

## The Collaborative Divorce Team

**Collaborative divorce by its very nature requires a team effort. Pauline H. Tesler and Peggy Thompson, authors of *Collaborative Divorce: The Revolutionary New Way to Restructure Your Family, Resolve Legal Issues, and Move on with Your Life* and pioneers of the movement, compare the process to building a house. In this exclusive Divorce Magazine excerpt, Tesler and Thompson introduce the team members who serve as guides in the collaborative divorce.**

By Pauline H. Tesler, M.A., J.D. and Peggy Thompson, Ph.D.

THERE are all kinds of houses – big and small, simple and complex – but no matter what kind of house you require, the sequence of steps you'll need to take to get it built are the same, involving many choices at every juncture. Whatever kind of house you build, it starts with a foundation, moves through framing to roofing, and leaves the finish work until last. If you do your research, gather your information, take your time, and make good decisions, relying on a well-chosen team of experienced building professionals, your new house can provide shelter and comfort for a lifetime.

Similarly, when the time comes to choose who will be on your collaborative divorce team, you'll need to consider your own specific situation, as well as how much of a budget you have for your divorce and how much importance you place on the excellence of the design and the lasting strength of the ultimate results. One person alone can't do the job of a team of specialists. But exactly what mix of collaborative professionals is best for you may differ from what another couple settles on. You may begin with collaborative lawyers and, with their advice, decide to bring coaches and a child specialist onto the team. Another couple may begin with coaches, who will refer them to collaborative lawyers and a financial consultant. Wherever you begin, the job of your first professional helper will include advising you about the right mix of collaborative professional help for your own specific needs – advice you'll need to choose the best team for your specific situation.

### The team members

The following professionals are all specially trained to work skillfully together as a fully staffed team with the two collaborative lawyers selected by the divorcing spouses: two mental health professionals working as coaches, a child specialist, and a neutral collaborative financial consultation (typically, a certified financial planner or certified public accountant with a Certified Divorce Financial Analyst credential or its equivalent).

Let's take a look at what each team member does:

#### 1. Collaborative divorce lawyers

In a collaborative divorce, you and your spouse will each have your own collaborative lawyer. The lawyers' responsibilities include:

- Advising their own clients about the divorce process, including the law;
- Helping their own clients clarify and communicate effectively about goals, interests, concerns, priorities, and values;
- Advocating for and with their own clients in all stages of the collaborative divorce process so that all concerns are addressed appropriately;
- Working collegially with the other collaborative lawyer as guides and managers of the divorce negotiations;
- Working collegially with the other team members to manage conflict; gather, understand, and make sure of information; expand options; and design and consider solutions;
- Modeling and teaching collaborative conflict resolution skills; helping you and your spouse find creative, comprehensive, mutually acceptable solutions to all divorce-related problems; and
- Doing all tasks needed to complete a comprehensive settlement agreement and a legal divorce.

Together, the lawyers for you and your spouse will help you hear each other's point of view and consider a range of options for resolution. Collaborative lawyers are hired solely to help you and your spouse get to the best possible agreement, entirely outside the court system. While they will handle the necessary court paperwork to convert your divorce agreement into your divorce judgment, collaborative lawyers can never represent either you or your spouse in



court against the other. Although your lawyer represents only you, not your spouse, your lawyer never becomes your spouse's adversary.

Though the lawyers work individually with their own clients, the sharing of information and arriving at solutions is done in meetings that both lawyers and both spouses attend. The lawyers never negotiate deals without both of you present at the table and actively participating in the negotiations.

Take the time to find the best collaborative lawyers you can locate, and encourage your spouse to do the same. The best encourage their clients to take the long view and to work toward solutions that will still look wise 15 or 20 years later. In the words of one of our colleagues, "I want to help you end your marriage in such a way that you can dance together at your daughter's wedding."

## **2. Collaborative divorce coaches**

Collaborative divorce coaches provide a broad range of support to help you move constructively through your divorce, bringing perspectives and skills that only a mental health professional can offer. They distinguish themselves from other similarly licensed mental health practitioners in the community with their special additional training and experience in communication skills, family dynamics, and issues relating to healthy recovery from separation and divorce. Coaches provide emotional encouragement, teach stress management and communication skills, explore parenting help ensure that both partners' needs, concerns, and feelings are understood and expressed in constructive ways. They use an efficient, structured process for building up your competency, effectiveness, and resilience, all of which may be diminished as your marriage comes to an end. Also, they will teach you and your partner how to improve the quality of your communications and decision making as you move through the divorce negotiation process. They will begin to encourage you to think and dream about your personal futures and your future as co-parents, if you have children.

Collaborative divorce coaching is different from life coaching. Although collaborative divorce coaches may work at times in ways that resemble "life coaching," their mental health training, experience, and licensure requirements go far beyond what is require to work as a life coach. They undergo years of postgraduate study and clinical internships addressing family systems and human development, augmented by legally and professionally mandated continuing education to keep abreast of scientific advances.

You and your spouse will each have your own collaborative divorce coach to be your personal ally and helper. You will each meet privately with your coaches, as well as in four-way coaching meetings. Your coaches will help you and your spouse recognize and change unhelpful communication patterns that are often in place as marriages end. If you have children, your coaches will help you discuss your concerns about parenting them effectively when you are living separately. You will develop a plan for parenting with the help of the coaches, using the information provided by the child specialist.

