

## **UCLA--Proposed Talking Points for Communications to Those Interested in the UCLA**

**September 9, 2009**

**By IACP UCLA Task Force**

The UCLA is the product of the Uniform Law Commission. The purpose of the Uniform Law Commission, now 118 years old, is to provide states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of the law, contributing rules that are consistent from state to state. The ULC is comprised of Commissioners from each state, appointed by the governor of the state, representing many different areas of expertise in the law.

Past projects of the ULC include the Uniform Commercial Code, the Uniform Child Custody Jurisdiction Act and the Uniform Child Custody Jurisdiction and Enforcement Act, as well as the Uniform Mediation Act and the Uniform Arbitration Act.

The final draft of the UCLA emerged from a rigorous process, including a First Reading on the floor of the ULC in the summer of 2008 in Big Sky, Montana, with detailed discussion and numerous suggestions from the Commissioners, and a Second Reading in the summer of 2009, in Santa Fe, New Mexico, when again, extended discussion and proposed changes shaped the final product.

The drafting process involved numerous Observers from many constituencies and stakeholders, including: IACP, American Academy of Matrimonial Lawyers, the Family Law Section of the ABA, the ADR Section of the ABA, ABA Commission on Domestic Violence, Collaborative Law Institute of Minnesota (birthplace of Collaborative Law), the Los Angeles Collaborative Family Law Association, and others.

Each of the interim drafts was posted on the Uniform Laws Commission website with invitations for comments for the entire drafting period. Extensive comments were received from stakeholders and constituencies.

The final draft was unanimously approved by Commissioners from each state in the U.S.

A copy of the Act may be accessed at:

[http://www.nccusl.org/update/AnnMtg\\_ApprovedText.asp](http://www.nccusl.org/update/AnnMtg_ApprovedText.asp)

The Uniform Laws Commission worked diligently to incorporate the concerns

raised and have produced a model act which most believe will serve the public and the professional community well.

The UCLA, if adopted in its current form, would:

- create minimum standards for a collaborative law participation agreement;
- create a privilege for communications made during the collaborative law process (and would define when a collaborative process begins and ends so that there is clarity as to which communications the privilege applies;

- provide that the filing of a notice of a collaborative process operates as a stay of any pending legal proceedings and precludes a court from dismissing an action without giving the collaborative attorneys an opportunity to be heard;

- create an exception to the disqualification provision in the case of an emergency;

- create an additional exception to the disqualification provision for low income parties represented for free by a legal services organization so long as the collaborative attorney is isolated from participating in the subsequent handling of the matter;

- mandate full disclosure during the collaborative law process through use of informal discovery;

- require the prospective collaborative law attorney to obtain informed consent from the prospective client prior to entering into a participation agreement; and

- require the collaborative law attorney to "screen" for domestic violence both prior to beginning, and during, the collaborative process.

Interestingly, this is the first uniform statute adopted by the ULC which addresses the issue of domestic violence, an issue which is receiving increasing attention in the practice of family law, in particular.

The UCLA will accomplish many things that can only be accomplished by statutory enactment.

The UCLA is an official uniform act of the ULC. Although it is available to be enacted in each state, a time-honored tradition is to have the ABA House of Delegates approve the act prior to submission to the state legislatures. The vote is scheduled for February 2010.

### Benefits of The Uniform Act

1. The UCLA will bring order and understanding of the collaborative

process across state lines, and within each state.

2. The UCLA will increase the visibility and viability of the collaborative process, which in turn benefits families and society, and reduces the burden on courts.

### Benefits of Collaborative Law

1. Highly successful in resolving most cases. 87% of Collaborative divorce cases settle in the collaborative process and an additional 3% result in reconciliation.
2. In Family Law cases, out of court settlements have been shown to have significant benefits to families:
  - a. Conflict is lessened
  - b. Children benefit by reduced conflict
  - c. Costs are likely reduced
  - d. Co-parenting relationships are supported
3. Children are often given a voice in the process using a safe, neutral venue. Research shows that parenting plans where children have had a voice are more durable and developmentally responsive to the children.
4. Parties are more vested in the outcome and satisfied with the process when they are part of the dispute resolution process, as in Collaborative law, than if the outcome was imposed upon them by a third party decision maker.
5. Families in collaborative cases gain experience in successfully resolving conflict which aids them in resolving conflict post-divorce. Where they cannot resolve post-divorce conflict, families have a network of professionals from their collaborative case to help them deal with the dispute. (Translate – parties are probably less likely to go back to court if they participate in a collaborative case as opposed to litigate.)

6. Reduces court dockets and the burden on courts.
7. Benefits society and is good public policy.