

Collaborative Law – What Should I Say?

**The Elephants in the Room –
Debunking Myths & Misconceptions,
and Ethical Requirements**

Family Law Litigation in 2020





**Is there
a
better alternative?**

**§ 61.55-
61.58,
Fla. Stat.
&
Fla. Fam.
L. R. P.
12.745**

Collaborative Law Process Act

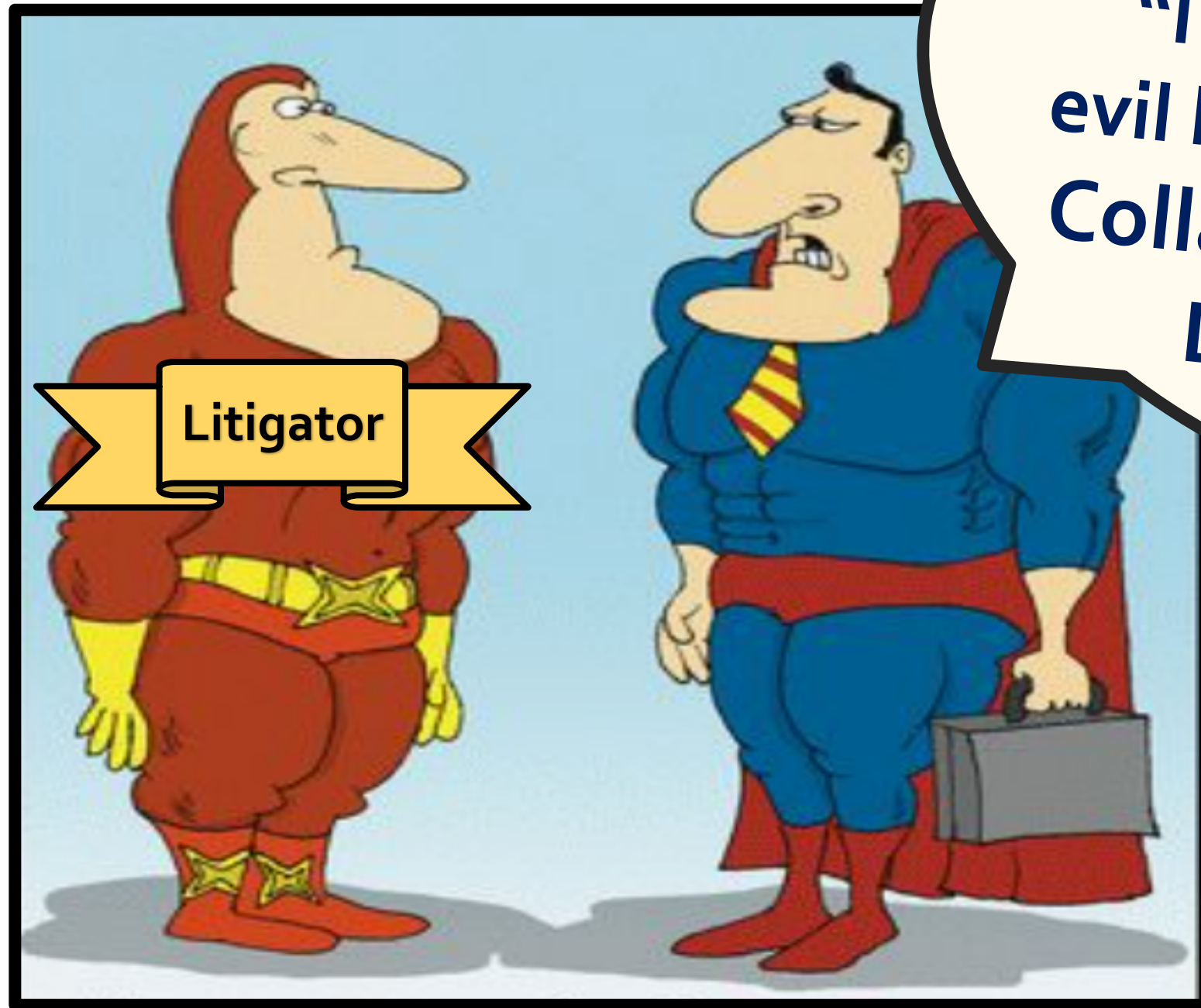
Collaborative Law Process Act

“Unique non-adversarial process that preserves a working relationship between the parties and reduces the emotional and financial toll of litigation”

Baby chick fell
out of the nest.
Mom caught it.
Dad pushed it
from below.



