



A Team Approach to Divorce by Jodi Wyman

There is a movement underway throughout North America to push family law away from an adversarial system to one that is more collaborative in nature. Some Manitoba lawyers now practice almost exclusively a new approach to divorce called Collaborative Family Law. It is meant as a way to get couples to negotiate their own agreement through discussion, instead of fighting matters out in court.

The technique is not complicated. Each spouse hires a lawyer, and all four participants sign a contract agreeing to adhere to the collaborative approach. They have to agree to resolve their dispute through discussion only and to reach a fair settlement in the family's best interests. They cannot focus on what is in their own best interest, rather what is best for the family.

The process when it works tends to be faster and less expensive than going to court. It allows for creative solutions for the family instead of standard court order wording. It allows spouses to work out their own

settlement with privacy and dignity, and can foster a much better post-separation relationship between parents, which is always in the children's best interest.

This family focus can be a big change from how lawyers normally do their jobs as advocates for one client. It is important that any lawyer practicing Collaborative Family Law complete the training necessary to become members of Collaborative Practice Manitoba.

The spouses, with their lawyers, embark on a series of settlement meetings until an agreement is reached. Sometimes only one or two meetings are necessary. Sometimes discussions can go on for months. One of the most important parts of the signed contract is that the lawyers will not go to court. If an agreement cannot be reached, each party has to hire a new lawyer before bringing the matter to court.

Each spouse and lawyer agrees to be honest and respectful, and provide full financial disclosure

so all negotiating is done in good faith.

In the settlement process experts can be brought in to give advice to the couple. With the lawyers, these experts are sometimes referred to as the collaborative law "team".

With child custody and access cases, counselors or psychologists can help the parents understand any behaviour issues and can also make recommendations as to the custody and access arrangements in the child's best interests. Parenting coaches can help the parents understand their own role in communication problems and problematic family dynamics, and help the family find better strategies to work together.

For child or spousal support matters, a financial planner or accountant can be brought in to help with post-separation budgets, tax consequences, investment strategies or determining a reasonable income figure for a farmer or self-employed individual whose

income tax returns may not be of much help.

With a division of family property, the couple can hire a land appraiser and auctioneer to help put a value on assets. If the separation involves a business, it is usually necessary to hire a business valuator which can be invasive and costly. Hiring one trusted expert saves the cost of getting two valuations and then arguing in court over which one is more accurate.

Anyone interested in the process can refer to the website of the International Academy of Collaborative Professionals (www.collaborativepractice.com). As well, Collaborative Practice Manitoba has its own website for more information (www.collaborativepracticemanitoba.ca).