

Collaborative Process Provides Civil Alternative For Divorce



Collaborative Practice offers a way of helping people remain civil during a major transition in life. The collaborative team strives for mutually acceptable resolutions that best meet the needs and goals of everyone involved.

Finger-pointing, guilt, frustration, fear and anger are all emotions that commonly surface during a divorce. When a couple decides to part ways, the courtroom isn't far behind. With the Northwest Suburban Illinois Collaborative Law group (NWSICL), there is an alternative.

"Many people don't know they have choices," said Susan McCabe, an attorney member of the NWSICL group. "Many think their only option is a traditional court model, which is often adversarial. The adversarial process can perpetuate already vulnerable feelings, keep people engaged in conflict, and prolong a resolution."

Drawing from a collaborative model popular in Canada and found in more than 35 U.S. states, the NWSICL group's aim is to evolve the process of resolving divorce and family disputes to one of open communication and full participation by both sides, in the hopes of reaching a more amiable agreement.

"Collaborative Practice provides a way of helping people remain civil during a major transition in life," adds Phil Addante, a licensed clinical social worker and divorce coach. In addition to devoted attorneys, there are professionals involved to address everything from emotional needs, to a child's best interests, to financial decisions.

When two clients choose the collaborative process, everyone involved must sign a written agreement not to litigate or turn to the court in an adversarial manner. This Collaborative Participation Agreement reinforces the principles guiding collaborative solutions, including full and honest disclosure, participants' self-determination, and striving to minimize the length of time and negative emotional and economic consequences of a divorce. Candace Pietschmann, an attorney NWSICL member shares, "In my experience, a collaborative case usually is less expensive and can be resolved more quickly than the traditional, adversarial divorce."

"It's a transparent and confidential process," said Margaret Powers, one of the founding members of the statewide

organization, Collaborative Law Institute of Illinois. "There are no secrets or power plays. Participants discuss their personal family matters privately and not in a public courtroom. This enhanced privacy and confidentiality is of particular benefit to members of traditional, ethnic, and immigrant communities where family honor is often valued above all else," adds Malini Byanna, an attorney NWSICL practitioner of East Indian descent.

Throughout the collaborative process clients meet jointly with their team of professionals to discuss and receive professional advice regarding the many aspects of the divorce. Between the various sessions, Powers explains, there is time needed for reflection, for research. The end result, however, is a resolution with minimal court involvement, typically with one day in court when the papers are filed and the divorce finalized.

"Coaching, as opposed to therapy," explains Addante, "involves focusing on the divorce process rather than the individual. The coach, who is a licensed mental health professional, works out emotions that will assist in the success of the divorce long-term. A divorce coach helps clients address the emotional aspects that arise during this life transition and gain a better understanding of their needs and interests to help them identify their future goals and make parenting and financial decisions."

Margaret Powers, a licensed clinical social worker member of the NWSICL group, also provides another unique presence in the collaborative process as a child specialist. "Divorce affects everybody, and although family members have varying degrees of power, everyone needs a voice," Powers said. "The capacity to parent can be impaired during a divorce. We provide a voice for the children involved, which is an important part of the collaborative process." By working with the children separately, she can draw out important emotions during the process that otherwise might fester for years. The specialist's goals are to examine what is in the best interests of the child and work to develop a "parenting plan." Considerations extend beyond custody and living arrangements

and also take into account respect for a family's uniqueness. "You're working to move from one definition of family to another," Powers said. "This is really what divorce is."

Another part of the process, often the root of initial trepidation, is addressing the family's assets. Financial experts are neutral professionals in the collaborative process. Rather than only the separate attorneys representing the interests of their client, the financial advisor works for both clients' interests. "One of the biggest fears people have in a divorce is: 'How am I going to survive financially?'" said Helen Torscher, a financial advisor in the group. "People tend to use finances to beat the other side up." As a neutral professional, Torscher breaks down assets and debts and provides an unbiased assessment of the consequences in choosing each option. Her projections serve as a conduit for more creative, collaborative thinking between the couple.

For a process as emotionally driven and private as a divorce can be, the collaborative process focuses on the clients. The professionals involved in each case are committed to the journey. They often must step back to assist rather than control. "Attorneys are used to advocating by arguing," McCabe said. "Here, we use a skill sometimes hard to come by in lawyers - listening. We need to listen more and not just argue a position. Instead, based on our client's goals, concerns, and interests, we advise and assist them to arrive at decisions for themselves as they negotiate their best resolution."

According to Gunnar Gitlin, a NWSICL attorney member, who has spent many years trying family law cases in McHenry County, "I have found Abraham Lincoln's statement that the nominal winner is often the loser is correct. In addition to the significant cost in terms of attorneys' fees, there is an emotional fallout from contested divorce cases. In my experience with Collaborative Practice, many more tools are brought to the table to try to avoid the 'lose-lose' propositions. The collaborative team strives for mutually acceptable resolutions that best meet the

needs and goals of everyone involved." When a couple files a divorce with the knowledge that they are fully aware and engaged in the process, that their interests are considered with an open mind and a complete conscience, chances are their future will be brighter.

Pictured above from left to right: Front row: Phil Addante, LCSW, Malini Byanna, J.D., Meg Jackson, J.D., Barbara Grace, Ph.D., Anna Bush, J.D., Helen Torscher, CDFA, Candace Pietschmann, J.D., Back row: Alexandra Goddard, J.D., Gunnar Gitlin, J.D., Michelle Wiejaczka, J.D., and Susan McCabe, J.D. (The Northwest Suburban Illinois Collaborative Law group belongs to a greater consortium of professionals within the not-for-profit membership organization, the Collaborative Law Institute of Illinois.)

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