What if
divorcing
parents
collaborated
in the
best interest
of the
children?



Litigator

"I can fight
evil better with
Collaborative
Law!"

Ethical Duty
to tell
EVERY
Prospective Client

The Florida
Bar Rule of
Professional
Conduct

4-1.19

&

4-1.4

**The Florida Bar
Rule of
Professional
Conduct
4-1.4(a)(2)**

- **RULE 4-1.4(a)(2)
COMMUNICATION**

“Reasonably consult with the client about the means by which the client’s objectives are to be accomplished”

**The Florida Bar
Rule of
Professional
Conduct
4-1.4(b)**

- **RULE 4-1.4(b)
COMMUNICATION**

“Duty to Explain Matters to Client... to the extent reasonably necessary to permit the client to make *informed* decisions regarding the representation.”

**The Florida Bar
Rule of
Professional
Conduct
4-1.19(a)**

- **RULE 4-1.19(a)
COLLABORATIVE LAW
PROCESS IN FAMILY LAW**

**“Duty to explain Process
to Prospective Client”**

R. 4-1.19 (a) (1-8)

**R. 4-1.19
(a) (1)**

Benefits/Risks of Collaborative Process

**R. 4-1.19
(a) (2)**

**Nature/Scope
of
the Matter**

R. 4-1.19
(a) (3)

**Material
Benefits/Risks of
Participating
in the Process**

R. 4-1.19
(a) (4)

Alternatives to the Collaborative Process

R. 4-1.19
(a) (5)

**Voluntary Process;
Unilateral
Termination Option**

R. 4-1.19
(a) (6)

Process Terminates
if
Either Party Seeks
Court Intervention

R. 4-1.19
(a) (7)

**Lawyer's Participation
in Subsequent
Proceedings Limited**

**R. 4-1.19
(a) (8)**

**Fees/Costs,
Including all
Team Professionals**

R. 4-1.19 (c)

**Ethical Duty to Screen
whether Client/Case are
appropriate for Process**

R. 4-1.19 (c)

**Ongoing Duty to Screen for
Domestic Violence or
Coercive Relationship**

**Material Risks
of
Participating
in the
Process**

**R. 4-1.19 (a)
(1) & (3)**



*What are you
afraid of?*

THE PICKS

The Elephants in the Room



Elephant #1

Limitations on Representation

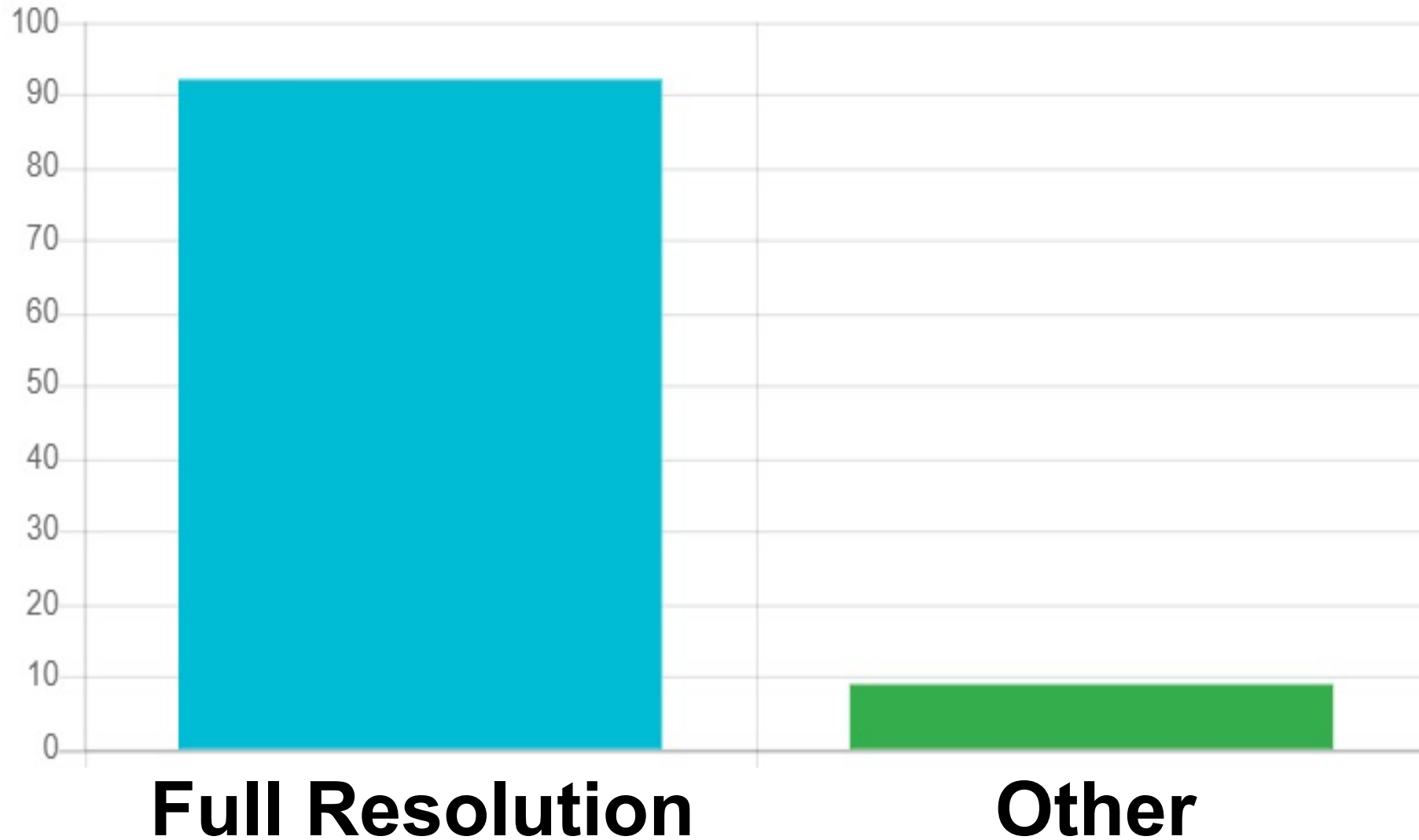
R. 4-1.19 (a) (5-7)



