

COLLABORATIVE DIVORCE - AN HOLISTIC APPROACH

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Society views divorce as tragedy and divorce lawyers as "putting the nail on the coffin"! Divorce ranks as one of life's highest stressors. However, 50% get divorced. People separate for positive reasons, including to have happier, healthier lives.

How contentious or peaceable the divorce, is directly related to the process chosen. The traditional adversarial approach involves lawyers asking many questions, and then giving clients the action plan - often involving court. Mutually upsetting affidavits are exchanged, and hostility increases.

There are other options: Mediation, Arbitration, Traditional negotiation and Collaborative divorce. In Collaborative divorce the two parties and their two lawyers work together as a team, with the goal of negotiating a separation agreement fair for both.

At the First International

Collaborative Conference (Vienna, spring, 2007), the Chief Justice of the Austrian Supreme Court made this important point: a judge sees only the evidence in front of her and must decide based on the evidence - whereas collaborative process deals with the whole picture, including parties' interests, needs and wants.

Requirements for binding separation agreements are as rigorous as for commercial contracts. Underlying emotional issues, however, make divorce negotiations more complex - it's these issues, when not addressed, which escalate legal costs. Costs skyrocket, not because of complicated financial issues, but because of underlying emotional issues (anger, revenge, etc.) being translated into court warfare.

Collaborative divorce is appropriate in complicated asset management cases, and not just for simple asset or low conflict cases.

In fact, it's even more valuable where much is at stake (Roy Disney and his wife chose collaborative process). People with high net worth are choosing collaborative divorce because of litigation's huge cost and because of its more positive and peaceful approach. The process is interdisciplinary, supporting utilization of financial and family professionals where beneficial. Research supports that, the more peaceful the divorce process, the better for children.

The collaborative process offers a win-win way of resolving both simple and complicated divorces, allowing clients to move forward peacefully and productively to the rest of their lives.

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