

## Collaborative Practice: A Marriage to the Divorce

by Laurie Israel, Esq.

There is definitely something very special about accomplishing a divorce through Collaborative Practice. This specialness is present for the attorneys, for the clients, and for the other collaborative professionals involved in the process. The word that immediately comes to mind is “transformative”.

The transformative nature of the process is created by several features of Collaborative Practice. One of these is dealing with each other with truthfulness. This leads to a transparency in the Collaborative process that transforms what might have ended up in nastiness into something else – a final, magnanimous, clear-eyed parting of one relationship (spouses) and beginning of another (ex-spouses, co-parents).

Another feature that engenders a transformative result is the agreement not to litigate while in the Collaborative process. This is the so-called “Commitment Agreement”, a legally-binding pledge to work out the terms of divorce within the Collaborative Practice team, without resorting to litigation. Yes -- the parties (or either of them) can choose to “opt out” and litigate their case (with other attorneys) at any time. But generally they don’t, and the case stays within the Collaborative process. As a result, the parties are provided with a sense of safety while they work out the practical and emotional issues relevant in their new circumstance of no longer being spouses. This is what Collaborative practitioners refer to as the “safe container” of Collaborative Practice. It is a net of safety that really works to let the parties work on their divorce with clarity and ease.

Within the container of the Collaborative process, the parties are able to discuss their divorce and the possible terms with freedom and truthfulness and in their own time. They are able and encouraged to express their own needs and fears. The Collaborative Practice team is there to assist them with knowledge about the technical aspects of divorce and to help in finding solutions. The team also assists in keeping the process from emotionally getting off-track.

It is the lure of this quality of divorce that brings clients and professionals to Collaborative Practice. As a lawyer working in this field for nine years, I have had occasion to ponder on what makes this practice so powerful and what makes it so prone to successful outcomes. The articulation that has been recently coming into my mind more and more, is that Collaborative Practice is essentially a “marriage” to the divorce. That is not to say that the divorce process will take a long time (hopefully it will *not*), but that the parties are committed to working out the divorce together as the last “act” of their marriage.

These are the parties, who, in most cases have been together for a long time, and have many connections – children, community, and financial – and a book of experiences to draw upon. Yes, these people are getting divorced, which means that they perceive that their marriage can no longer go forward. But many of our clients wish to go forward as friends and allies, and not enemies. That certainly makes sense, because at one time certainly (and probably for some years afterwards) these people loved, respected and

cherished each other. So why not continue those feelings and sentiments at the end of the marriage? It actually is often possible, and Collaborative Practice facilitates this kind of transformation.

That is the beauty of the Collaborative process. It flows from the free expression by the parties of their truths, needs, and wishes. It is further strengthened by the Commitment Agreement and is nourished by the Collaborative professionals who are experienced and trained in handling the practical and emotional aspects related to the end of the marriage.

The feelings of satisfaction at the end of a successful case can be very rewarding. They include financial puzzles solved creatively, and respect and support shown by the spouses as they work through the end of their marriage. There can also be a sense of peace and calm as the couple embarks on their new separate lives, generally bringing with them family connections that will remain for a lifetime.

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