*Or Are
You???*



Outcome of 101 Cases *



* FACP Website

Elephant #2

**Fees/Costs -
All Team
Professionals**

R. 4-1.19 (a) (8)



BANDA- fill in with

General Budget Comparison-

Traditional protracted litigation- all the potential costs and professionals with discovery fights, dueling experts, multiple retainers/lawyers, etc.

vs. Collab \$ well spent on professional advice

**Material
Benefits of
Participating
in the
Process**

**R. 4-1.19 (a)
(1) & (3)**



Be Not Afraid

THE BENEFITS !

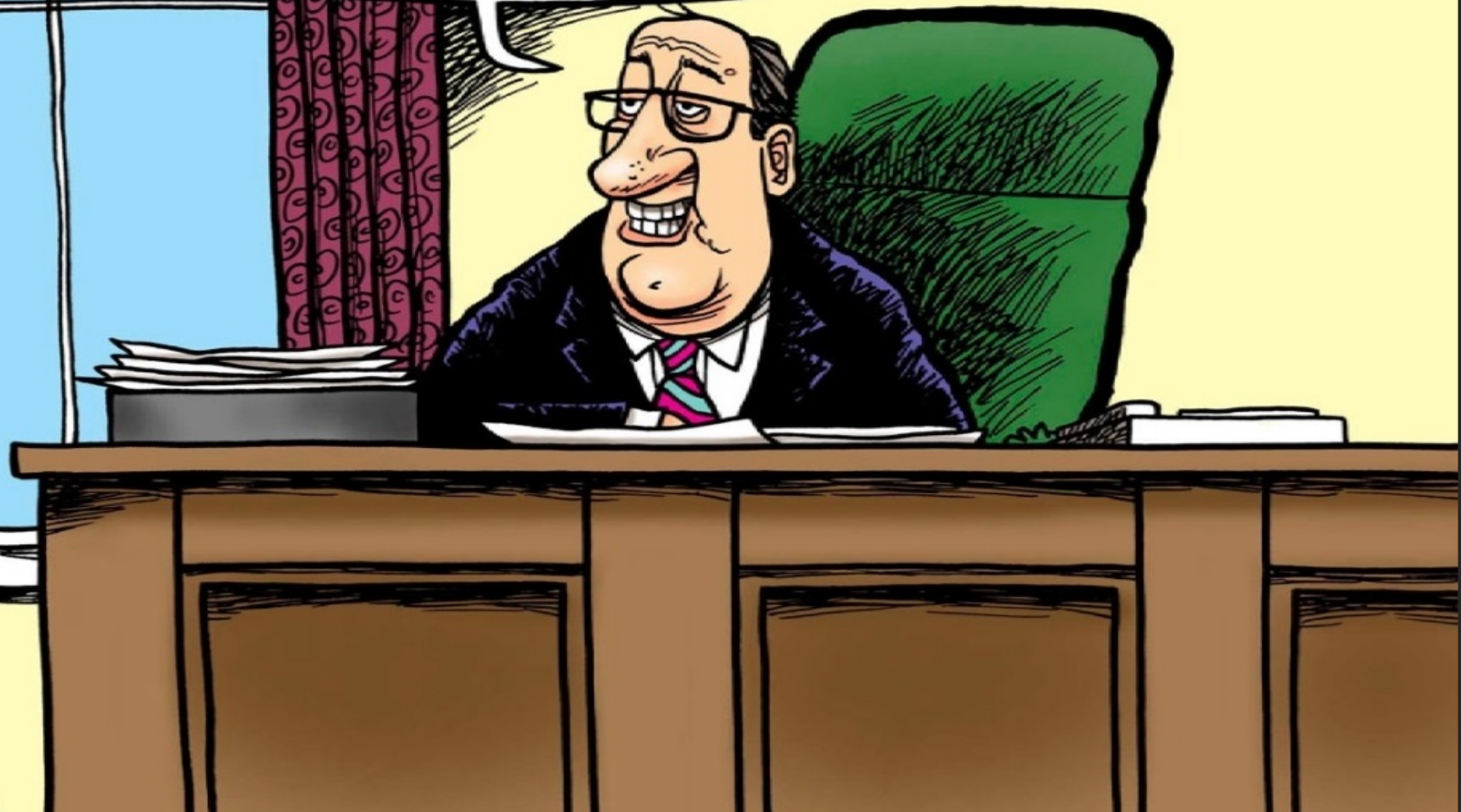
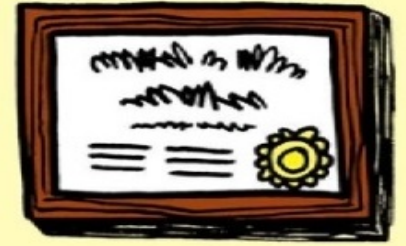
Abbreviated Time Frame to Resolve Case

