

Collaborative divorce alternative slow to catch on

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An alternative to traditional courtroom divorce litigation slowly is gaining popularity in North Texas.

Collaborative law has been around for about 10 years, and takes a different approach to divorce than court room litigation.

In collaborative law cases, divorcing parties work together with attorneys to plan out complicated issues, such as finance and custody agreements, in a private setting instead of arguing against each other in a court room, said Kevin Fuller, a Dallas family law attorney and the president of the Collaborative Law Institute of Texas.

Attorneys who practice collaborative law say the method helps couples, and especially families, come out of divorce cases with less of the resentment and anger that is common in courtroom cases where parties have to place blame on one another.

Most families going through divorce would like to get through it with something less than a war, and the collaborative process helps increase the likelihood that the case will be settled in a family-friendly and business-friendly way.

— Kevin Fuller, president of the Collaborative Law Institute of Texas

process of having the divorcing parties work out differences directly with each other can be tough.

"It isn't always the easiest way, it requires people to sit in a room and have very difficult conversations, but there are benefits to doing it and professionals there to help people have these conversations," Wanger said. "The process itself is respectful of everybody involved, and it creates an environment where parents can put their focus on their children."

The process of gathering information in collaborative law is also a benefit, Wanger said, in that divorcing parties know before hand what each meeting's topic will be focused on, such as children or selling a home, and what information or documents need to be brought in to the meeting.

"Say you need the bank statements from this time period and from this account, or copies of checks, the person who is having to produce these [in collaborative law] is agreeing to produce them, where as in litigation, we send out

In traditional cases "you have mom and dad either going to court or preparing to go to court and more or less preparing to say every bad thing the other parent did, every flaw in their character, every flaw in their personality," Fuller said. "And they are organizing friends and family to come testify as to the other party's shortcomings. At the end of the day, it's a very destructive environment and it's impossible for families after contested litigation to comfortably function at children's birthday parties, high school graduations, holidays, sporting events, school events, all of those become uncomfortable for everyone, especially the children."

In collaborative law, attorneys work with both clients in a room together to focus on the future and work to plan out finances or other complicated issues, Fuller said, adding financial advisers, property appraisers and other professionals often are brought in to help clients work out those issues.

"It's completely different, instead of focusing on the past, you focus on the future: How are we going to function as a family with our children? How are we going to make financial arrangements with us as best as they can?" Fuller said.

Before entering into the collaborative process, parties have to sign a written agreement explaining that they will not go to court for any purpose, and that each party agrees to full disclosure, and to follow a problem-solving plan to work out issues.

Diane Wanger, an attorney in Bedford, practices collaborative law and says the

requests for producing them, which have a whole laundry list, and sometimes people don't comply on time. There's a lot of inefficiency in doing that," Wanger said.

Clients considering collaborative law should know that the process isn't always cheaper than litigation, Wanger said.

"When I first heard about [collaborative law] in 2000, everybody thought it was going to be less expensive," she said. "I'm on my 47th case or so, and it doesn't necessarily cost less. Some cases might, but you're probably going to spend the same amount you would in a moderately litigated case, but the value that you get is incredibly different."

Part of the value the process offers is in the amount of time spent dealing directly with problems, Wanger said, adding that in a litigated case, clients often sit for hours at courthouses only to spend 15 minutes with a judge. In collaborative law, clients spend the majority of their time working on solving problems.

Collaborative law is slowly picking up in North Texas, Fuller said, but only about 100 attorneys in North Texas are trained in the process.

"Most people going through divorce, they don't know what their options are, and they don't know this is an option," Fuller said. "Most families going through divorce would like to get through it with something less than a war, and the collaborative process helps increase the likelihood that the case will be settled in a family-friendly and business-friendly way." ■

Collaborative Law Institute of Texas

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