

Collaborative Divorce: You Can Divorce in a Healthier Way!

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Have you heard the term “Collaborative Divorce” yet? It’s the most exciting concept aimed at improving the minefield of divorce since no-fault divorce (over 30 years ago) and mandatory mediation (in 1981). By setting up a cooperative framework for doing divorce, with no fall-back position (as in “agree to this or I’ll see you in court!”), couples have a much greater chance of coming through divorce intact, and with much healthier children.

The movement started in 2000 when a Midwest family lawyer named Stu Webb got sick of being a part of the carnage produced by litigated divorces. He wrote letters to 50 other lawyers, one of whom replied with interest. The two of them began to offer divorce with a special twist: they created and signed a contract stating that they and the clients would work together, not against one another, and that if the team of four could not reach agreement on their major issues, the lawyers would resign the case. The concept caught on in many places around the nation and in Canada. Then in 1998, a group in the Woodland Hills/Westlake Village area of California began meeting and eventually formed an organization called The Coalition for Collaborative Divorce. The founding three members are an attorney, a mediator with a financial background, and a psychologist. What is unique about the CCD is that the model has expanded to include other professionals as well. A divorcing or separating person can begin an inquiry on the internet by going to www.nocourtdivorce.com. Any professional listed on the website is willing to offer a complimentary consult, 15 minutes or so, to help steer the person or couple toward the help they need. Case managers (trained therapists) can be consulted to provide an assessment of the complexity and degree of “adversarialness” of this couple, and will inform them of many different options. Referrals are made which reflect the simplest and least expensive solution for the couple’s situation.

A collaborative divorce can take many forms. A couple with relative goodwill and a fairly simple situation might be able to sit down together and hammer out an agreement by themselves. Filing for divorce can be done with the aid of a book from the library or bookstore (by Nolo Press, for example), or by utilizing the services of a Legal Document Assistant. If the couple or case manager realizes that the situation requires more assistance to reach agreement, a mediator can be called in. Mediators can have different backgrounds; some are attorneys, some are therapists, others have different sets of training and orientation. Mediation works best when there is no great power disparity between the divorcing folks. Mediators will recommend that the agreement reached in mediation be reviewed by each party’s attorney, since a mediator cannot look after the legal interests of each. Attorneys can now be brought in on a consulting basis, instead of being hired to accomplish the entire divorce. (This is another important development; called “unbundling” of legal services.) When mediation is not enough, there are yet other options. Therapists can act as “divorce coaches”, and work individually with their client, can meet in a “4-way” including both clients and both coaches, and in “6-ways” with the attorneys present. At the top level of complexity would be the full collaborative divorce, which uses two collaboratively trained lawyers and any other needed professionals. Even

in the case of a full collaborative divorce, the financial cost is still much less than in a contested divorce. Keeping divorces out of the court system is of paramount importance.

The “Primary Divorce Professionals” (those most frequently used and needed to create cooperative divorces) are attorneys, mediators, paralegals (Legal Document Assistants), neutral financial experts and therapists (as divorce coaches, parenting coordinators, and case managers). Another level of professionals (Secondary Divorce Professionals) can be brought in as needed; these include financial planners, realtors, appraisers, business valuers, mortgage loan brokers, career coaches, etc. In a contested divorce, each party would be likely to hire their own professionals, to value their business, for example. In a collaborative divorce, one business valuator would be brought into the collaborative team, therefore lowering the costs substantially and saving time and money normally spent on fighting over the different suggested values.

It is easy to see how financially important it is to stay out of court. There are other, intangible benefits to consider as well. How does one value, for example, the ability to come together in a time of crisis for the child? How about to be able to be present together for graduations, proms, and wedding days? How can one put a value on what it is for a child to see her/his parents able to get along, perhaps even to respect each other as parents, to put aside differences for her/his sake? CCD professionals hope to encourage the spread of knowledge about this very important development, so that more and more people can restructure their families with dignity and integrity.