Generally 4-6 Meetings



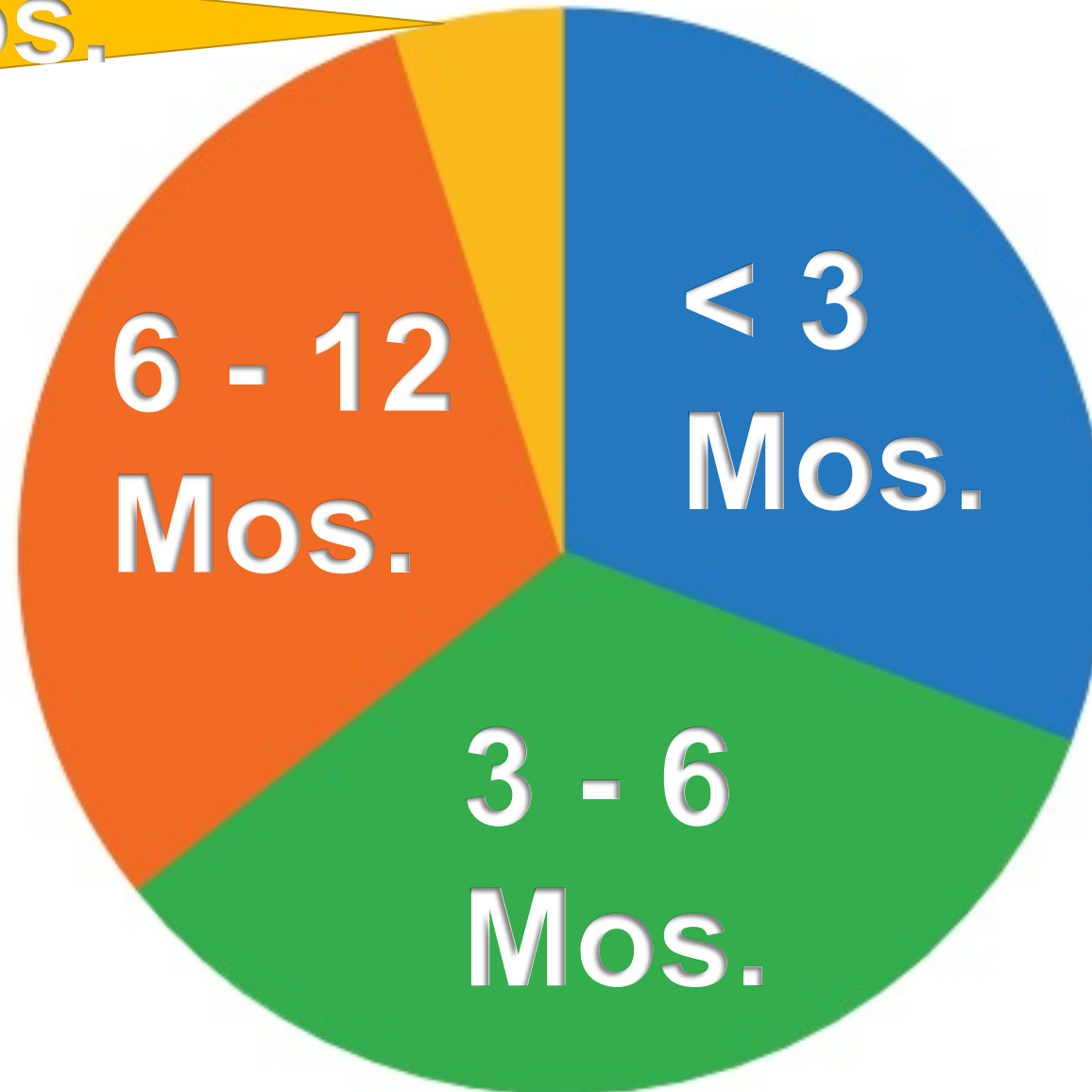
“Given the delays in this case, it seems custody of this child is no longer at issue.”

