

FAX COVER SHEET

TO	
COMPANY	
FAXNUMBER	15033703158
FROM	Bowerman David Laidlaw & Laidlaw, LLC
DATE	2015-08-06 17:43:35 GMT
RE	OLC Project Proposal- Uniform Collaborative Law Act

COVER MESSAGE

Hello Mr. Myers-

Enclosed please find a letter regarding the OLC Project Proposal- Uniform Collaborative Law Act. If you have any questions, please feel free to contact our office.

Thank you,
Terra Jane Burns
Paralegal
Bowerman David Laidlaw & Laidlaw, LLC
1001 Molalla Avenue, Suite 208<x-apple-data-detectors://2/1>
Oregon City, Oregon 97045<x-apple-data-detectors://2/1>
Tel: 503.650.0700<tel:503.650.0700>
Fax: 503.650.0053<tel:503.650.0053>

Terra@BDLandL.com<mailto:angela@BDLandL.com>
www.BDLandL.com<http://www.bdlandl.com/>

Terra Burns is not an attorney and not licensed to practice law. She does not intend to give legal advice to anyone, and no information in this email should be construed as such.

CONFIDENTIALITY STATEMENT: This electronic message contains information that may be confidential or privileged. The information in this email is intended solely for the use of the people named above. If you are not the intended recipient of this message, you are advised that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this email in error, please notify me immediately by telephone at (503) 650-0700<tel:(503)%20650-0700> or by email reply, and delete this message.

BOWERMAN DAVID LAIDLAW & LAIDLAW, LLC
ATTORNEYS AT LAW

Attorneys
DONALD B. BOWERMAN
ANGELA L. LAIDLAW*
ALEC J. LAIDLAW
KEVIN C. LEIK
JASON P. JANZEN
SAM S. NELSON

1001 Molalla Avenue, Suite 208
Oregon City, Oregon 97045
(503) 650-0700
Fax: (503) 650-0053
www.bdlandl.com

Of Counsel
KRISTEN S. DAVID
*Member of California Bar

August 6, 2015

Oregon Law Commission
Attn: Hardy Myers, Program Committee Chair
245 Winter Street SE
Salem, OR 97301

Sent Via Facsimile and U.S. Mail
(503) 370-3158

Re: OLC Project Proposal – Uniform Collaborative Law Act

Dear Mr. Myers:

Thank you for taking the time to consider this proposal. As the newest President of the Oregon Association of Collaborative Professionals (OACP), I have undertaken the task of increasing awareness of collaborative law in Oregon.

As the Collaborative Law Committee of the ABA Section of Dispute Resolution defines it, collaborative law is,

A voluntary, contractually based alternative dispute resolution process for parties who seek to negotiate a resolution of their matter rather than having a ruling imposed upon them by a court or arbitrator. The parties agree that their lawyer's representation is limited to representing them solely for the purposes of negotiation, and that if the matter is not settled, new lawyers will be retained if the matter proceeds to litigation or arbitration.

The lawyers and the clients agree to engage in good faith negotiation, share relevant information, the use of joint experts (if experts are needed), client participation in the negotiations, respectful communications, and the confidentiality of the negotiation process.¹

¹ Collaborative Law Committee of the ABA Section of Dispute Resolution. "Fact Sheet on the Uniform Collaborative Law Rules/Act." <http://www.uniformlaws.org/Shared/Docs/UCLA/Fact%20Sheet%20UCLR-A.pdf>. (Last accessed May 15, 2015).

OLC Project Proposal – Uniform Collaborative Law Act
August 6, 2015
Page 2 of 5.

Enacting the Uniform Collaborative Law Act (UCLA) in Oregon is my highest priority. The UCLA is the product of the Uniform Law Commission's (ULC) efforts to provide a peaceful, client-based approach to the practice of family law. I believe with the assistance of the Oregon Law Commission, we can help families realize there is an alternative to the costly and emotionally taxing litigation process. Furthermore, Oregon attorneys need the tools provided in the UCLA to offer that process to Oregon consumers. Consequently, we submit the following proposal.

