

It's over - but let's be friends

Collaborative divorce lets exes-to-be work out details together.

By Colleen Jenkins
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TAMPA - A divorce reached through collaboration might sound odd for couples headed toward Splitsville. Same goes for their attorneys, who make serious dough when breakups are drawn-out and dirty.

Yet 25 bay area lawyers and a growing number of their clients have embraced "collaborative divorce," a process that restores the give-and-take lost somewhere after "I do."

"What's left after the massacre?" Tampa marital law attorney Nancy Harris said of traditional divorce. "It feels better to win with this process."

Traditional divorces don't always go to trial. Many go to mediation, where an arbitrator stays neutral while everyone else takes sides.

The collaborative concept puts participants on the same team. Spouses and attorneys come together with mental health and financial experts read: no judges for meetings. Before each meeting, they agree on an agenda focused on child support, asset division and alimony.

They go to the courthouse only when it's time for a judge to sign off on the final settlement.

The experts have familiar roles. The mental health specialist anticipates and soothes emotional flareups, while the financial guru works to determine the value of a marital estate.

Divorce attorneys go against type, becoming advocates rather than adversaries. They sometimes tell their client the other spouse is right.

To give the process leverage, attorneys on both sides must withdraw from the case if it fails to settle.

In Tampa, where the divorce rate hovers at 15 percent, one local lawyer has seen two couples attempt to reconcile as a result of the process. Still, collaborative divorce doesn't change the personal, painful nature of the event; no lawyer interviewed for this story could find a client willing to talk about their own divorce.

And not all lawyers are drinking from the fountain of harmony.

Trust is key

The American Academy of Matrimonial Lawyers encourages attorneys to seek resolutions for cases before trial, but its president worries about the lack of oversight. How do you guarantee both sides are forthcoming about what's in their bank accounts?

"I always get a little leery of a process that has no rules," said Gaetano Ferro, who practices marital but not collaborative law in New Canaan, Conn.

But for another lawyer, desperation pushed him to test the terms of traditional divorce.

Tired of the negativity from his 20 years in family law, Minneapolis lawyer Stu Webb said he was prepared to quit or find a more civilized way. He came up with the collaborative approach and began practicing it exclusively in 1990.

The idea slowly caught on across the United States and Canada, with about 10,000 attorneys now incorporating it into their practices, Webb estimates.

A group of litigators from Tampa, St. Petersburg and Clearwater gathered in November with about two dozen mental health and financial experts for their first local training session.

They emerged with a convincing sales pitch.

Traditional divorces, which typically last a year or more, put an emotional and financial strain on splitting spouses. Collaborative divorces wrap up in six months or less and eliminate the high cost of formal communication and legal paperwork.

Local lawyers said the approach usually is cheaper - but not cheap - for their clients. The price tag varies by case.

Children benefit more than their parents' wallets, proponents say. They watch parents handle conflict in a respectful manner and don't get trapped in manipulative custody battles.

Parents are freed to develop communication skills for a civil relationship beyond the divorce.

"There's less of a reason for the parents to criticize the other parent to the children," said Mitch Kroungold, a Clearwater psychologist who is trained in the collaborative divorce process. "Both parents are committed to mutually coming to an agreement that's going to be in the best interest of the children."

Success depends on the clients. Some people don't trust their spouses to be forthcoming about finances without a judge around to supervise. University of Virginia professor Robert Emery, whose research has shown the value of mediation for divorcing parents, questioned the practicality of expecting couples to pay for so many professionals.

"That approach doesn't make things worse," he said, but "I'm not sure there's a lot, at a time like that, that can make things too much better."

Obstacles the same

Even fervent advocates say they don't recommend collaborative divorce for cases with a history of domestic violence or child abuse. Couples seeking a bloodbath need not apply.

Lawyers gird themselves for some of the same obstacles they face in traditional proceedings. Ky Koch, a Clearwater divorce lawyer and president of the Tampa Bay collaborative law group, puts it this way:

"Boy ready to get it over with. Girl not ready emotionally to get there. You've got to slow your boy down; you've got to fasten your girl in to get her moving."

Tears and frustration may still be part of the equation.

But in the five collaborative cases he's done so far, Koch said couples left with the satisfaction that they decided the terms of their divorce instead of entrusting the details to strangers.

"The collaborative process allows husbands and wives to better understand each others' emotional needs, for the process and beyond, more than the traditional divorce process would ever allow," he said. "It's a better way to divorce."

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