

Collaborative law practices can help resolve disputes

By Douglas D. Nichols

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Collaborative law was born when family lawyers found a way to make divorce a more civil and client-directed experience. However, whenever disputants wish to resolve their conflict respectfully and fairly while preserving their relationship, the principles of collaborative practice can be used.

These principles are a pledge not to go to court, an honest exchange of information, and a solution that takes into account the highest priorities of both parties.

Here is an illustration of non-family applications of collaborative practice:

John Randolph walked through the door labeled, "Anthony W. Kron, Attorney at Law." Randolph had heard good things about Kron and had asked for this meeting to give himself a chance to size up the lawyer and possibly retain him in a suit against one of Randolph's longtime trucking customers.

"What can I do for you?" Kron asked a few minutes later.

"I own a trucking company. We do long-distance hauling, primarily between the East Coast and the West Coast. One of my customers, who has been with us for 10 years or so, is refusing to pay for a delivery we made to Los Angeles because it got there late and I guess that cost him some. The late delivery wasn't our fault. I hate losing him as a customer, but I can't afford to write off one complete cross-country load. I need you to sue him and get us the trucking fee we earned."

The lawyer said, "Well, I can certainly do that. File suit I mean. However, there is no way I can guarantee that you will be awarded your full trucking fee. If we file suit, my best guess is that it will take one to three years before we will be able to start the trial."

"I'd sure like to get my money quicker than that," Randolph said.

"What would you say if I told you there might be a way to get your company paid, at least part of what's owed, do it in less than one year, and still keep this guy as a customer?" Kron responded.

"How are you going to do that?" Randolph asked.

"By using the collaborative law process instead of filing suit against him. By using the collaborative law process you both agree, in a written contract, to not take this matter to court. You would both have to retain attorneys who have been trained in the collaborative law process. The two of you, and both attorneys, would work together as a team to resolve all of the issues between you.

"By using this method you should be able to come to a resolution much faster than by resorting to the courts. Whatever solution the two of you agree on, you know it will be acceptable to you, as opposed to having a solution imposed on both sides by a judge or jury. And the best part is that, when it's all over, the two of you will have worked this out as team members not as adversaries in a lawsuit. So it is possible that there will not be any residual animosity between you."

Randolph said, "I don't want to lose this guy as a customer. We've known each other a long time and he usually pays, no problem. This might work. How do I get him interested in the..."

"Collaborative law process," Kron said. "I'll give you some literature about it. The literature explains how the process works. It also contains the Web site address of the Massachusetts Collaborative Law Council. If your customer goes to that Web site he can find a list of attorneys in this area who are trained in the collaborative law process."

Randolph said, "My brother is about to sue his neighbor - again. The two of them have been taking each other to court for one thing or another over the last five years. Do you think this collaborative law process would work in a situation like that?"

"It very well might," Kron said. "It seems to be best suited to situations where the parties will have a continuing relationship with each other after the current dispute is resolved."

"Well, in that case," Randolph said. "It might also help a friend of mine whose father died. My friend is thinking about challenging his father's will. His father named my friend's younger brother to be the executor, instead of my friend. I guess the younger brother is irresponsible. At least that's what my friend says."

"Yes the collaborative law process might be helpful in that situation too," Kron said.

"Give me that Web site address so I can check it out," Randolph said.

"It is www.massclc.org," Kron said. "Now let's get into the details of this trucking dispute."

Written for the Western Massachusetts Collaborative Law Practice Group by attorney Douglas D. Nichols. For additional information, visit the Web site of the Massachusetts Collaborative Law Council online at www.massclc.org