1. PROBLEM

Attorneys throughout Oregon are already practicing Collaborative Law, but there is a misconception among many traditional family law practitioners about what it is and how it works. Many attorneys usher families into the traditional adversarial family law process because this process is seen as the only choice. By definition, the adversarial law process creates opponents of parties, often creating disputes where none might have existed without litigation. These parties are not corporations or businesses, but family members who will have reasons to interact for the rest of their lives (especially if they have joint children). These families also frequently have limited resources. It is not uncommon for the adversarial family law process to cost in excess of \$20,000.00 in attorney fees per party, in even a relatively low-conflict dissolution proceeding.

Enactment of the UCLA would codify what is already happening throughout Oregon. There are many collaborative law practitioners in Oregon already. Organizations like the OACP and the International Academy of Collaborative Professionals (IACP) exist to assist and support collaborative law practitioners in the respectful resolution of disputes outside the courtroom. We collaborative law practitioners need legislative guide posts to unify and formalize what more and more Oregon consumers are already seeking.

2. HISTORY OF REFORM EFFORTS

In Oregon, there have been no prior reform efforts. Washington recently enacted its own version of the UCLA, which can be found in the Revised Code of Washington Chapter 7.77. Ten other states/jurisdictions, including the District of Columbia, have also enacted versions of the UCLA.

3. SCOPE OF PROJECT

The ULC has done much of the work for us by drafting the UCLA. The UCLA is a comprehensive statutory scheme that defines and outlines the practice of collaborative law. Our major task will be tailoring the UCLA to suit the family law statutes found in Chapter 107 of the Oregon Revised Statutes. To achieve this, we need a comprehensive work group that will help us resolve any inconsistencies between existing law and the UCLA.

OLC Project Proposal – Uniform Collaborative Law Act
August 6, 2015
Page 3 of 5.

What is the UCLA?

The UCLA outlines and regulates the use of collaborative law, a form of alternative dispute resolution, in all areas of law. By its very nature, the UCLA is law reform of broad general interest and need. Oregon citizens deserve the same kinds of options as the citizens of Alabama, District of Columbia, Hawaii, Maryland, Michigan, Montana, Nevada, New Jersey, Ohio, Utah, and Washington. Other states and jurisdictions, including Florida, Massachusetts, and Texas, have already either introduced their own Collaborative Law Act or have formed study commissions or caucuses to adopt it.²

Few can explain better the importance of the UCLA than the organization that drafted it. Regarding the importance of the UCLA, the ULC states:

The **Uniform Collaborative Law Rules/Act (UCLR/A)** was promulgated by the Uniform Law Commission in 2009, and amended in 2010. It provides a necessary, comprehensive statute to address the growing practice of collaborative law, providing consistency in place of the existing patchwork of laws governing the practice. Collaborative law is a voluntary, client-driven form of alternative dispute resolution practiced in all 50 states. It has been widely used in family law cases, and is beginning to be used in other types of cases, such as insurance disputes or disputes between members of closely held businesses. Its increased use as a dispute resolution mechanism requires there be clear standards, and consistent treatment between the states. The UCLR/A standardizes the most important features of the collaborative law process, protecting consumers, preventing lawyers from engaging in unethical practices, and creating rules governing the disclosure of information and evidentiary privilege. The Uniform Collaborative Law Rules/Act should be adopted for the following reasons:

- **Consistency** - The UCLR/A provides consistency from state to state regarding the enforceability of collaborative law agreements. This consistency is important for parties who may choose collaborative law as a process by which to resolve interstate disputes.
- **Minimum Requirements for Agreements** - The UCLR/A establishes minimum requirements for collaborative law participation agreements. They must include written agreements that state the parties' intention to resolve their dispute through the collaborative process, a description of the matter, and designate collaborative lawyers.
- **Process Beginning/End** - The UCLR/A gives specific instruction on when and how the collaborative law process begins and concludes.

