

Separating with Civility



Divorcing with Dignity

Lepage Associates

Solution-Based Psychological Services

**The Collaborative Divorce Model:
Lessening Conflict & Changing the Adversarial Face of Divorce
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A Little History

Before the fairly recent advent of “collaborative divorce” by family law attorneys, many couples had designed their own collaborative process by using psychologists, ministers, or other neutral parties to mediate the divorce process to reach a fair settlement in an amicable manner. Couples often came to these people saying that they wanted to avoid conflict as much as possible, and keep costs down by avoiding high attorney’s fees. Now, finally, the law profession has taken notice of people’s desire to move through separation and divorce in a low-conflict manner, and has developed what they call collaborative divorce. This has been a wonderful and long-awaited alternative to the traditional divorce model.

How the Collaborative Model Differs from Traditional Divorce

Collaborative divorce is a process of cooperation, not confrontation. The role of attorneys who use this model is the same as the role of mediators has always been: to help you find and focus on common interests, understand each other’s concerns, explore a wide range of possible choices, and reach mutually-acceptable solutions. They also support, encourage and guide you in treating each other with respect, listening to each other’s concerns, exploring all possible choices, and concentrating on amicable solutions. Your collaborative attorneys will adhere to a process of cooperation, not confrontation, *while still advising you of the law and representing your interests*, working hard with you to help both parties reach an agreement.

Traditional divorce is an adversarial process with the focus on positioning and the use of legal maneuvers, which can end in a trial to decide issues. The collaborative model empowers you to reach your own solutions to sometimes difficult issues, and *parties agree not to go to trial*. Typically, the collaborative process is less costly and time-consuming than litigation. A collaborative dispute will end up costing less than a typical contested dispute since none of the attorneys’ time is spent on depositions, motions or court hearings. Also, the process allows the parties to be more creative than the court in fashioning settlement terms.

◆**Money Matters**◆

To most people, whether you are wealthy, middle of the road, or struggle financially, money matters. That is, we all like to feel our money was spent usefully. Consider the costs of a high conflict divorce that ends in litigation: on-line divorce calculators put the cost of litigation at between a low of \$26,000 to \$130,000 or more PER SPOUSE. Do you really want that much money to be spent on this conflict? Imagine all that you could do with that money: investments, vacations, children’s college funds, new home, etc. You could spend considerably less using the collaborative process.

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◆Self-Determination Matters◆

Judicial discretion. That is what litigation ends in. You pay tens of thousands or over a hundred thousand dollars... and you don't even have the final say. Nor does your spouse. Nor do the attorneys you've been working so closely with. The irony is that the judge may come up with conditions that neither you nor your spouse is happy with. Using the collaborative process, at least you have a direct say in the negotiation of the final settlement that you and your spouse agree upon. Though it may require some compromise, you ultimately maintain shared control of the negotiation process and self-determination of the outcome.

Addressing the Concerns of High Conflict Couples

To many people going through a divorce, using the collaborative process seems an obvious choice: it costs less and is less stressful. However, couples in high conflict who cannot imagine at this moment agreeing with their estranged spouse on big issues such as children or finances wonder if this model is a good fit for them. Here's why it is:

◆Conflict and Children◆

Research has shown that it is not the divorce per se but rather the amount of conflict associated with the divorce that has the most negative effects on children. This is likely because of self-image issues, disruption in attachments, and coping skills around stress. With regard to self-image, on an internal level children see themselves as "half mom" and "half dad." In a high conflict divorce, parties often tear one another down, which in turn tears down the child's own internal sense of self. Related to that, the conflict disrupts the attachment between the child and one or both parents, either on an emotional level as they try to figure out who is "right" or who is the "bad" person in the divorce, and/or on a practical level as positive/quality time with one or both parents is interrupted with either overt conflict between the parties or an undercurrent of anger and hostility. The child is left to deal with an on-going stressful situation at an age when coping skills around stress are still in development, and the child is often not able to process such negativity between parents when it goes on over time with no end in sight. Thus the time to start lessening the conflict is *during* the separation and divorce.

Research has also shown that children are healthiest and happiest when they have a positive attachment to both parents. The collaborative process can help you to develop a positive cooperative co-parenting relationship even through your anger. With the exception of the rare cases in which one parent meets criteria for "unfit" as a parent, regardless of the final custody arrangement, you will both have some joint role in parenting, just by the fact that you are both parents. Using the collaborative process, with the focus on amicable and mutually-agreed upon solutions, is a good place to start. Versus the traditional adversarial model, the collaborative model improves the chances for long-term goodwill.

◆Conflict and You◆

Intense sadness, intense anger, hopelessness, frustration, fear, confusion, a sense of betrayal... the list goes on of painful feelings experienced throughout the process of divorce. It is not surprising that people experiencing painful emotions engage in conflict. Ultimately though, people have more of a sense of contentment and well-being in their lives when they are not in constant conflict. The collaborative process can help you move through the conflict, lessen it, and enjoy more peace of mind and hope for the future. Using the collaborative process, with the focus on amicable and mutually-agreed upon solutions, is a good place to start. Versus the traditional adversarial model, the collaborative model improves the chances for long-term sense of satisfaction.

Using the Collaborative Divorce Model

There are two primary ways to utilize collaborative divorce:

(1) You can still use a mediator (psychologist, clergy, etc.) as a neutral party to mediate the divorce process to reach a fair settlement in an amicable manner. You would get legal advice from your respective attorneys who agree to use the collaborative process, that is, agree to represent you while also encouraging the peaceful resolution of issues that you are working toward with your mediator. Once an agreement has been reached, both lawyers would assist both parties to obtain any necessary court approval. This option tends to be less expensive than option 2 below; however, it is best to use a mediator who has experience mediating separation and divorce. For example, at Lepage Associates we developed *Separating with Civility & Divorcing with Dignity* as a facilitation and mediation process to meet the needs of people going through divorce.

(2) You can use attorneys trained in collaborative divorce for the entire process: legal advice, mediating the settlement agreement, and obtaining court approval.

(3) A final point to make is that in both 1 and 2 above, experts are brought into the collaborative process as needed. For example, a Certified Public Accountant with expertise in divorce financial planning may join the team as a neutral, to assist you in making financial decisions for the settlement. If you are not already using a psychologist as a mediator, a Psychologist may join the team as a neutral, to help you prepare for legal meetings, assist you in developing and deciding upon a parenting plan, provide coaching for cooperative co-parenting, or help you get past stuck points in the negotiations.

If you or someone you know is going to separate and divorce, consider using the collaborative approach. The professionals involved are committed to helping parties get through this difficult time in life with as little conflict as possible under the circumstances. The collaborative divorce model promotes fair agreements and healthy peace of mind.

◆◆Lepage Associates Solution-Based Psychological Services◆◆

Lepage Associates is a family practice serving children, teenagers, and adults; we provide therapy, evaluation, and consultation. We designed *Separating with Civility & Divorcing with Dignity* as a facilitation and mediation process to meet the needs of people going through divorce. Please visit our website, or call us for a free consult:

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