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Collaboration is critical

Couples find that breaking up doesn't have to mean breaking the bank

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No one needed to tell Kathe Aldrich the grim statistics about women and money and divorce.

She and her husband, Charles, had been married nearly 30 years when he asked for a divorce. She immediately began worrying about her financial future.

The Rolling Meadows couple has no children, and Kathe Aldrich, 52, has worked full time for 30 years. Nevertheless, she worried that a nasty court fight could drain her finances. So she and her husband turned to a process known as collaborative divorce and were able to officially split in July without sabotaging their portfolios.

The collaborative process, started by Minneapolis family lawyer Stuart Webb in 1990, provides alternative dispute resolution using a team of professionals working jointly for the couple, rather than in adversarial roles. It is just now hitting the radar screen in Illinois, where practitioners estimate that about 300 divorces have been handled this way in the last several years. The state averages about 35,000 divorces a year, records show.

Both parties agree not to enter litigation. Couples often hire attorneys trained in collaborative law and bring in shared accountants, financial planners, business valuation experts, child psychologists and even life coaches to help the couple. Unlike impartial mediators, the attorneys can advise their clients as advocates.

Traditional is 'passe'

"Traditional divorce is passe," says Lyn Conniff, an Oak Park attorney.

Proponents say it dramatically cuts the tension--and the costs--involved in traditional contested divorces.

"We still have a joint checking account for the kids' expenses," says Dean Johnson, 41, of Menominee Falls, Wis. His divorce from Carolyn Johnson was final in December 2003, and he remarried in November 2004. "We all still go to the same hair stylist, who tells me we have a better divorce than most marriages."

There are skeptics, however. Among the critics are those who say the peacefulness of the process encourages divorce and attorneys who say the best representation for any divorcing spouse is a vigorous offense.

"It doesn't work in every situation," says Conniff, who counts herself among the proponents but acknowledges some limitations. "If there's true mistrust between the couple, it's hard to do collaborative [divorce]."

Participants in a collaborative divorce sign documents promising to disclose all assets, and their attorneys agree to walk away from the case if the parties end up going to trial.

"This is for people who want to be architects of their own future," says Anna Bush, a collaborative attorney in Barrington who also is a director of the Collaborative Law Institute of Illinois, an alliance of attorneys and financial professionals who practice the technique here. The group maintains a Web site at www.collablawil.org.

An average contested divorce can run about \$30,000, but it's not uncommon for some to reach six figures, attorneys say.

Collaborative costs vary widely, depending on the number of professionals involved and the number of meetings it takes for spouses to agree on a settlement. Collaborative attorneys estimate that most of these cases settle for half to a third of what their bill would have been with a court battle. Settlements must be reviewed and approved by a judge.

Several Midwestern couples interviewed for this article reported that their costs ranged from \$5,000 to \$21,000, representing as high as 15 percent of annual household income.

The collaborative process helped Tim and Cheryl Ziegler, both 39, structure an unusual financial settlement in 2002.

The couple married in 1990 while attending optometry school in Chicago, then moved back to Tim's hometown of Plymouth, Wis. They started a joint private practice and went on to have three children, now school age.

A decade went by before Tim realized he is gay.

"Cheryl is a beautiful, amazing person, and we love our kids," Tim says of his ex-wife. But as Tim made his realization, Cheryl guessed it before he could muster the words. "She said, 'Either you have cancer or you're gay--now what's going on?'"

After stumbling onto Milwaukee collaborative attorney Carlton Stansbury through a patient, the Zieglers assembled a team of two collaborative attorneys, their shared business accountant for their practice and a shared counselor. The couple divorced but continue to operate their practice as equal business partners.

Cheryl kept the house and works reduced hours to be home more, but still takes home half the income from the practice as family support. The couple pledged to keep the company's assets out of any future marriage's assets.

They spend holidays together--bringing along significant others--so the kids can be with both parents on those days.

Even friendly divorces come with costs that reach beyond the courtroom, however, and women especially tend to feel the strain. Divorce Magazine reported the drop in standard of living for women after divorce was 45 percent in 2000. About 20 percent of people filing personal bankruptcy had been recently divorced, according to Harvard University law professor Elizabeth Warren, who has studied families in dire financial straits since 1986 and who is considered one of the leading national authorities on bankruptcies.

