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Unhitched without a hitch

Team approach promises more amicable split

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When Naomi Garcia sought a divorce in late 2005, a friend recommended attorney Deborah Pratte, who specialized in a process called collaborative divorce. The idea promised a less contentious approach to dissolving a marriage.

Garcia and her husband had been married for 17 years and wanted to spare their 8-year-old daughter the pain of a rancorous split.

"We were extremely concerned about not creating a negative experience for her," the Tucson woman said.

As a social worker, Garcia had seen the wounds that warring parents inflict on their children. "I saw divorce as part of the evil," she said.

Garcia and her husband wanted their divorce to be amicable. Within two months, most of the process had been completed, and the two remained on good terms.

Amicable divorce need not be an oxymoron when couples resolve to put their differences aside and use collaborative law to end a marriage. This style of divorce, created by a Minnesota attorney in 1990, is spreading across the country.

The goal of collaborative divorce is to spare couples and their families the pain and expense of the knock-down, drag-out fights that can be part of a litigated divorce.

"It came about because (attorneys and clients) got weary of the fight," said Phoenix family lawyer David Horowitz, who handles many collaborative cases.

Collaborative divorce can be less costly than a divorce that drags on through the courts. The Garcias paid just \$2,500 each.

In 1990, attorney Stuart Webb came up with the idea of divorce attorneys working together in a conference room for the benefit of their clients, rather than as adversaries in a courtroom.

Around that time, Nancy Ross, a family therapist in Cupertino, Calif., was growing frustrated over watching the progress she had made with divorcing couples unravel when lawyers got involved. Ross met family psychologist Peggy Thompson of Orinda, Calif., a custody evaluator in the court system who shared Ross' concerns, and they began to develop a new model of divorce, patterned after Webb's ideas and using a team approach.

"Peggy was disenchanted by the effects (of rancorous divorce) on kids," said Ross, who has conducted collaborative-divorce training sessions in the Valley for attorneys and other professionals.

Overseeing the field is the International Academy of Collaborative Professionals, which has 63 members in Arizona and more than 2,500 in eight countries. Professionals interested in becoming certified attend a three-day training workshop such as those conducted by Ross. No figures are available yet on what percentage of attorneys practice collaborative divorce.

The team approach to facilitating a divorce brings together lawyers, mental-health professionals, financial advisers and sometimes child advocates. The team's role is to educate the couple about the process and financial options, offer counseling, then allow clients to decide the best way to arrange child custody and to divide assets.

"There is so much stress in divorce," said Phoenix attorney Gloria Cales. "People try to blame someone."

Collaborative teams such as those Cales works with don't play the blame game.

Gretchen M. Walther is a spokeswoman on collaborative law for the American Bar Association. The Albuquerque family law specialist said that even though more experts are involved, the cost can be lower if the divorce is settled quickly.

In her practice, she said, a litigated divorce can take six months to two years, whereas a collaborative split averages three to four months. She estimates that going the collaborative route costs a third as much as a court divorce.

In a collaborative divorce, couples sign documents saying they will not litigate. If they later decide to seek court action, their original attorneys are disqualified from representing them.

Finances can be one of the most contentious issues in a divorce. Even in community-property states, such as Arizona, where assets acquired during a marriage are split 50/50, determining the value of those assets isn't easy. In a collaborative divorce, someone such as Belinda Daniel is there to advise both parties. "My role is as a financial neutral," explained the certified divorce financial analyst from Tempe.

Daniel facilitates disclosure of assets from both spouses, one of whom might be more financially savvy than the other. She counsels the couple on long-term implications of any settlement.

"It's a balance," Daniel said. "There's no need for financial surprises down the road."

Having herself been through a divorce - one that began amicably but turned contentious - Daniel strives to spare other couples such heartache and expense.

"If I can avoid what I and my daughter went through, then I've done my job," she said.

Collaboration may not work in cases in which the spouses are too angry to sit down and talk, or when domestic violence or child abuse is present, Walther said.

According to Vicki Carpel-Miller of Scottsdale, a collaborative-divorce trainer who helped start the movement in Arizona in the late 1990s, going through the process not only can give couples a peaceful resolution but teach them communication skills. A few couples have even reconciled, she said. Collaborative divorce constitutes about half of her divorce practice, and she hopes to make it 100 percent.

Ira Ellman, professor of family law at Arizona State University, isn't so sure collaborative divorce is an idea whose time has come.

About 80 percent of divorces in Maricopa County involve no lawyers. In only 20 percent of those involving lawyers does one represent each side. In the rest, a lawyer represents only one of the parties.

Although that scenario is inherently unfair to the non-represented party, Ellman said, most divorces can be resolved without litigation. Collaborative divorce is "solving a problem that doesn't exist," he believes.

The Maricopa County Superior Court's Family Court was revamped and streamlined three years ago, presiding Judge Norman Davis said. Now, getting a divorce can be relatively quick: 80 to 85 percent of cases are completed in seven months, and nearly all completed within 18 months.

"It can be a positive experience and a better experience than litigating," he said of collaborative divorce. "I'm for anything that keeps people from tearing each other apart."

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