

COLLABORATIVE PRACTICE: There is a Better Way

By Pamela R. Canter

When I began practicing family law, I really enjoyed litigation; the thrill of victory, the agony of defeat, the whole drama. And when I would come away with a “win”, I felt on top of the world. After several years, however, those feelings began to fade, and even when I felt we had won, my client often still felt a loss. Let’s face it, as much as one might enjoy the adrenaline rush of going to court, arguing our client’s position, and, hopefully, coming away with a victory, we all know how often we come away from court with something else. Maybe it was a procedural glitch and there was no available courtroom, the other side wouldn’t stipulate to the Pro Tem Judge, or we were facing another continuance. Maybe the judge didn’t seem to know what he/she was doing. Often, it is that our client felt like he/she wasn’t heard, or that the children seem to be being pulled apart by the very people who are supposed to protect them. I soon came to realize that my bottom line goal, a satisfied client, seemed to be met less and less often. And I wasn’t having very much fun anymore either. I began to think that there must be a better way to practice family law, to actually help the clients and their families avoid the emotionally crushing, psychologically damaging, incredibly expensive, and extremely frustrating process of maneuvering through the court based legal system.

Once I thought about doing something besides litigation, I immediately thought mediation was the answer. Soon thereafter, I attended an intensive, four day, mediation training. While at the training, I met a practitioner who was involved in something called Collaborative Law. I had heard the term before, but never really understood what it meant. In truth, I thought it was some little known, little used, and certainly ineffective way of practicing law that couldn’t possibly allow attorneys to advocate for their clients. What I came to find out, however, is that it is an incredibly structured, well thought out, and extremely efficient and effective way to handle a family law case.

It actually took me a while to get to that point. After the mediation training, I spoke to a few of my colleagues in San Mateo County about Collaborative Law, and although there seemed to be some interest in it, no one I knew well was actually doing it. Then one day when I was on my way to court for a case I knew should not be litigated, and I was feeling upset and disappointed before I even entered the courtroom, I called a colleague and asked her to lunch. We both knew of other groups in the Bay Area that had formed, and were utilizing the Collaborative Law model in their practices, and we decided that San Mateo County family law attorneys needed to start doing the same. We started by simply inviting about fifteen other practitioners who we thought might be interested in Collaborative Law to a meeting, and from there, the idea took off. We formalized the group, gave it a name, the Peninsula Collaborative Family Law Group (“PCFLG”), and made arrangements for our first all-day training.

That was over ten years ago, and the group, now known as Collaborative Practice San Mateo County (CPSMC) has grown to almost fifty members, and includes attorneys and other professionals in the fields of mental health, financial, business valuation, and vocational training. We use a team approach to cases which provides the client with a far more holistic solution to their problems, most often the breakup of their family. By involving professionals in other fields, we are able to use a “neutral” expert in our cases whenever the need arises, and these experts are also specifically trained in the collaborative practice model, so they are able to speak the same language as the lawyers, creating a sense of continuity and security for the clients we are serving. Our group has many sub-committees to work on issues such as training, protocols and legislation. We have monthly meetings, and organized training sessions, both within our county and with groups from other counties. We have involved and educated the local judges and the court-based ADR program about Collaborative Practice, and the support is widespread.

In my own practice, I now talk to every new client about the possibility of using Collaborative Practice for their case. More and more clients are very receptive to the idea, and many have even heard of Collaborative Practice before I speak to them. I have worked with many different collaborative professionals in a wide variety of cases, including dissolution of marriage, custody and support disputes, and even for premarital and post-marital agreements. It is my sincere belief that these cases have settled more quickly, more cost-effectively, and most importantly, with the clients and their families’ emotional and psychological relationships far more intact than if they had been litigated. My hope is that all clients will be familiar with the Collaborative Practice process, and will be presented with the option of choosing Collaborative Practice to resolve their case.

If you are interested in joining CPSMC, or would like information on how to start a group in your area, please feel free to contact me at info@cantermoorhead.com. You may also wish to visit the CPSMC website at www.collaborative-law.com and the IACP website at www.collaborativepractice.com.