Coaches are proactive: they will stay in touch with you throughout your divorce. Collaborative divorce coaches also like to help you take preventive measures, making it important to contact your coach if you have questions or you find something is not working for you.

Coaches almost always add value to the process and outcome. With their help, "meltdowns" can be dealt with so that necessary conversations can be had about difficult issues. This work helps you participate far more effectively in the four-way meetings with your lawyers. If the coaches aren't needed, or if their work finishes quickly, they will step into the background, remaining available if and when they are again needed.

## **3. The collaborative financial consultant**

The collaborative financial consultant, who may be a certified public accountant or certified financial planner, assists with the gathering of financial information and the preparation of provisional budgets and property division spreadsheets. They are distinguished from similarly credentialed professionals by their additional special training as Certified Divorce Financial Analysts or the equivalent, and their training and experience in how to work as a member of a collaborative divorce team. Meeting jointly with their collaborative divorce financial consultant, the divorcing partners have the opportunity – face-to-face – to review their financial documents and information together, ask questions, resolve misunderstandings, and appreciate their differences in money management experience, values, and risk preferences. This has the benefit of reducing distrust and developing accurate shared perceptions about the basic financial facts of the marital estate.

Collaborative financial consultants do not negotiate or resolve differences, but they do help identify them. They also work

with you and your spouse to consider your financial future and various ways in which you can help ensure your financial stability as you move into your new life. Acting as a resource for developing and exploring settlement scenarios and flagging tax implications, the financial consultant works with the collaborative lawyers to help both spouses reach a shared understanding of real-world financial limitations as well as possibilities for expanding the financial pie. If documents are missing or questions remain unanswered, the financial consultant lets the lawyers know. If one of the spouses needs a basic education in checkbook balancing or budgeting, the financial consultant points this out and can provide the necessary skill training. This work allays fears on the part of both spouses because all financial disclosures are made together and the work is not finished until all questions about family finance have been answered candidly and fully. The financial consultant may attend four-way meetings but should never venture into negotiating issues or discussing possible terms of settlement with you or your spouse outside of the legal five-way table. In the rare event that a collaborative case terminates short of settlement and is taken to court, the financial consultant – like all the team members – may not participate in any court proceedings between you and your spouse. Nor may they provide investment services unrelated to the divorce. If you already have financial advisors, your lawyers may suggest working with them instead of including a neutral collaborative financial consultant on the team. Just bear in mind that while specialized financial advisors can bring expert depth of knowledge, they don't generally bring the kind of information-sharing skills the collaborative financial consultant has. Rely on your lawyers' advice about what mix of financial advice you and your partner should make use of during your collaborative divorce process, and give careful consideration to the particular skills that a collaborative financial consultant can bring to the table as you decide.

#### 4. The child specialist

The child specialist focuses on your children's needs in the separation and divorce processes. The child specialist is a licensed mental health professional with particular training and experience in family systems, child development, and the needs of children during and after divorce. Working in a short-term, focused manner during the divorce process to support the children during the difficult transition they face, the child specialist advocates for the children during the coaching process. The child specialist also ensures that each child has a safe, private place in which to ask questions, share feeling, express needs, and address problems related to the divorce, giving children a rare opportunity to voice their thoughts and concerns and to be heard on the issues that are important to them without having to feel divided loyalty. The child specialist brings important information about children generally and your children specifically into the coaching process, ensuring that the emotional needs and concerns of each child are considered by both the parents and the other team members. The whole team works together to plan how the adults will share the parenting responsibility. With the child specialist's participation in these discussions, the agreements that emerge from the coaching sessions have more balance and flexibility because they take into account the changes in the family system from the children's perspective as well as from the adults'.

#### Every divorce is different

Please keep in mind that every divorce is different. For instance, some people begin with coaches, while others begin with lawyers or financial consultants. Some couples proceed on all three fronts simultaneously, while others have good reason for working intensively with one professional team member for a while before engaging in concentrated work with another.

Wherever you begin in your own collaborative divorce, you'll receive advice to take the stages in the right order. Ensuring that the work is done in the sequence that has proved most effective in getting to solutions is the job of your collaborative divorce team. While the details of each couple's pathway to resolution may vary, they know that the sequence of the collaborative divorce process – gathering information, recognizing values and goals, reaching consensus through brainstorming, and then, and only then – implementing solutions – is a source of its considerable conflict resolution power.

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*This article was excerpted with permission from Collaborative Divorce: The Revolutionary New Way to Restructure Your Family, Resolve Legal Issues, and Move on with Your Life by Pauline H. Tesler and Peggy Thompson, ReganBooks, an imprint of HarperCollins. Using plain language and real-life examples, the authors define the process of collaborative divorce, explaining its advantages, who it best suits, and what can be expected along the way. Pauline Tesler, M.A., J.D., has been a specialist in family law, certified by the California State Board of Legal Specialization, since 1985. She is also a fellow of the American Academy of Matrimonial Lawyers. Peggy Thompson, PH.D. has been a licensed psychologist for more than 30 years. They co-founded the International Academy of Collaborative Professionals, where they train collaborative professionals.*