



Collaborative Family Law by Jodi L. Wyman

A divorce does not need to be ugly. Many family law lawyers have been encouraging separating couples to try 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 concept was designed by Stu Webb, a lawyer in Minneapolis, who had grown tired of seeing clients engaged in bitter battles, often with the children placed squarely in the middle. After 20 years in family law practice, he realized he could not bear going to work another day. He and another lawyer decided to try steering clients in a different direction, and the concept soon caught fire. There are now collaborative family law associations across Canada, and the approach has had a large success rate.

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, to focus on the best interests of their children, and to reach a fair settlement in the family's best interests. They are to maintain an atmosphere of honesty, cooperation, integrity and professionalism and negotiate in good faith. Experts, such as accountants or child psychologists, can be brought in for advice to the couple.

The parties, with their lawyers, embark on a series of settlement meetings until an agreement is reached. The clients and the lawyers agree they will not take the matter to court, or threaten to do so. The contract dictates that if an agreement cannot be reached, each party has to hire a new lawyer before bringing the matter to court. Discussions from the settlement meetings cannot be used in court.

Collaborative law is generally preferable to the traditional divorce. It will most likely be far less expensive and much faster than going to court, and less emotionally taxing for the couple. It allows for creative solutions not available to Judges and gives the parties a

better chance of sustaining a positive relationship in the future. Ending a court case does not always spell the end of the conflict. As well, research shows that agreements made by the parties, as opposed to court orders, are more likely to be followed the people feel more in control of the situation.

The collaborative law method is different than mediation, which involves the couple meeting with one independent person who can assist them in reaching a settlement. In cases where there may be an imbalance in power or economic position, or where there is might higher conflict, each person having their own lawyer is preferable.

Although the collaborative technique is not complicated, it is imperative all parties sign on in good faith, and keep the proper mindset throughout. In this way, a difficult situation can actually have a positive outcome.