your 1997 court case has
been delayed yet again, but
unfortunately my billing for
representation has not



Length of Cases *

> 12 Mos.



* FACP Website

Preserve Relationships in Restructured Family



“Look, if this is going to be an amicable divorce, one of you has to back down and take the kids.”

Opportunity for Creative Solutions



Privacy


**“Your records
are safe
with us.
We take
privacy *very*
seriously.”**



Transparency



Interest -
Based



**"I care deeply about important
things of the world,
but you just don't
seem interested
in celebrity
gossip..."**

Non- Adversarial

DIVORCE LAWYER



DIVORCE

It gets
ugly when
your Ex
takes half
your stuff.



Efficient Business Meeting Agenda Format




**“OK, which one of you
just called me a
jackass?”**

Collaborative Law in the Pandemic

Speaker View



Mute Stop Video  Invite Manage Participants 7 Share Screen Chat Record Breakout Rooms End Meeting

Mental Health & Wellness Tips

Trying to eat healthy



Salad with bacon bits

**I had my
patience
tested.**

I'm negative.



Lord, please give
me patience
because
if you
give me
strength I'll
need bail
money too...

Adding Collaborative Law to Your Practice



A Solution for 2020 and Beyond...

**Collaborative Family Law
Training
&
Becoming an Accredited
Collaborative Professional**

Collaborative Family Law Group of Northeast Florida



Florida Academy of Collaborative Professionals



Florida Academy of
Collaborative Professionals



www.collaborativepracticeflorida.com

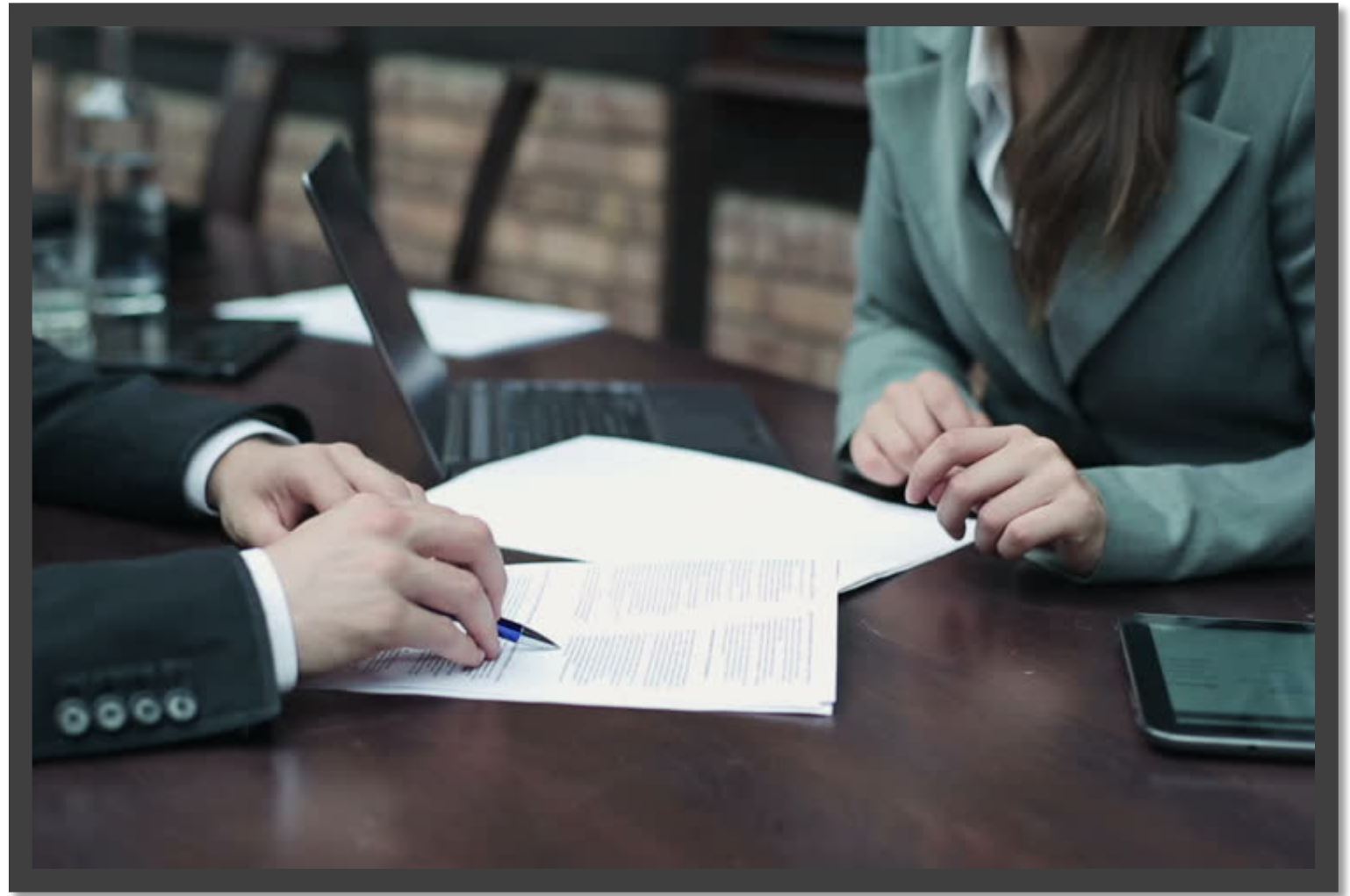
FACP Trainings Tab

**Upcoming
Events/Trainings**

FACP Credentialing Tab
Standards & Application
for Accreditation
for Each Discipline

**FLORIDA
SUPREME COURT
APPROVED
COLLABORATIVE
LAW PROCESS
FORMS**