Adjusting to one income

Learning to live on one income and adjusting to a new retirement reality was a shock for Aldrich, even though she never left the workforce during her marriage. As her marriage crumbled, her employer of 25 years, United Airlines, was (and still is) mired in bankruptcy court.

"Effectively, I had been counting on the value of [Charles'] business for our retirement," she says of her former husband's company, a manufacturer of metal fasteners. "I'm much more careful

now, and I do think twice about things I purchase."

To work out a financial split as part of the collaborative process, the couple hired an actuary to value Charles' business and Kathe's pension. Initially she felt the pension estimate was too high given United's precarious financial situation, and that the value of Charles' business was assessed too low.

She walked away with her own retirement funds, the couple's home (which is where she grew up), another property inherited from her side of the family and a condo in Hawaii, but no interest in Charles' company.

Despite the expected takeover of United's pension plans by the Pension Benefit Guaranty Corp., Aldrich feels positive about the divorce settlement. The actuary calculated the settlement as if contributions to her pension were stopped at the time of divorce--a prescient move--and the Guaranty Corp. guarantees existing pensions, though they are subject to federal limits.

And the couple salvaged enough of a friendship that Charles still comes over to visit Taz and Fergie, their Australian shepherd dogs. Charles remarried in October.

"Oddly, since our divorce was finalized we're more considerate to each other," Aldrich says.

Collaborative divorce also doesn't account for the lifestyle people dreamed of while they were married, or all of their sacrifices.

Dean Johnson's ex-wife, Carolyn, 40, was pleased with the process, but acknowledged the leftover intangibles after their roughly 50/50 asset split: He had paid for her graduate school but never had the chance to go himself because he was working; she had relocated every two years as he moved up in his company, affecting her career prospects.

"There were a lot of long meetings where we had to take breaks. It got very hairy," she says. Being able to work it out directly helped set the couple up for friendship later, she says. "We just wanted to move on."

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ABCs of financial issues when parting amicably

A primer on money topics for divorcing couples:

Your staff: In addition to consulting attorneys, divorcing couples are turning to specialized financial planners to run living cost estimates, decide the value of family businesses and prepare investment return projections on proposed settlements.

Typically these are accountants, certified financial planners or other financial advisers who offer a specialized divorce practice. Someone who has a Certified Divorce Financial Analyst designation has also taken a self-study course and completed four exams related to divorce finances, but be sure to inquire what other credentials he or she has. Training is done through the Institute for Divorce Financial Analysts in Southfield, Mich. (800-875-1760).

For a list of financial specialists also trained in the collaborative divorce process, call the Collaborative Law Institute of Illinois, or go to its Web site, www.collablwil.org.

If you'll need help valuing assets or a business, or suspect your future ex may be hiding money you also may need to contact a forensic accountant. The law institute's Web site contains

information on such firms.

Your career: If you are the primary breadwinner but are considering a lower-paying job as you go through the divorce transition years, tread carefully. Some judges will require you to maintain your family's previous standard of living, Philadelphia lawyer Gayle Rosenwald Smith says.

On the flip side, if you took the mommy track years ago but have a solid education and/or professional credentials, a judge may rule you're more than capable of a high earning power and decide to award less alimony, says Smith, author of "Divorce and Money: Everything You Need to Know" (Berkley Publishing Group).

Your portfolio: If you think you'll have to draw down some retirement money to cover expenses in the first few years of divorce, do it sooner rather than later, suggests Theresa Kulat, an attorney from Downers Grove who went through a collaborative divorce herself. "You can take a distribution at the time of divorce without a penalty," she says.

Your tax return: Be sure to consider the tax consequences of your divorce settlement. The more money a primary breadwinner doles out as alimony instead of child support, the more he or she can deduct from income, experts say. The spouse receiving the alimony will have to pay income taxes on the money, but usually it will be at a lower tax bracket. Child support, on the other hand, isn't deductible from income.

-- J.K.S.