

Working Together to Take Things Apart: Collaborative Divorce

Article by The Jersey Shore Collaborative Group

Divorce is never easy. It prompts a change in circumstances and forces you to make decisions about your family home, healthcare coverage, child care, and education costs. As if these issues aren't overwhelming enough, when paired with lawyers, court proceedings, custody hearings, and legal jargon, it can almost seem like too much. But, maybe it doesn't have to be. Rather than choosing a traditional, litigious divorce, some couples choose a collaborative divorce.

The collaborative divorce starts with a couple making the decision to divorce with a process that minimizes conflict. The couple retains attorneys who have been specially trained in collaborative practice. The two attorneys then schedule the first "4-way" meeting, where the couple and counsels sit down and outline the various issues that this particular divorce presents. The most common issues include custody, alimony, child support, the marital residence and the equitable distribution of assets. The interests and goals of each party are the main focus of the meeting. A collaborative four-way is a problem-solving exercise in which the spouses and attorneys engage together in creating resolutions that meet the family's goals.

For divorcing couples, the collaborative process offers a number of benefits. Their children are treated as a priority, and everyone on the team works to maintain and support the couple's ability to co-parent their children. The children are not put "in the middle" but are the focus of the process. The couple retains control of the timing of the process. They can move more quickly or more slowly than a court would require, and can reach informal temporary agreements quickly and efficiently when necessary. The process is confidential so sensitive financial and personal information doesn't enter the public domain. Keeping the process out of the court until an agreement is reached eliminates hours spent in court for case management and other court-required events, saving legal costs and the couple's time away from work or their children. In actuality, the process is often quicker, about three to six months compared to between 18 months and several years — and therefore, less costly than a traditional divorce. The couple and their children are less likely to come away emotionally damaged because they are not pitting themselves against one another in all-out warfare. They can be spared the greater level of stress experienced in a litigated divorce where blaming and accusations are the norm.

In the collaborative practice, lawyers, mental health professionals and financial advisors join together to create a "team" that helps resolve all marital issues by making the well-being of all family members the top priority. When appropriate, the couple may seek advice from professionals in addition to their attorneys. Forensic accountants and financial planners can help determine the value of property and businesses and assist in evaluating options for alimony and child support. Financial professionals are playing an increasingly important role on the collaborative team during this economic downturn. The marital home is typically the family's greatest financial asset and splitting it up in a tenuous mortgage market along with lower home prices has resulted in the need for creative solutions. By using collaboration, the couple avoids a judgment by the court to sell the house during a downturn in the real estate market giving the couple an opportunity to find other solutions. Mental health professionals may be called upon to help the couple deal with emotions that keep them from focusing on financial issues or leave them unprepared to make decisions. Mental health professionals may also help the couple create a parenting plan mindful of the children's needs. These professionals may be engaged as neutrals that assist both spouses, or for the sole benefit of one spouse. The agreement to retain other professionals is reached by the attorneys and spouses together, so each family can assemble the professional team that will best help them resolve their conflict.

Collaborative law is a relatively new form of dispute resolution, pioneered in the late 1980s by Minneapolis family lawyer Stuart G. Webb. California attorney Pauline Tesler, together with mental health colleagues, helped formulate the multidisciplinary collaborative team model. Since the early 1990s, collaborative law has been spreading throughout the United States and abroad. Legal, mental health and financial professionals in almost every state has adopted the collaborative practice model.

In fact, today there are more than 170 practice groups across the United States, Canada, Austria, Ireland and the United Kingdom. Many practitioners are participants in the International Academy of Collaborative Professionals (IACP), which presently has more than 3600 members. The IACP estimates that there are more than 10,000 professionals in North America who have gone through training for collaborative practice. IACP'S members are lawyers, mental health counselors, financial professionals and other trained advisors that a couple need in reaching satisfactory outcomes without litigation. You can learn more about Collaborative Divorce or find a Collaborative Professional in your area by visiting their website at www.collaborativepractice.com.

Divorce will always remain a significant life event. There are choices that a couple can make to protect themselves, their children and their financial future from the ruin of a litigated divorce. Collaborative law practitioners believe this new process can guide families to a compassionate ending and a healthy new beginning.

About the Jersey Shore Collaborative Law Group (JSCLG)

Founded in 2005, JSCLG is a business created to provide a platform for the implementation, development and promotion of the use of the collaborative legal process to resolve divorces and other family law related disputes. The group brings together matrimonial attorneys, financial professionals and mental health professionals to foster the growth of the collaborative divorce process in the state of New Jersey. For more information, visit www.jerseyshorecollaborativelawgroup.com.

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