

*Article originally appeared in the Springfield Republican, October 1, 2006*

## **How You Divorce Is Of No Small Importance**

By Margaret E. White

When one or both of you has decided that your marriage can no longer withstand the daily dramas of life, the last remnants of your hope of saving your partnership have dissolved, and you have decided to divorce, the question is, what do you do next?

This is a new road, one that you will never forget and that will change the course of your life. However, how you divorce is more important than you realize; the process you choose often leads to different outcomes. In the past there were few options. A person seeking a divorce went to an attorney and that attorney was in charge of the dissolution process. Even if neither person wanted to fight, they soon became embroiled in a system designed to resolve disputes using an adversarial process. Judges, attorneys and other professionals who worked in family courts understood that a system designed to resolve business disputes and offer compensation for injury was not the best forum for dissolving families. But there were few alternatives.

The divorcing parties could try to discuss the issues and resolve them without court intervention, but the ease with which they could give up and “let the judge decide” derailed many negotiations. In recent years mediation became available as an alternative, but many people do not feel up to going through a divorce without an advocate. Now there is an alternative to both the traditional divorce and mediation, and that is the collaborative divorce.

Collaborative divorce allows you and your partner to discuss and effectively work through the issues in your divorce, if not amicably, then at least with civility. Collaborative lawyers are often former traditional divorce attorneys who have worked within the court system, litigating matrimonial cases for a number of years. Many collaborative lawyers have been through difficult divorces themselves. They learned that what a dissolving partnership needs is not an adversarial process, but rather experienced attorneys who not only understand what the parties are going through legally, but financially and emotionally as well.

Collaborative lawyers work with their clients to resolve the issues in their divorce in their best interests and in the interests of their children. This process is for those people who want an effective alternative to the court system because they realize that resolving their differences in a peaceful way rather than by litigation is best for all concerned.

How does this work? Each party chooses an attorney who is a collaborative lawyer. Collaborative lawyers are licensed by the Commonwealth of Massachusetts and have been trained in collaborative practice. Collaborative law is a non-adversarial process where all the parties meet and identify the issues that need to be resolved. The divorcing couple decides which issues to handle first and the lawyers assist them by structuring four-way meetings, adhering to agendas, verifying information and providing legal direction when necessary. The lawyers control the process, but the couple controls the substance of the divorce. Often the lawyers will bring in other professionals such as a divorce financial planner, a real estate appraiser, a parenting specialist, or divorce coaches. These experts help the divorce move along

faster and more efficiently and they help the clients put aside their fear and rancor and focus on solutions. This team of people supports the couple throughout the entire process, saving them time, money, and emotional energy.

Before beginning a collaborative divorce, the parties, their attorneys, and other professionals who are members of the collaborative team execute a collaborative divorce agreement. A typical agreement might include the following promises:

Clients and lawyers agree:

- To seek a resolution of our family matters directly, without the threat of litigation or intervention by a judge.
- To provide all financial information that might be considered important by the other, whether specifically requested or not.
- To search for resolutions that meets the needs of all members of the family.
- To avoid making economic threats and taking positions regarding parenting as strategies in negotiation.
- To utilize joint neutrals rather than partisan experts if outside evaluations prove necessary.
- To deal honestly with each other and to communicate in a respectful manner.
- To engage new counsel if, despite our best efforts, if court intervention should prove necessary.
- To protect our children from the conflicts between us.
- To withdraw from the process if either deems it appropriate.
- To have the process terminated by our counsel in the event we violate the terms or spirit of the agreement.

Collaborative law is cost effective. Imagine the amount of money you can save when you can deal knowledgeably and efficiently with the issues at hand. It takes great wisdom to see the errors of the past, but a greater wisdom to move forward in an enlightened way once those errors have been identified. You have decided to dissolve your partnership, maybe even your friendship. How could it hurt to proceed after those enormous decisions have been made, in an effective way that insures not only your financial stability but also your emotional well-being?

The road you choose from the start will lead you down a certain path. You may not have the power to change the past, but you do have the power to change your future.