apply to participate in the Modest Means Program to become eligible for the program. If either spouse isn't willing to do this, their divorce case is NOT appropriate for the Collaborative Divorce Process.

**2. The spouses must meet the income and net worth guidelines for the Modest Means Collaborative Divorce Program.**

a. The income eligibility guidelines are based on the Federal Poverty Level for Income and Size of Household. There are two sets of guidelines:

(1) Minimum Fee Services – These guidelines are established for the lowest income couples, and result in the lowest fee for Collaborative Divorce services, \$15 per hour.

(2) Reduced Fee Services – These guidelines are established for lower middle income couples, and result in a significantly reduced fee (compared to traditional divorced professional hourly rates) for Collaborative Divorce services, \$40 per hour.

The income eligibility guidelines are as follows:

Family Size	Maximum Income for Minimum Fee Services	Maximum Income for Reduced Fee Services
2 people	\$32,920	\$65,840
3 people	\$41,560	\$83,120
4 people	\$50,200	\$100,400
5 people	\$58,840	\$117,680
6 people	\$67,480	\$134,960
7 people	\$76,120	\$152,240

b. A couple must meet the following household net worth guidelines:

(i) Liquid Net Worth (total liquid assets, such as cash, bank accounts, stocks and bonds, less credit cards and loans other than mortgages) cannot exceed \$44,000.

(ii) The total of real estate equity (market value less outstanding mortgages) and retirement accounts cannot exceed \$163,000.

(iii) Neither spouse can be a part or full owner of a business.

3. The divorce case must be “suitable” for the Collaborative Divorce Process

### **Not every case is appropriate for a Collaborative Divorce.**

If the Collaborative Divorce Coach who interviews the applicants determines that, in his/her professional opinion, the case is appropriate for the Collaborative Divorce Process, **ONLY THEN** will the case be admitted to the Modest Means Program.

Some of the key factors which may be considered in making this determination are as follows:

- a. History of abuse.
- b. Drug or alcohol use.
- c. Willingness of both spouses to abide by collaborative practice principles.
- d. Ability of both spouses to negotiate in good faith.
- e. Ability of both spouses to truthfully provide full financial disclosure.

With the launch of CLII’s Modest Means Collaborative Divorce Program, resources will no longer be a limiting factor for couples who choose to use a civil, dignified process to end their marriage, using the diverse skill, expertise and compassion of the Collaborative Divorce professional team.

The CDI [Modest Means Program](#) is now accepting applications. Those interested in more information or applying to this program **[CLICK HERE](#)**.