12.985(a)-(g)



Form 12.985(a)

Explanation of
Collaborative
Dissolution
Process

Attorney-
Client

Explains the Collaborative
Law Process in accord with
Rule Regulating the Florida
Bar 4-1.19,

Intended to be presented
to the client
before entering the
Collaborative Law Process

Form 12.985(b)(1)
Collaborative Law
Participation
Agreement
Principles and
Guidelines

Form 12.985(b)(2)
Collaborative Law
Participation
Agreement

Collaborative Law
Participation Agreement-

Details the Guidelines and
Principles of the
Collaborative Law Process

Form 12.985(c)

Joint Notice of
Collaborative
Law
Participation
Agreement

Notice filed with the
court when an action for
dissolution of marriage or
paternity is pending

And parties choose
to use the
Collaborative Law Process

Form 12.985(d)

Confidentiality
Agreement (for
Neutral or
Individual
Consultant or
Note Taker)

Confidentiality Agreement

To be used by Neutral or
Individual Consultants or
Note Takers to maintain
confidentiality in the
Collaborative Law Process

Form 12.985(e)

Amendment to Collaborative Law Process Participation Agreement

Used when a new
Collaborative Law attorney
is substituted for a former
Collaborative Law attorney
and the
Collaborative Law Process
continues with the clients
and other participants

Form 12.985(f)

Notice of
Termination of
Collaborative
Law Process

Notice to be filed with
the court when the
Collaborative Law
Process terminates
while an action for
dissolution of marriage
or paternity is pending

Form 12.985(g)

Joint Verified
Petition and
Verified
Answer for
Dissolution of
Marriage

Filed with the court after
the parties resolve the
matter through the
Collaborative Law Process
to request that the
court ratify the parties'
Collaborative Law
Agreement

