

A Collaborative Divorce can lead to a peace-filled beginning

I would venture to say that if you are reading this article, you have gone through a divorce, are contemplating divorce, or know someone who has gone through or contemplating that life-changing event. Words used to describe most situations that we've personally experienced or witnessed would be disastrous, distasteful, hurtful, unfair, etc. Although it was created in 1990, there is a revolutionary divorce process that is now gaining the respect of, and being embraced by divorce specialists worldwide. Attorneys, therapists, coaches, and financial planners are now being trained in Collaborative Divorce, also referred to as Collaborative Family Law, to thoughtfully, respectfully, and peacefully resolve divorce issues.

I refer to this alternative dispute resolution process as *Collaborative Practice*, as many times the attorneys are joined by the other professionals previously noted to help the spouses reach a settlement. There are many features of the process that make it revolutionary. Spouses are joined by their respective Collaborative Attorneys in four-way meetings. The attorneys provide a framework for the issues that are important to the spouses. They gather all pertinent information, evaluate option consequences, decide which options best meet the needs of both spouses, and prepare the agreement. The joint sessions promote the "brainstorming" of alternatives, which leads to "out of the box" thinking and an agreement that truly suits the needs of the spouses and children, if involved. "What the law says" is used sparingly and only if spouses want to use the law as a reference point. Revolutionary is truly reflected in the hallmark of the collaborative process. The parties, their attorneys, and any consultants must enter into a Participation Agreement. This binding contract defines the environment that all commit to in order to reach an efficient and mutually agreeable settlement, without court intervention. In the event that the process breaks down and either party elects to litigate, the attorneys and any consultants involved in the case are barred from the litigation process. The structure of the process provides an environment where the issues are resolved according to the wishes of the divorcing spouses rather than their attorneys.

You may say "but I don't want to change attorneys if we go to litigation." Keep in mind that 97% of filed cases are settled outside of the courtroom. Many are resolved with the spouses using car trunks, the courthouse steps, or attorneys' backs as writing surfaces for the agreements! If you want to settle in a cost-effective manner, why not make that commitment upfront?

If you have children, Collaborative Practice will most likely produce the results that are best suited for their needs. With the spouses' consent, Child Specialists can join in the process to interview the children, make assessments, and offer constructive custody and parenting alternatives to keep the divorce "child centered." The Child Specialist becomes the child's or children's advocate.

Property division, alimony, and child support can be major stumbling blocks in settling a divorce. In Collaborative Practice, the couple could engage the services of a Financial Divorce Specialist, who could analyze the finances and provide alternatives that would suit both spouses' needs.

What is the difference between Collaborative Practice and Mediation? In mediation, the parties advocate for themselves while often using attorneys to consult with them outside of the mediation sessions. The mediator cannot give either party advice nor can they advocate for either party or their position. In the collaborative setting, the parties are *never on their own*; each party is fully and individually represented throughout the process. This provides a safety net especially for spouses who are less financially savvy than their partner.

Collaborative Practice can benefit everyone in the process. For the divorcing couple, the final agreement will be better suited to their own unique needs since it is a product their direct participation in the negotiations. The process can be less time consuming, less expensive and less confrontational than traditional adversarial divorce. The couple is also better able to focus on pertinent issues because stress and anxiety are effectively reduced. Communication and cooperation is greatly enhanced, which allows them to work more effectively after the divorce to manage finances and co-parent children.

Collaborative Law groups have formed in nearby counties. They are an excellent starting point to find attorneys, financial planners, therapists and other professionals that are dedicated to the process. The Howard County Collaborative Professionals (www.hococollaborativeprofessionals.com) includes specialists that practice in Howard and Montgomery Counties. You can also obtain additional information on Collaborative Practice at www.collaborativepractice.com.

This article was written by John Faggio and was published in On Purpose magazine, January 2006. It has been updated by the author on June 24, 2009