² Uniform Law Commission, "Enactment Status Map," <http://www.uniformlawcommission.com/Act.aspx?title=Collaborative%20Law%20Act>. (Last Accessed, May 20, 2015).

OLC Project Proposal – Uniform Collaborative Law Act
August 6, 2015
Page 4 of 5.

- **Clear Disqualification Requirement** - The UCLR/A codifies the disqualification requirement for collaborative lawyers if the collaborative process concludes. The disqualification requirement is a fundamental characteristic of the collaborative process.
- **Modified Disqualification Rules** - The UCLR/A modifies the disqualification rule for lawyers representing low income clients or government parties. Specifically, the Act allows legal aid offices, firms providing pro bono services, and law school clinics to continue to represent low income clients even if the collaborative process fails. By modifying the disqualification rule, the Rules/Act assures that low income and government parties have access to this form of dispute resolution without detrimentally affecting their future ability to obtain legal services.
- **Screening Requirements** - The UCLR/A directs lawyers to advise clients about alternatives for dispute resolution (such as litigation, arbitration, and mediation), mandates that the lawyers screen for instances of domestic violence or other coercive behavior, and orders the lawyer to assess with the prospective client whether a collaborative law process is appropriate for the case.
- **Privileged Communications** - The UCLR/A creates a privilege for communications that occur during the collaborative law process that would otherwise not be available, or would vary when a dispute crosses state lines.³

4. LAW COMMISSION INVOLVEMENT

Enactment of the UCLA should be noncontroversial. We anticipate that it will be embraced by the public, family law practitioners, alternative dispute resolution practitioners, and other members of the legal community. That said, the UCLA needs to be tailored to suit Oregon law; introducing it as is into the legislature will likely lead to extensive reworking in legislative committees.

Furthermore, because the UCLA may impact the practice of probate and business law, a UCLA work group needs the participation of a wider audience than through sponsorship of one subcommittee of Oregon State Bar. We also understand that the legislature prefers bills that have received input from members of the public outside of the legal community. The Oregon Law Commission has expertise in sponsoring successful bills in all areas of law and the ability to involve non-legal professionals in their work-groups, making the OLC an ideal fit for this project.

³ Uniform Law Commission, "Why States Should Adopt the Uniform Collaborative Law Rules/Act," <http://www.uniformlaws.org/Narrative.aspx?title=Why%20States%20Should%20Adopt%20the%20UCLA>. (Last Accessed, May 15, 2015).

OLC Project Proposal – Uniform Collaborative Law Act
August 6, 2015
Page 5 of 5.

In addition, the OACP will provide support to ensure the UCLA's passage. We believe that with the OLC's assistance and influence, this piece of important legislation can glide through the legislature.

5. PROJECT PARTICIPANTS

The OACP has a subcommittee of individuals who are working diligently on securing the enactment of the UCLA, which includes me, Dona Cullen, Jason Janzen, Randall Poff, Myah Kehoe, Ron Johnston, and Joanna Posey. All of these individuals are willing to serve on a Work Group or work as a reporter. Our subcommittee is building a coalition of legal and public organizations that will support this bill.

Among the OLC Commissioners, the best fits for Chair include Lane P. Shetterly, Chief Justice Thomas A. Balmer, and Julie McFarlane.

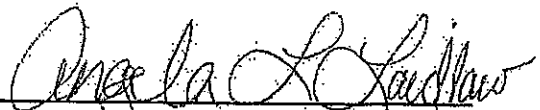
6. CONCLUSION

Collaborative law is an advancing area of law that can positively impact all Oregonians. The UCLA will give Oregon consumers and attorneys clear direction on the rules and procedures to follow when undertaking this path. I believe that the support of the OLC is vital in securing the enactment of the UCLA. I urge the OLC to give our proposal strong consideration as we would like to move forward with this bill in the next legislative session.

If you have any questions, please do not hesitate to contact me.

Sincerely,

**BOWERMAN, DAVID, LAIDLAW &
LAIDLAW, LLC**


ANGELA L. LAIDLAW