



Happy Divorces

By Aleksandra Todorova
December 4, 2006

TWO YEARS AGO, when Lori Tricarico and her husband realized their 16-year marriage was over, they agreed on one thing: Their divorce wouldn't get ugly. "We have two daughters and our ultimate goal was to remain friendly," says the 40-year-old from Cumming, Ga.

So when Tricarico's lawyer told her about collaborative divorce — a relatively new procedure where both spouses and their attorneys meet and talk things through with the goal of avoiding conflict and the courtroom — the couple decided to give it a try. Now, Tricarico says, they're both glad they did. "We had great meetings," she says. "It really was good."

Good isn't a word you normally associate with the dissolution of a marriage. And even though only 2% or so of divorces do end up in the courtroom — most are settled before they get that far — reaching a settlement can be long, expensive and unpleasant. In a traditional divorce, each side talks only to his or her lawyer, and then the lawyers talk with each other. It's a system that can easily deepen animosities, says Katherine Stoner, an attorney, mediator and author of "Divorce Without Court: A Guide to Mediation and Collaborative Divorce."

The goal of collaborative divorce is to avoid that. "In a collaborative divorce, the decisions have to be made by the couple," Stoner says. The two sides and their attorneys meet together and talk until they reach an agreement everyone deems fair. They agree to provide all information — such as financial records — voluntarily, rather than having their lawyers gather evidence. As a result, collaborative divorce can be significantly less expensive, Stoner says. Costs vary depending on the case, but while a typical litigated divorce could run as high as ~~\$70,000~~ ^{30,000}, collaborative would be closer to the ~~\$15,000 to~~ ^{4,000} ~~\$20,000~~ ^{10,000} range.

Just how common is collaborative divorce? Because it is a relatively new concept, it isn't yet available everywhere in the country. But that's changing fast as more lawyers and financial advisors become aware of collaborative divorce and go through the required training. "The growth in terms of trained professionals has been exponential over the past five years," says Sue Hansen, president of the International Academy of Collaborative Professionals (IACP), which provides the required training. She estimates there are now more than 10,000 collaborative professionals in the country.

But even as it becomes more common, collaborative divorce isn't the right solution for all couples. Here's how to find out if it's right for you.

The Basics

The main premise of collaborative divorce is that the spouses end things amicably and out of court. They do that through four-way meetings where the spouses and their lawyers discuss what each person wants in terms of a settlement. They even sign an agreement that they will not take matters to court and if they do, are required to hire different lawyers.

The spouses can hire specialists to help with financial, parenting and communications issues. If they have children, for example, a child specialist will meet with the kids and help the parents develop a parenting plan. A neutral financial expert is typically called in to help divide the assets fairly. (To remain neutral, the expert is not allowed to manage assets, sell investments or insurance, or have any other professional relationship with either spouse before and after the divorce.) Finally, each spouse can hire a coach — a mental health professional trained to help spouses deal with divorce-related emotions — who can step in if communications get rowdy and bring the process back on track.

"Everyone has the same goal — to do this here, in this room, with this team, and not take it to court," says Rebecca Pace, a Certified Divorce Financial Analyst (CDFA), a designation given to financial planners trained in the collaborative divorce method.

That's how things worked out for Tricarico, whose divorce was finalized within four months of the first meeting. "It felt like not only you have an advocate in your attorney, but the other attorney wasn't against you, either," she says.

Collaborative Failures

But that doesn't mean collaborative divorce always works out happily in the end. Mark Hill, a CDFA in San Diego, recalls a couple he worked with as a financial advisor. When he asked the wife how the first meeting with the lawyers went, she simply said, "Well, I managed not to crawl across the table and scratch his eyes out."

"There'd been an affair by the husband and she was so angry," Hill explains. "And coming from such a place of entitlement because of that. She felt like 'He betrayed me, he needs to pay financially.'" The process fell through and the couple ended up in court.

Needless to say, collaborative divorce can be a waste of time when one or both spouses feel seriously wronged. "When you're so furious with your spouse that you can't look at them without wanting to assault them, how can you be respectful?" Hill says.

Before you sit at the same table, be sure you're ready to listen and compromise, says Sharyn Soho, co-founder of DivorceNet.com, an online community, and a divorce lawyer in Newton, Mass. "Some people think they're going to be good candidates but all it does is provide them another forum for fighting that can go on and on," she says.

The good news: These days, collaborative lawyers typically "screen" their clients. They have predivorce meetings at which they explain the concept clearly. Soho estimates that less than 5% of collaborative cases actually fail.

Choosing the Best Team

For their son's sake, Christopher Cole, a 36-year-old music producer in San Diego, and his now ex-wife were dedicated to making collaborative divorce work. But that wasn't the goal of his ex's first lawyer, who despite claiming to be in collaborative law came to the table with an "us against them" approach. The couple fired her and hired somebody actually recommended by the lawyer representing Cole.

"It may not make sense, but you want to choose lawyers who have worked together," Cole says. (We have changed his name at his request.) It feels counterintuitive, he says, but it pays its dividends. "The process didn't do anything to deepen our animosity," he says. "In fact, it had the opposite effect."

In collaborative divorce, it's all about building the best team, says Pauline Tesler, a collaborative lawyer in San Francisco, and author of the book "Collaborative Divorce¹." She recommends that each person in the couple interview several attorneys to find the ones they feel comfortable with. (Use the IACP's database² to find lawyers in your area.)

It's also important to find two lawyers who have a track record of working with each other. "Even if they're representing opposite sides, they need to be able to work effectively and help manage conflict if it arises," Tesler says. That's also where coaches, whom each spouse chooses, come in. The coaches can recommend a child specialist and the lawyers can recommend a financial specialist.

For Mark Garrison, a 48-year-old company executive and his now ex-wife, a good team proved indispensable from the very start. Even though the couple was committed to parting ways with respect and with the least impact on their two sons, Garrison (whose name we've changed) says his wife had a hard time accepting the finality of their situation.

"Getting divorced was a hard decision," he says. "We were married for 18 years, we shared a life together and we had kids." With the help of their coaches, the spouses were able to move past the emotional issues and eventually reach a settlement that made both of them happy. "Our kids, at the end of the day, realize that even though we're divorced, we still like each other," he says.

Links in this article:

¹<http://www.collaborativedivorcebook.com/>

²<http://www.collaborativepractice.com/t2.asp?T=LOCATEPRO&V=USA>

URL for this article:

<http://www.smartmoney.com/divorce/basics/index.cfm?story=happydivorces>