

## **Part Four – Evaluate**

Using the options that you identified in Part Three and any that others have suggested, you next need to evaluate the possible outcomes of accepting or rejecting each option. Consider the financial, emotional, relational, and possibly legal outcomes. At some point, you may want to consider your best alternative to a negotiated agreement (BATNA) achieved in the collaborative law process. In the collaborative law process, your BATNA may be to terminate the process and proceed to litigation. If you were to choose the option of terminating the process, you would need to evaluate what would be your BATNA in the litigation process. If you did not settle the matter, what would be the best case scenario you could achieve in the courtroom and what would be the worst alternative to a negotiated agreement (WATNA)? Since your lawyer has specialized knowledge about the likely outcome in court, you may want to consult your lawyer about his or her legal opinion on this subject. Whether or not you want to assess your choices based on what might or might not happen in court, you will still need to evaluate all your choices from the viewpoint of whether they can practically occur in the real world, whether you will be satisfied or have regrets based on the choices you make, and whether it will affect your relationships with other people. With that in mind answer, the following questions:

1. (In Divorce and Pre- and Post-Marital Agreements) Property division and spousal support. As to each option for dividing your property and addressing spousal support (alimony), assume it was chosen as an acceptable outcome by both of you, and answer the following questions:
  - A. Considering your respective incomes, expenses and financial resources, would this option be economically feasible and financially wise for both of you? If not, what do you see as the potential downside for each of you from a financial perspective?
  - B. Considering how either of you or others in either of your lives (such as children, family members, friends, and future partners) might view your choice, do you anticipate any emotional benefits or detriments to selecting this choice? Will it be one that you will both be satisfied having chosen six months, a year, five years from now or do you anticipate either of you having long-term regrets or resentment about this choice?
  - C. How would this choice affect your relationship with each other or with significant others in the future? If chosen, will it likely yield better relationships or worse relationships in the future?

2. (In Matters Pertaining to Children) Residential arrangements, parental responsibilities, and parenting time: As to each option for sharing parenting time and allocating parental responsibilities, assume it was chosen as an acceptable outcome by both of you, and answer the following questions:

- A. Considering your respective temperaments, interests, schedules, and support network, would this option be workable and appropriate for both of you and for the children? If not, what do you see as the potential downside for either of you from the perspective of what is in your children's best interests and what serves your interests as parents?
- B. Considering how either of you or others in either of your lives (such as children, family members, friends, and future partners) might view your choice, do you anticipate any emotional benefits or detriments to selecting this choice? Will it be one that you will both be satisfied having chosen six months, a year, five years from now or do you anticipate either of you having long-term regrets or resentment about this choice?
- C. How would this choice affect your relationship with each other or with significant others in the future? If chosen, will it likely yield better relationships or worse relationships in the future?

3. (In Matters Pertaining to Children) Child support matters: As to each option for meeting the support needs of your child(ren), assume it was chosen as an acceptable outcome by both of you, and answer the following questions:

- A. Considering your respective incomes, expenses, financial resources, temperaments, interests, schedules, and support network, would this option be financially feasible, workable and appropriate for both of you and for your child(ren)? If it is not, what do you see as the potential downside for either of you from a financial perspective and from the perspective of what is in your child(ren)'s best interests and what serves your interests as parents?
- B. Considering how either of you or others in either of your lives (such as children, family members, friends, and future partners) might view your choice, do you anticipate any emotional benefits or detriments to selecting this choice? Will it be one that you will both be satisfied having chosen six months, a year, five years from now or do you anticipate either of you having long-term regrets or resentment about this choice?
- C. How would this choice affect your relationship with each other or with significant others in the future? If chosen, will it likely yield better relationships or worse relationships in the future?

4. Considering Your Best and Worst Alternatives to A Negotiated Agreement:

If at any time during the negotiating process, you want to consider the option of having a court decide the outcome for you, go through the following steps, with the guidance of your collaborative lawyer, to evaluate whether or not to accept, modify or reject the options that have been identified in the collaborative process. Consult with your lawyer about the likelihood of each scenario.

Answer the following basic questions for each issue that applies to your situation:

If you were asking a judge to resolve the contested issue, how do you think the court would resolve the following issues?

A. Property division and alimony. I believe a judge would likely make the following division of property and alimony award:

I believe the best possible division of property and alimony award the judge could make would be:

I believe the worst possible division of property and alimony award the judge could make would be:

B. Residential arrangements and parenting time concerning the child(ren). I believe a judge (or jury) would likely make the following orders concerning the residential arrangements for our child(ren) and our respective parenting time:

I believe the best possible residential arrangement and parenting time schedule the judge could make would be:

I believe the worst possible residential arrangement and parenting time schedule the judge could make would be:

C. Parental responsibilities and decision-making. I believe a judge would likely make the following orders for allocating parental responsibilities and decision-making between me and my child(ren)'s other parent:

I believe the best possible allocation of parental responsibilities and decision-making the judge could make would be:

I believe the worst possible allocation of parental responsibilities and decision-making the judge could make would be:

D. Child support. I believe a judge would likely make the following orders for meeting our children's expenses:

I believe the best possible child support award the judge could make would be:

I believe the worst possible child support award the judge could make would be: