

Can We Talk?

Collaborative
Divorce: Going
from “I do” to
“We do”



Collaborative Divorce is:

- Confidential
- Respectful
- Creative
- Future-based,
and
- Protects
Children

Divorce, even when desired, is often one of the most anxiety-provoking and disorienting times of a person's life. There are the concrete, practical stressors – finances, moving residences, changing name on accounts.... Then there are the more emotional experiences – telling the children, helping them adjust, experiencing loss, rejection, dividing assets, the demands of uncoupling. And then, there can be the more abstract, even spiritual changes in self-identity and beliefs about oneself, humanity, life, and the world/universe - what is true, what is real, and what do I want?

All of these constitute threats to one's sense of self and even survival. The "flight, fight, or freeze" stress response is the response generated by what has been called our reptilian brain. Our brains are hardwired to take care of us when our lives are being threatened. Call it the survival instinct. When we detect a threat to our physical or general integrity, our brains and bodies go through a series of reactions designed to maximize the chances of survival. We may variously be inclined toward fighting back, escaping or running away, or freezing in place, unable to respond. Any of these responses may not be the optimal way to take part in useful conversations for settling all the various agreements required to dissolve a marriage. There's not much space for creativity, or for consideration of others, when that survival/monkey brain is triggered. People often do not do their best thinking during a divorce. The focus often is on survival, sometimes retribution.

Collaborative Divorce is a not-so-new-anymore process for dissolving a marriage without court intervention. A team of professionals - attorneys for each spouse, a mental health professional as a neutral Family Specialist (or one working with each spouse), a neutral Financial Specialist and, when indicated, a Child Specialist - provides the highest value to clients, as each brings expertise in the three aspects of divorce: the legal, the financial, and the emotional/relational. You wouldn't hire a dentist to take out your appendix, would you?

The Collaborative Divorce process provides an optimal structure and atmosphere for communication and

decision-making. Inside that container, with the guidance of the specialized, professionals involved, people's emotions can settle down; they are reminded of the larger picture and what really matters to them, for their own and for their family's future. In the middle of a divorce, most people want to feel safe, that the proceeding is private, that their children are taken care of if they have children, and that they'll come out of it in decent shape. The collaborative divorce team ensures that these primary concerns are met. The attorneys bring the legal knowledge and provide counseling in the best interest of their clients and the overall process. The Family Specialist/Coach/mental health professional ensures that needs and interests related to the process are best understood and addressed. They also are there to design the best parenting plan for the children and the family. The neutral Financial Specialist protects the financial interest of both spouses and provides the analysis and information necessary to create the best agreement about how to share assets and obligations.

Divorce historically has found its home in the courthouse. To dissolve the legal contract that is a marriage, spouses have had to go to court, often spending hours in the halls and rooms of the courthouse, with their attorneys, and having the story of this difficult chapter of their lives entered fully into the court record. It hurts the wallet and one's dignity. The defining characteristic of a collaborative divorce is the Participation Agreement, a signed contractual agreement to come to decisions together without the intervention of court. Failure to come to terms within the collaborative process is an expensive proposition, as the professionals involved must withdraw and both spouses must restart the process with new attorneys, to bring the case to court. This provides incentive to the spouses to continue to find solutions that will serve them and their families. A specific benefit of the Collaborative Divorce process of particular importance is that the content is completely private. The only court attendance requirement is that each spouse go to court on the final day to file his/her divorce agreement and conclude the legal marriage.

