



### **Divorce: What if court wasn't an option?**

Untangling a marriage can be difficult. Couples are intertwined emotionally, financially, residentially, socially and parentally. The goal of divorce is to unravel the interconnections so the parties may resume a life as independent of each other as possible. The divorce process may include the input of multiple professionals. The list of professions includes legal, financial, real estate, mental health and child specialists.

Conflict often reigns during dispute resolution as the parties stake out their position and turf. Traditionally, the parties obtain their own lawyer who then brings in other professionals. The lawyer's objective is to dissolve the marriage in a manner that as closely as possible reflects the vision of their client. The approach tends to be adversarial, combative, prolonged and costly. For the couple, their mutual mistrust is heightened. The tension thus escalates and the children are exposed to more parental conflict and uncertainty. Many couples and children are casualties in this process. They pay financially, emotionally and socially.

There is an old adage, "You can win the battle, but lose the war." At the end of the process, how are the children; are all relationships intact; will the children want both parents at their wedding? Divorce marks a moment in time, family relationships are forever.

A relatively new approach to unravelling marital connections provides an alternative to couples in divorce, helping relationships remain intact. This can have tremendous benefit in view of the fact that those with children will forever be connected as parents.

Known as Collaborative Law, the approach began in 1990, when one lawyer said he would no longer litigate. His approach was to enter marital disputes with the goal of reaching a negotiated settlement. In the process, his involvement ensured that his clients would understand their rights and then could choose their issues as they negotiated settlements free from the threat of litigation. Anecdotal evidence from lawyers now practicing Collaborative Law suggests less stress and tension in their practice and that clients are more satisfied with settlements as compared to those who litigated.

In the Collaborative Law process, the parties and lawyers sit round table to share information and over

time, reach consensus on solutions. In the process, the lawyers role model appropriate problem solving behaviour which may be instructive to the parents for managing future disputes between themselves. Whereas each lawyer in a traditional dispute would enlist their own set of professionals, those practicing Collaborative Law have begun to see other professionals as team members or consultants to the collaborative process. The role of the various consultants is to provide information to the lawyers and parties about the likely outcomes of various courses of action. From there, it remains a matter of negotiation for the parties to arrive at a solution. While it may be an expensive series of meetings, on an overall basis, negotiated settlements tend to be far less expensive than those litigated. The added benefits are reportedly better ongoing relationships and more durable agreements.

Collaborative lawyers have yet to spring up in all jurisdictions. As a movement Collaborative Law is still young yet organizationally making great strides. A comprehensive website has been developed by a group of collaborative lawyers to bring information to the public and serve as a portal to help couples find their nearest collaborative lawyers.

While there is no one-size solution to fit all, Collaborative Family Law does offer its approach as an alternative strategy aimed at resolving disputes more amicably than traditional family law. As with any approach, there will be indications and contra-indications. However, until substantial research is conducted, anecdotal information is all that is available. Proponents sing its praises. Couples interested in exploring it further, should visit the website:

[www.collaborativepractice.com](http://www.collaborativepractice.com)

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Gary Direnfeld is a social worker in private practice. Courts in Ontario, Canada, consider Gary an expert on child development, parent-child relations, marital and family therapy, custody and access recommendations, social work and an expert for the purpose of giving a critique on a Section 112 (social work) report.

Call Gary for your next conference and for expert opinion on family matters. Services include counselling, mediation, assessment, assessment critiques and workshops.