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How to Get a Collaborative Divorce

By Annie Finnigan

Maybe you don't want to stay married -- but there is a way to make the breakup as painless as possible for everyone.

Collaborative Divorce

When my ex and I decided that our marriage was truly and totally over, we vowed that we'd have the best possible divorce. After all, we'd spent half of our lives together and had a young daughter, family, and friends in common. We started out talking in a mediator's office, which was going well -- until we hit a bump and flew into opposing corners, our attorneys doing battle.

If only we'd known about collaborative divorce (CD). About a million couples divorce each year in the United States, and most, like my ex and me, start out striving to keep the split amicable. And though you may have good intentions, things can go awry during the traditional I-win-you-lose adversarial process. CD is more civilized. It begins with the two parties signing a commitment agreement stating that they won't go to court. Instead, they both sit down with attorneys and discuss each problem -- anything from who gets the house to who pays for violin camp -- until they find a solution that everyone can live with. "The goal is to help clients end marriages as peacefully and positively as possible," says Stuart Webb, a family lawyer from Minneapolis who created CD because he was fed up with being involved in so many ugly divorces.

As effective as CD can be, it's unlikely to be successful when there's a deep lack of trust, an inability to keep commitments, a high degree of rage, or a burning need for revenge. "If you want your day in court, forget it," says Sheila Gutterman, an attorney in Lone Tree, Colorado. But those willing to put in the effort up front are likely to encounter the following win-win advantages.

Benefit #1: Less Bitterness

With traditional divorce, wounds may never fully heal. That's why John Smiley, a supervising judge of the Superior Court of California, started sending a letter about CD to couples filing separation papers in his court. "If couples have a warfare mentality, they can never really recover -- a disaster for them and their kids," says Smiley.

Karen Andrews, a 47-year-old mom of a 7-year-old son in San Francisco, was grateful to learn about CD. "At the beginning it was so emotionally charged," she says. "I had to remind myself I was doing it for my son. And that if we went to court, it could get explosive." Karen and her husband chose to have a "collaborative team" (a financial consultant, child specialist, and their own coach-therapists) in addition to their lawyers to help them learn how to handle their differences. "I'm not going to sugarcoat it -- it's hard. But a good kind of hard," she says. "I know my son will respect the fact that we took time to work things out and be at peace with our decisions."

Benefit #2: Lower Expenses

The best divorce in the world is still going to cost everyone something. But, says Jennifer Tull, an attorney and president of the board of trustees of the Collaborative Law Institute of Austin, Texas, "Couples doing a collaborative divorce usually spend half as much as when lawyers go head-to-head and about a quarter of the cost of going to trial." A big savings is that couples share financial information, avoiding attorney fees to search for hidden assets or property (a process called discovery).

Saving money was very much on the minds of Angela Bassett, a school counselor with a son and daughter,

13 and 11, and her ex, a family-law attorney, when they ended their 14-year marriage. "We both knew that when couples fight over the property, it's the lawyers who win -- they get all the money," says Angela, 42, who lives in Austin, Texas.

She and her husband had some major details to thrash out -- they both wanted the house, and she wanted more child support. In roundtable meetings her ex's attorney reminded him that the kids, who were staying with Angela, would feel more secure in the home where they grew up. In turn, Angela's attorney was able to talk her down from her initial financial demands. The cost of Angela's divorce came in at around \$8,000; about half of what she probably would have paid if her case had ended up going to court.

Benefit #3: Quicker Results

The divorce process is hard on everyone, but a protracted one can do even more damage. "My parents were in court for 10 years," says Angela. "It was terrible for my siblings and me." But it doesn't have to be that way: Tull found that collaborative divorces take 18 weeks on average, a quarter of the usual time.

Another advantage, says Stuart Webb, CD creator and coauthor of *The Smart Divorce* (Hudson Street Press), is that you can set your own pace, not subject to the schedules of lawyers and judges. Angela's divorce was so quick and amicable that she and her ex were able to spend Christmas together with their kids, just months after everything was final.

Benefit #4: A Custom Solution

Significantly, collaboration allows for arrangements that courts sometimes can't. Angela's final agreement was one a judge could never have created. In Texas, where she lives, the law doesn't easily provide for spousal support, which Angela receives, and the state requires less child support than her husband agreed to.

CD gave Carolyn Caswell of Minneapolis, who has a 9-year-old son, a way to advocate for specific needs. "I had a chance to stand up for myself," she says. She hadn't had a full-time job in years, so she asked for, and received temporary spousal support and the house. Another victory: As part of the arrangement, Carolyn asked that her ex's fiancée, who attends her church, not join the choir in which she sings.

A divorce isn't just an ending; it's also a beginning. A couple who has built a new, if separate, foundation for the future is giving each other, and their children, a head start on the recovery process. "Your divorce is never behind you if you have kids," says Carolyn. "My ex and I worked everything out. We focused on what would make life better for all of us."

How to Find a Good CD Lawyer

Collaborative divorce attorneys practice in every state except Idaho, Montana, North Dakota, South Dakota, and Wyoming.

You can find a lawyer by word of mouth or by going to the International Academy of Collaborative Professionals web site (collaborativepractice.com). Interview several lawyers to be sure they have successfully guided a number of couples through the process, not just taken an afternoon workshop.

Having a Collaborative Marriage

To keep an ongoing relationship strong means everybody has to do some heavy lifting. "A collaborative marriage means both of you are going to work on it," says Katherine Yost, PhD, a marriage and family therapist in Little Silver, New Jersey. Some other key strategies:

- Mind your manners. "Being polite is a great way to give and get respect," says Yost. In addition to saying please and thank you, present your opinions and desires diplomatically. Instead of "You're always watching TV," try "I would really love to spend more time with you. I wish we could take a walk together. Maybe when the game's over?"
- Don't try to be numero uno. If you are winning, somebody else is losing. And that will be either your spouse or the marriage. Go for what will help the long-term relationship, not the short-term victory.

Do a solo, together. This means couple time, just the two of you. Plan something where you

have to talk to each other, like going to a restaurant where you know the service will be slow.

- Go it alone, from time to time. Solitude not only allows you to reenergize, it also helps you gain perspective -- especially if you've just had an argument.
- See the other person's point of view. There are always at least three sides in any discussion or disagreement: what's good for each of you and what will help the marriage. If you have children, their needs should also be taken into consideration.
- Agree to disagree. "Women want closure," says Yost. "We think if we talk long enough, we can agree on everything. But a lot of things in a marriage don't require consensus." All couples, including those in healthy marriages, have a list of things they don't see eye-to-eye on.

Promote your partner's well-being. What's good for one of you is good for both. If your partner's worn out or struggling to reach a goal, do what you can to help him recover or get where he's going.

- Say what you need. You deserve support for your dreams too -- ask for it.

-- *Gay Norton Edelman*

Originally published in the October 17, 2008, issue of Family Circle magazine.

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