THE PROCESS and THE TEAM: The Collaborative Divorce Attorney represents the best interests of his/her respective client while maintaining a view of the best interests of the family and the overall goals of the collaborative process. The Collaborative Financial Specialist provides financial education, guidance and analysis throughout the divorce process. He or she provides projections for the long-term impact of

financial decisions. The Collaborative Family Specialist or Coach works with the spouses to help manage the emotions that can interfere with negotiations. He or she works to keep the process efficiently moving towards resolution. When there are children involved, the Family Specialist works with the spouses to design a Parenting Plan to define the parenting time for each parent and to plan for co-parenting. All written and oral information from sessions is confidential and cannot be used in any court proceedings. The Child Specialist may add consultation regarding the specific needs of the child(ren), based on their developmental level and any special needs identified. The privacy and the details of the marriage, the lives of the children, and what led to the divorce are protected and remain private.

RESPECTFUL: In Collaborative Divorce both spouses promise to be honest and respectful. Meetings occur with various configurations of the spouses and their attorneys, a Family Specialist or two, and a neutral Financial Professional, outside of court. There are agendas for the team meetings and a roadmap to keep all on track.

FUTURE ORIENTED: During the Collaborative Divorce process, there is no unnecessary or unproductive discussions of past events. The commitment is to find mutually agreeable and beneficial solutions for ending the marriage and building separate lives. Taking the divorce from the courtroom to the conference room allows for a thoughtful and respectful process that often cannot otherwise occur. The context shifts from adversarial to collaborative. The essence of the collaborative divorce process is the shared belief of those involved that it is in the best interests of people divorcing and their children to avoid litigation. This does NOT mean it is always friendly or peaceful. The conversations can be difficult, full of the whole spectrum of emotions that naturally occur in a divorce, in which there has often been some degree of betrayal and perceived injury. The Collaborative Divorce process is, however, explicitly dedicated to the future well

being of each family member and attempts to minimize for each family member the negative economic, social and emotional consequences of the adversarial divorce litigation process. Leaving the courtroom allows for a diminishment of anxiety, to some extent, thus providing an atmosphere in which people can do their best, or at least better, thinking. The calmer, clearly scheduled, and structured sessions allow for creativity in the negotiation process, with all those involved contributing to brainstorming ideas. Participants can move from fighting for their survival to creating a future that can work for themselves and their family. The collaborative divorce process provides the space to move the divorce from the arena of The Hunger Games to that of U.N. peace negotiations. The parties can relax and get what really matters to them addressed thoroughly, not decided on the courthouse steps.

While Collaborative Divorce cannot eliminate concerns about the disharmony, distrust and irreconcilable differences that have led to the decision to dissolve the marriage, it can provide a forum to assert the respective interests, assisted by Attorneys and the Family Specialist, as well as other professionals involved. Objectives are explicitly identified at the beginning of, and throughout, the process. The professionals repeatedly come back to remind everyone what matters to each person and refocus energies on getting that result.

PRIVACY and VALUE: Roy Disney, Robin Williams and others have used Collaborative Divorce to end their long-term marriages, benefiting from the privacy provided by the process. Billionaire Texas financier T. Boone Pickens used the process to end his fourth marriage, having gone through traditional approaches, and reported that it saved him several million dollars. He was so pleased that he contributed \$100,000 to his state's Collaborative Law Institute, stating that the collaborative approach saves both money and emotional wear and tear on families. Choosing to enter Collaborative Divorce allows one to create one's own solutions, without a court record.

It provides an environment that allows the best thinking and the best chance for transformation. It keeps private family matters out of the public arena of the courthouse, allowing for greater personal control over the outcome, and protecting spouses and children from the harm and expense of a litigated divorce. Collaborative Divorce provides what is most important to many people – the chance to be heard, protection of privacy, time to think, freedom to go at their own pace, and their children’s well being as a priority.

The role of a trusted third-party is one that we have been playing with our clients for almost thirty years at the Spencer Legacy Group.

Allow us to help your family overcome the issues that might sabotage your success. When it’s time to talk about the elephant in the room, give us a call at 1-800-694-0059, or find us online at www.spencerlegacygroup.com.

Beth M. Karassik, Ph.D.
Senior Advisor
Clinical and Forensic Neuropathology
Collaborative Divorce, Child Specialist

