

DIVORCE WITHOUT DISASTER

South Jersey Collaborative Law Group offers a less painful and more cost-effective alternative to traditional divorce.

by Liz Hunter | Photography by Gary Mattie

The word “divorce” carries an incredibly negative connotation. When heard, one thinks of constant fighting, expensive attorney’s fees and lengthy court battles over assets and custody—a process that can tear families apart and cause lasting damage to children. But what if it didn’t need to be that way? What if there were an alternative for couples that want to maintain a level of cordial communication that will preserve not only their privacy, but also the family itself? Although it may seem like an oxymoron, a relatively pain-free divorce is possible through a radical new concept called collaborative divorce (CD), and the South Jersey Collaborative Law Group (SJCLG) is hoping to make this the new norm in our area.

What is collaborative divorce?

Collaborative divorce is a team process that involves collaboratively trained matrimonial attorneys, financial advisors, child psychologists

and family counselors. The goal of the CD process is to resolve all issues relating to the separation and divorce in a non-adversarial manner, without going to court. Throughout the process, communication is open and honest and the focus is on the future of the individuals and children involved, rather than dwelling on the past. This leads to a divorce that keeps private information out of the court system, preserves the mental health of children, and allows the family to control their destiny—as opposed to leaving it in the hands of a judge.

Although collaborative divorce may be a relatively new concept in South Jersey, it has a long-standing track record of success, and during the past 20 years has grown to be used in every state and Canada, as well as Australia and the United Kingdom. After CD found a footing in North and Central Jersey, in 2010 Marybeth Baron and Karen Sampson, two local attorneys, spearheaded the formation of SJCLG, which is one of eight groups that make up the New Jersey Council of Collaborative Practice Groups. Baron had heard about the CD process from a colleague during a New Jersey State Bar Association meeting and she and Sampson took collaborative law training shortly thereafter. Training involves learning how to help clients move forward with their lives in a positive frame of mind, rather than focus on a he-said, she-said scenario.

Baron says CD requires attorneys to think differently than they would in traditional divorce litigation. “Attorneys always represent the best interests of their client, but here the focus is to have both sides meet their goals in a non-adversarial way. We’re not looking to take advantage of mistakes made by the other side or exploit their children,” she says. Professionals such as neutral financial advisors are included in the group to facilitate communication regarding budget or tax concerns, and neutral child psychologists may be consulted if custody issues become highly contested. “What all of us in SJCLG have in common is the knowledge that there is a better way to go through a divorce.”

What are the benefits of a collaborative divorce?

“The difference between a traditional divorce and a collaborative

Attorney members of the South Jersey Collaborative Law Group include:



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divorce is night and day," says attorney Tom Jenkins, SJCLG member. "A traditional divorce involves filing complaints through the court, filing motions, going through the formal discovery process, waiting for court dates, and so on. It's a lengthy and expensive process." He has practiced family law for more than 30 years and during that time he has seen how this process makes it impossible for the family to function for the future of the children involved, and winning is the only option.

Jenkins says, "The CD concept is that the end of marriage is not the end of a family. We look for the common goals of both parties and ask them where they would like to be when it's over. We pledge open and honest communication on both sides." Every meeting held includes both attorneys and clients, and they are kept in the loop throughout. "This allows the parties to control the process. We're not just pulling for our client, we're pulling as a team for the best outcome that is pleasing to both sides," he adds.

SJCLG attorney member Bruce Matez says his 25 years of experience have shown him that the method of going through the courts for divorce doesn't always work well for families. "Over 98 percent of all divorces settle before going to trial," Matez says. "Oftentimes, the settlement comes at the end of the process when a lot of money has been spent and emotions have been exhausted. If they had just sat down together in the beginning of the process and worked for a resolution, they would have avoided all of the painful things that come along with litigation."

Matez adds that the CD process is especially beneficial when children are involved. The court decides in the best interest of the child, but sometimes there is not a one-size-fits-all parenting arrangement. "The CD process allows you to be creative and come up with different solutions you might not get through the courts. If you have a 14-year-old and a 7-year-old, their needs may be different. Through a CD, you can fashion something that works for everyone and gives each child the amount of co-parenting they need."

It is also clear that divorce has an impact on the mental state of children. "Too often children are used as leverage in a divorce," says Baron.

"In court, it becomes a battle of the experts and involves interviews, which can make the child feel forced to choose a side. It causes a lot of anxiety." For this reason, CD involves a child psychologist who helps the children adjust to divorce and separation, and works to foster the best outcome for the children. "We take the time to get to know the family's needs," she adds. "Because of the team mentality, we can work together to come up with an outcome that each family member is happy with."

Another important point to note about the traditional divorce method is the lack of privacy. "Court documents are public record and when you get to court, you rarely have the room to yourself," Baron adds. Through this alternative method, clients are able to keep their financial and personal matters private.

Who are the candidates for a collaborative divorce?

Just like anything else, CD may not be right for every couple going through a divorce. SJCLG does not recommend this process to clients who have experienced domestic violence issues, substance abuse, have unequal bargaining power, or someone who just cannot look beyond their anger. "This is designed to be a civil, sophisticated and respectful process," says Jenkins. "People who want to minimize the negative impact of divorce, value privacy and have a common goal of co-parenting are ideal candidates for a collaborative divorce."

Likewise, the attorneys involved in a CD must also be willing to think differently about divorce. "I think we all share the common concern that divorce has become an anxiety-ridden process and, for the benefit of our clients' financial and emotional security, we see this as a positive alternative that won't have them fighting in court for the rest of their lives," says Matez. "I do believe that the people involved in SJCLG are good people with good intentions who want our clients to lead peaceful, happy lives."

Baron concludes by saying, "Divorce is not always easy, but there is a much better process out there that gives you power over the outcome. Collaborative divorce lets you control your destiny and your family's future." ■

For more information, visit SJCLG.com.



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