



Collaborative law provides a powerful tool for reducing costs and regaining the public's trust.

A Healing Approach To Collaborative Law

by David A. Hoffman

The concept of collaborative law may seem like an oxymoron to some, but it is a widely used process in which the lawyers and clients agree that the lawyers will participate solely for the purpose of settlement negotiations and that if the case goes to court, the parties will hire new counsel. Collaborative law has been hailed by many lawyers and their clients as a godsend, rescuing them from the quagmire of courtroom battle.

Confidence in lawyers and our legal system has plummeted in recent years as the cost of courtroom conflict has soared. Collaborative law—along with mediation, arbitration and other forms of dispute resolution—provides a powerful tool for reducing those costs and regaining the public's trust.

Collaborative law originated in Minnesota in 1990, when a disgruntled family law attorney, Stuart Webb, decided that he had had enough of courtroom brawls and the ensuing family carnage. Along with some like-minded lawyers there, he

began taking cases solely for negotiation. This idea spread to San Francisco in the early 1990's and throughout the U.S., Canada and around the globe over the past 15 years. Tens of thousands of divorces and other conflicts have been resolved using collaborative law.

A majority of states in the U.S. now have groups of lawyers engaged in collaborative practice. Although individual states are not required to follow the American Bar Associations lead in ethical opinions, most do. This gives collaborative law attorneys a much hoped for green light, with caution, regarding the importance of informing clients about the risks, as well as the benefits of this practice.

What are the risks? Experience suggests that the primary risk is that one party may claim to be ready to negotiate but then resists settlement. The collaborative law agreement lacks a mechanism for overcoming foot-dragging, other than persuasion—or going to court, which

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THE LEGAL CORNER

The Sacramento Collaborative Practice Group was first formed in 1998 and has grown to become an important and beneficial solution for divorcing couples and fragmented families conflicted by separation and divorce. With the official stamp of approval given by California's governor who signed into law the Collaborative Family Law Act, Collaborative Practice is a recognizable format to determining divorce agreements without litigation and the lengthy/costly court process.

Sacramento Collaborative Practice Group

Hal Bartholomew, managing partner of Bartholomew & Wasznicky LLP, the region's largest Family Law firm, was one of the bill supporters and is also a founding member of Sacramento Collaborative Practice Group. "We've seen a rise in the number of cases our group has taken on over the past year," stated Bartholomew. "Additionally, our group has expanded to include family law attorneys that represent the four county region as well as other experts in matters

of finance, accounting and mental health counseling. These resources provide us with a well rounded team of experts to help the divorcing couple to reach an equitable solution so that they can move on with their lives."

The collaborative process works for couples that commit to the process which uses informal discussions and conferences attended by spouses and their attorneys to settle all issues.

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& Arguments Controversy

“I dislike arguments of any kind. They are always vulgar and often convincing.”

—Oscar Wilde
(1854–1900)

“Change means movement, movement means friction, friction means heat, and heat means controversy. The only place where there is no friction is in outer space or a seminar on political action.”

—Saul Alinsky

“Argument is the worst sort of conversation.”

—Jonathan Swift
(1667–1745)

“How many a dispute could have been deflated into a single paragraph if the disputants had dared to define their terms.”

—Aristotle
(384–322 B.C.)

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means abandoning the process altogether and hiring new counsel. Critics of the collaborate law movement also contend that lawyers must be zealous in representing clients and that agreeing to collaborate dilutes this commitment.

However, most clients in a dispute are looking for an honorable peace, not war, and collaborative lawyers can be just as zealous about seeking such a peace as litigators are about victory in the courtroom. Empirical studies to date suggest that clients in collaborative law cases are satisfied with both the process and the settlements achieved. One of the primary reasons for this success appears to be self-selection—in other words, the clients and lawyers who embrace the collaborative process tend to be those who are seeking to resolve conflict rather than prolong it. In addition, the collaborative law process creates a container for conflict—one that promotes information-sharing,



problem-solving, and respectful communication. Sometimes the collaborative process enables people to do more than just settle their differences but to actually resolve them on a deeper level than is possible with the bare-knuckles negotiation that is typical in non-collaborative cases. ❤️

David A. Hoffman is a lawyer and mediator at Boston Law Collaborative, LLC, is chair of the Collaborative Law Committee of the American Bar Association Section of Dispute Resolution and teaches mediation at Harvard Law School.



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Sacramento Collaborative Practice Group: Family Law

An association of attorneys and affiliated professionals in the greater Sacramento area.

www.divorceoption.com

(916) 863-9777

Sacramento Collaborative Practice Group

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Couples agree to an unwritten but well understand code of conduct:

- Treating each other with respect and honesty throughout the divorce
- Agree to resolve problems reasonably and be willing to negotiate solutions
- Participate actively in the process
- Do not seek retaliation or revenge

Attorneys represent both spouses and joint experts are employed to provide guidance and expertise in reaching solutions. Additionally, if children are involved in the divorce proceedings, all participants agree to not involve the children in disputes. Parenting decisions

are negotiated and agreed upon in the collaborative process, rather than delegating that authority to others, such as the court system.

