

Collaborative Divorce: A Road to Amicable Resolution

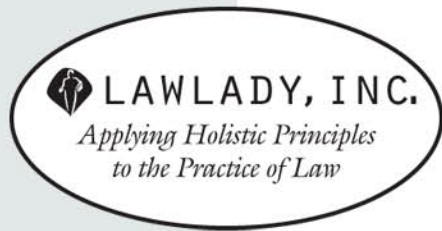
- ◆ **Do you have a suspicion there is a better way to handle family law matters than is currently being practiced?**
- ◆ **Do you ever feel, after a family law trial, that the couple was more harmed than helped by the litigation?**
- ◆ **Would you like to offer divorcing clients an option that promotes long term happiness and prosperity?**

If you answered yes to some of these questions, the collaborative law process might be for you.

“Collaborative Law,” as coined by founders Stu Webb and Pauline Tesler, is a method where two lawyers agree with their clients not to litigate the matter. All four agree to work towards an amicable resolution, and if unsuccessful, the clients must choose other counsel to take the matter to trial. Collaborative Law has been practiced since the early 1990’s starting in Minnesota with Stu Webb and has spread to 26 states and Canada.

In the mid-90s a group in Arizona termed the phrase “collaborative divorce” to apply when two lawyers work with a team of neutral professionals to facilitate the divorce process. The team might consist of coaches for each party, a neutral financial evaluator, a child specialist, or a mediator. The Arizona group service marked “Collaborative Divorce” to signal the public to expect a team approach to divorce. Divorce is a multi-dimensional transition that impacts people on the physical, financial, emotional levels and spiritual levels. The team approach works because the best professional for the job is serving the particular needs of the client. Emotional issues are dealt with at the coaching level; financial issues are explored by a neutral financial expert. Generally, the supporting professional charge less per hour than the lawyer so it is cost effective to have the client doing work with these professionals.

The single greatest requirement of the collaborative model is a commitment to withdraw from the case if things get ugly and unresolvable. Stu Webb has worked many years to gain public awareness that the term “Collaborative Divorce” and “Collaborative Law” mean the attorneys withdraw. He asks that lawyers, who practice in an amicable fashion but litigate cases failing to settle, refer to themselves by another moniker, such as “Amicable Lawyers.” According to Webb, “if the withdrawal rule is not in place, it is not collaborative law. We want clients to know what they’re getting when they ask for and are offered the ‘collaborative brand.’”



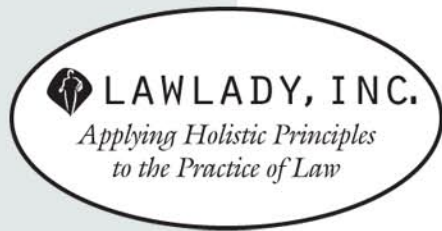
The public is telling us in many ways that it is unhappy with the litigious nature of divorce. A whopping amount of divorcing clients in our area choose to divorce without attorneys- not because they cannot pay for attorneys, but because they worry the attorneys will “muck up” the process making it hostile and expensive.

What the collaborative model offers divorcing clients is the ability to reach a settlement without large litigation fees; to craft custom-fit divorce parenting plans and property settlements; to learn communication and relationship skills to better enable the couple to navigate the tumultuous waters of divorce; and to create bigger pies to split. A fundamental principle of the collaborative process is that if the clients and lawyers are focused on amicable resolution, more creative solutions surface. Cases move faster when the fear and anger levels are diminished.

Some attorneys when first introduced to collaborative law express that their clients cannot afford to pay for many professionals. What the practitioners are reporting is that the overall cost of most cases remains less than what would be paid in a regularly litigated case. A moderately conflicted case might cost \$15,000 to \$20,000 total to resolve. Peggy Thompson, a clinical psychologist and co-director of the IACP, reports the cost for coaches and a neutral child specialist in a moderately conflicted case may run \$5,000 and the financial experts fees \$2,000 to \$3,000. Pauline Tesler, the mother to this movement, says attorney time in such a case will involve private sessions with the client and then three to four meetings with the other side. This is a type of case that historically might involve a motion for temporary orders within the first month costing the couple \$7,000 just to get the matter rolling. Less litigious cases might only cost \$5,000 to \$6,000, with \$2,000 in support services from the helping professionals and two four-way meetings between the lawyers and clients. Tesler reports that, although her average earnings per case have dropped as she’s moved away from litigation to a collaborative practice, her volume of cases has gone up. More lawyers are sharing cases with the other attorneys in the collaborative network, and the referrals have increase attorney business. With collaborative practice, volume of cases replaces the high-billable hour case.

The collaborative process has gained such momentum that now there is a journal, *The Collaborative Review*, addressing the needs and issues of the collaborative professionals, published by the International Academy of Collaborative Professionals, the national organization for collaborative law. You can find the IACP at Collabrativepractice.com. This October, the IACP will be holding its annual meeting in Vancouver, the first such meeting to be held in our region.

The spread of the collaborative model has been different in each state. In Texas, John McShane- a big personality, decided that collaborative law was a good thing, and began trainings across the state. Later on, he was instrumental in push-



ing through collaborative divorce legislation, the first in the United States. In San Francisco, Pauline Tesler formed a small group of collaborative attorneys, and when their group grew strong and large, splinter groups broke off and formed new "pods" of collaborative lawyers, eventually spreading across California. Now areas of California have special judicial tracks for collaborative divorce cases, with priority calendar settings. In Georgia, a group of interested attorneys asked for the assistance of the State Bar to fund training to bring this type of practice to the state.

Washington has been slow to pick up the model of practice. Only in the past two years have Washington attorneys begun to offer this model. Possibly as many as 50 attorneys have expressed interest in branching into this mode of practice. A handful have received formal training out-of-state.

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