

Divorce method stresses collaboration, not confrontation

By Rina Miller

Source: *The Republican (Springfield, MA)*

Wednesday, April 26, 2006

Edition: Final, Section: NEIGHBORHOODS PLUS,

Page NP10

With more than half of American marriages ending in divorce, the time has come to examine and expand upon the options given to divorcing couples by our legal system.

Quietly, there has been a growing movement among accomplished divorce lawyers to reduce the rancor and hostility traditionally associated with divorce practice and replace it with responsible alternatives.

One of these alternatives is known as collaborative divorce practice.

In the collaborative divorce practice, divorcing spouses hire their own lawyers to represent them as they proceed through the complicated process of legal disentanglement.

Unlike traditional divorce cases, however, the parties do not hire these lawyers to rush to the courthouse steps.

Rather, they hire their lawyers with the directive to settle their case with dignity, respect for the other party and consideration for each party's future financial and parenting needs.

Decisions about the division of assets, the payment of support and alimony, the maintenance of health insurance, the payment of college expenses, the parenting schedule and other important issues are discussed and resolved at a series of meetings between the parties and their lawyers and other collaborative professionals.

How do these meetings work?

Imagine that you have entered your spouse's lawyer's office for a collaborative divorce meeting. You and your lawyer have discussed the "agenda" for the meeting so you are fully prepared. You have ideas in mind about what your needs might be, but you are open and willing to look at all options to creatively craft a solution.

The issue you are going to discuss today is "support, alimony and health insurance" for the family unit.

Although you are nervous about seeing your spouse, you know from a prior meeting that the lawyers help you and your spouse communicate with each other in a way that emphasizes problem solving and minimizes personal attacks. You feel safe.

You are invited into the conference room, and on the table you find cold drinks and hot tea or coffee available.

At your place setting there is a legal pad and pen for you to take notes, and a menu from a nearby restaurant or bagels and cream cheese in the center of the table.

Part of the process of collaborative law is making you feel comfortable.

This includes breaking bread together, which automatically reduces the tension that might exist and provides that you will not feel on edge from hunger through the meeting.

You, your spouse, both of your lawyers and a certified divorce financial analyst start the meeting by reviewing notes from the prior meeting.

The notes include a detailed parenting plan that provides ample time for both of you to see your children and respite time for each of you to recover from the demands of raising children.

The notes also allow for developmentally appropriate activities for the children and a method for resolving parenting issues in the future.

The most satisfying part of the review is the realization that you - not just your lawyer or a judge - have helped craft this extensive parenting guide.

Next, you review the "homework" due for this meeting.

Since this is a meeting on support and alimony, and health insurance, you and your spouse have brought a detailed list of all of the family expenses, your paycheck stubs or profit and loss statements, completed income tax returns for the past three years, and current living expenses.

Your lawyers have a completed Massachusetts child support guidelines sheet and all the records from investment accounts. All of the documents are copied and presented to everyone for review.

There are no secrets. After all, both parties want to be financially secure going forward and your lawyers are here to make that happen.

Everyone knows it will be difficult to make two homes work on the salaries that used to make one home work, but you are committed to trying to protect each other from financial hardship while guaranteeing the best living arrangement for your children.

As a group, the expenses are carefully examined to see if there are ways to cut back without sacrificing lifestyle.

Investment income is reviewed for ways to generate more dollars for the family. The court guidelines help determine what a court might suggest. Health insurance needs are discussed.

All of the suggestions and numbers are then given to the certified divorce financial analyst to produce a written report for the next meeting illustrating how the numbers will serve them in the years ahead.

She will consider the tax implications of alimony and inflation. She will create a chart that will show whether one party is headed for financial ruin while the other is headed for financial stability.

She will help close the gap with the assistance of the lawyers.

After two hours, the meeting adjourns and all members take a moment to thank each other for participating in the process and congratulate each other for the progress made.

You breathe a sigh of relief as you draft together the agenda for the next meeting.

You know that, unlike your best friend who just completed a divorce, you do not have to stand in a courthouse hallway surrounded by people, waiting for your lawyer to make your case for you, to a judge you have never met, about how much money you need to live on in the future.

Only you know that best and both you and your spouse have had an opportunity to be heard, fully and completely.

It is a win-win situation even though both of you may need to make some sacrifices.

Having just completed your second collaborative divorce meeting you feel that you are doing exactly what you set out to do: obtain a divorce while preserving your dignity.

This article was written by attorney Rina Miller of Springfield on behalf of the Western Massachusetts Collaborative Law Practice Group. For more information contact www.massclc.org