Ultimately, the collaborative practice is typically less costly, avoids the emotional toll of an adversarial divorce, provides control of all decisions to the divorcing spouses and establishes a constructive relationship for co-parenting. “It’s a team approach to resolving what tends to be an emotional, and many times protracted court dispute,” stated Bartholomew. “It’s a respectful process and provides a safe environment to sort out the details of spouses lives.” ❤️



PERSONAL PROFILE

Ginter's Vocal Point

A child of divorce with each parent migrating to different towns, Bryan Ginter primarily spent most of his youth in Wallingford, Connecticut.

"Friends and family often ask how I'm able to deal with the emotions of Family Law and I always tell them that I enjoy people and all of their differences. Family Law is a natural fit for me," states Bryan Ginter, the most recent attorney to join Bartholomew & Wasznicky LLP. In particular, Bryan enjoys non-adversarial resolution to Family Law issues, whether it's serving as a mediator for both spouses or entering into the Collaborative Practice process. "Sometimes litigation is the only alternative, but I do my best to encourage the non-adversarial process where the couple can retain control of their own outcome in the best interests of their family."

After Bryan received his B.S. in Management from Quinnipiac University in Hamden, Conn., in 1995, he had

contemplated several career moves before locating to California. So what does California have to offer that the land of "Mystic Pizza" doesn't? "The warm weather, and California residents are generally more laidback and less judgmental than East Coasters," states Bryan.

Bryan earned his law degree from McGeorge School of Law in 2004. Immediately after law school, he worked in civil litigation for a year, then worked the following year at the Family Law offices of a sole practitioner. He joined Bartholomew & Wasznicky for its "great reputation." Bryan is a member of the California State Bar, Sacramento County Bar Association including the Family Law Section, and U.S. Eastern District Court. He is also a member of the



Sacramento Superior Court Pro Bono Mediation Group and the Sacramento Collaborative Practice Group.

Bryan is also a serious recording artist who sings and plays guitar, drums, bass guitar and Native American flute. "My favorite aspect of music is singing since it's the most personal expression of music you can give," said Bryan, whose songs are influenced by many famous rock musicians. ❤️



Financial Literacy Begins At A Young Age

by Beverly Brautigam, CPA

Despite the difficult economic times we all face, there is a shocking level of financial illiteracy among Californians. Its impact is staggering:

- In 2001, more young adults filed for bankruptcy than graduated from college.
- 20% of families with an annual income below \$50,000 spend close to half on debt payments.
- According to American Consumer Credit Counseling, Inc., the average balance on a credit card is \$7,000, offering an average interest rate of 18.9%. But consider this: To pay off a balance of \$5,000 at 15% using minimum monthly payments of \$109, it will take 6 years and cost more than \$2,633 in interest! (smartmoney.com)
- There has been an alarming 70% increase in personal bankruptcies during the last decade.
- 74% of credit card users are "very concerned" about being able to pay their credit card bills every month, according to a Bankrate survey.
- In 2002, the personal savings rate decreased to 2.4% from 7.5% in the 1980s, and 24% during World War II. Recognizing this growing problem before the current mortgage and financial crisis now facing the country, the California CPA Society created a Financial Literacy Committee consisting of statewide members. The committee has developed programs and materials to help Californians improve their financial knowledge.

In cooperation with elected officials, the committee has launched a "Dollars & Sense" workshop to provide financial information in town hall-style forums. The committee also collaborates with the California Jump\$tart Coalition and Junior Achievement to provide financial literacy programs for school children.

More information about the California CPA Society's financial literacy programs can be found by contacting Clar Rosso, CalCPA Director, Communications, at clar.rosso@calcpa.org. ❤️

Beverly Brautigam is a CPA with an MBA in Taxation and a Personal Financial Specialist. She is past President of the California CPA Education Foundation.

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THE DIVORCE COURSE:

6:30-9:00 PM

*Learning Exchange Course
taught by Hal Bartholomew*

Tuesday, October 7, 2008

4740 Folsom Blvd.

Registration: **(916) 929-9200**

COLLABORATIVE DIVORCE

WORKSHOP: 6:00-8:30 PM

*Learning Exchange Course
taught by Hal Bartholomew*

Tuesday, October 14, 2006

4740 Folsom Blvd.

Registration: **(916) 929-9200**

DAY LONG DIVORCE/TAX COURSE FOR CPAS AND LEGAL PROFESSIONALS

*Course Instructors: Hal Bartholomew
and Beverly Brautigam, CPA*

Tuesday, October 28, 2008
San Luis Obispo

Monday, November 10, 2008
San Francisco

Tuesday, January 6, 2009
Burbank

For course locations and registration
information: **(916) 455-5200**

For more Information about the calendar
of events, newsletter articles or Family
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