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What Are People Thinking About Collaborative Law?

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As members of the board of directors and officers of the Colorado Collaborative Law Professionals, we have heard some interesting comments about Collaborative Law. Some of them are:

1. The Collaborative Lawyers are taking all the easy cases and the other attorneys are getting the difficult ones.

We have found in our 5 years of Collaborative experience and participation in over 30 cases, that Collaborative Law cases can be and usually are very difficult. Very few divorce cases, collaborative or not, are easy. Sitting in a four way meeting with a couple who is very angry or very hurt, and trying to sort out their finances or struggling with parenting problems, is no walk in the park. It is hard for attorneys to sit with clients who are fueled by emotions and let clients struggle to find common ground. It takes of patience and deep breathing to sit with parties in conflict. It is hard work to teach clients to learn how to listen, communicate without blame and take responsibility for their own decisions when they are in crisis.

It makes sense to assume that more emotionally healthy people choose the Collaborative Process, but most more emotionally healthy people are either not divorcing, or do not use lawyers in the resolution process. Divorcing couples that talk civilly and make decisions together may choose to use unbundled legal services, resolve differences in mediation, or seek a pro se divorce. Couples choosing Collaborative Law need an attorney to provide legal information to help them make tough decisions support them, and keep the power balanced. Collaborative counsel address cases with alcohol and drug abuse issues, physical abuse, mental and medical illnesses and long-term communication breakdowns. Clients in collaborative cases have slammed conference room doors, cried uncontrollably, raged at their spouse and been passive aggressive.

A successful Collaborative case resolution is a rewarding process. Even clients in difficult Collaborative cases can reach resolution and peace eventually (much to their surprise) but it can take hours and hours of very hard work to help them get there.

2. Collaborative Law is no different than what most reasonable lawyers do every day.

Collaborative Law is different. It is not about being a pleasant person while taking inflexible positions. It is not about starting high and then negotiating to some middle ground. The negotiations are based on interests, so clients make decisions that meet real needs rather than take positions that may not. The idea is that a divorce is not successful that does not meet the reasonable needs of both parties. The lawyers must go through a paradigm shift that recognizes this concept. The paradigm shift is not easy to make and not easy to maintain. Collaborative Lawyers struggle daily to maintain their agreement to work with the couple to find solutions that meet both clients' needs. Some lawyers fail to ever make the shift no matter how much training they receive.

Instead of representing only one side of an issue and pushing one client's agenda, the lawyers work as a team to help the clients set the big picture goals together, gather information in a cooperative way, and together plan meetings to help client and attorney conferences go smoothly. The lawyers spend time with each other getting to know the hot button issues of each client and seek to truly understand both sides of an issue. The lawyers plan how to present the law to the clients together and work to help the clients explore all options, not just getting what they think they deserve. You can see a successful collaborative case when a stranger is able to walk in a room and be unable to tell which lawyer represents which client. Everyone involved in the case knows who represents whom, of course, but to onlookers it is not obvious.

The lawyers' job is to model healthy communication without judgment or blame and to show the clients a fair way to problem solve. Collaborative Law requires that the clients and their attorneys agree that the client will make the decisions and make them only when they are coming from their highest self, the self with integrity and honesty. The lawyer expects the shadow side of the client to appear, and knows fear, rage, guilt, and a desire to lash back can overwhelm their higher self. The lawyer is trained to wait out the storm and coax the higher self to reappear and to reach agreements that will positively affect the future of their relationship and the future of their children.

The clients begin to trust the Collaborative team members and the process because they know that the collaborative lawyer for their spouse has agreed in writing that they will never cross examine them and they will never see them representing their spouse in a courthouse. The level of trust that can occur between all counsel and clients in the collaborative process is a true miracle. In a regular case settlement conference, without the requirement that the lawyers withdraw if the case proceeds to the courthouse, the client is aware and often expects to be later cross-examined in court by their spouse's lawyer and rarely, if ever, builds trust in that lawyer or their client.

3. If I join the Colorado Collaborative Law Professionals I will get Collaborative case referrals.

CCLP is not a referral program. There is no guarantee that members will be referred cases by other members. The professionals that are members often work together on cases and refer cases to each other, but CCLP's main purpose is not to provide case referrals to financial experts, child specialists, coaches, or attorneys. The purpose of

CCLP is to conduct trainings, set standards and protocols for all types of professionals involved in CCLP, and to educate and inform the public and professionals about the process.

4. Why take the training if I like to litigate?

The trainings are helpful to all professionals who want to improve their negotiation, mediation and settlement skills. The Collaborative trainings teach lawyers new tools to help their clients build successful long-term agreements, and healthier post decree relationships. The Collaborative Trainings have helped many lawyers improve their ability to reduce high conflict between parents in all family law cases including litigation cases, mediation cases, and collaborative cases. Family law therapists and evaluators are pleasantly surprised and encouraged by the paradigm shifts made by many trained attorneys.