

## Finding a 'Lifeline' Through Divorce

Couples, Lawyers Hail Collaborative Law as less adversarial,  
less costly approach to splitting

By Francine Kopun The Toronto Star January 14, 2008

When Miriam and Andrew Grenville's 20-year marriage ended in 2006, they agreed on one thing – protecting their children from collateral damage was their utmost priority.

So when Miriam's friend recommended she look into collaborative law instead of taking the traditional adversarial route, they both listened. They believe it saved them a world of pain.

"I think a lot of people try to be reasonable and fall into a system that encourages unreasonableness. This is a lifeline out of that," says Andrew, 43, a Toronto market researcher.

Begun as an experiment in Minnesota in 1990, collaborative family law has been gaining momentum in the U.S., Australia and Canada as an out-of-court alternative for divorcing couples.

In Canada, collaborative law lawyers are lobbying Justice Minister Rob Nicholson to amend the Divorce Act to include collaborative practice as an option for divorcing families – mediation is currently mentioned in the legislation.

Their hope is to bring it to the attention of divorcing couples who wouldn't otherwise know it exists.

It's an issue of access to justice for family law lawyer Nicola Savin.

"I find people spend an awful lot of money having lawyers prepare court documents. By the time both parties are psychologically and factually ready to resolve the issues, a lot of time, they've run out of money," says Savin.

"With the collaborative approach, you spend the money problem-solving, not having your lawyer prepare reams and reams of paper to be filed in court making all sorts of allegations which further entrench the parties and raise the level of conflict."

Under collaborative law, couples negotiate in person with lawyers especially trained in collaborative law representing them. Participants sign a pledge not to go to court. The focus is on mutual respect, dignity and principled negotiation.

Collaboratively trained financial planners can help determine the value of the marital assets and the long-term impact of the financial settlement on both parties. A child specialist can help provide parenting plans.

The average meeting between parties is about two hours long, followed by a meeting between lawyers, and a minimum of three meetings is typically required, says Judith Huddart, past chair of Collaborative Practice Toronto.

Participants pay their lawyers and for the services of any other professionals required. If the process breaks down, both lawyers are required to resign and the participants must seek new legal representation.

It's typically quicker and less expensive than a traditional divorce, always cheaper than going to court, and seeks to preserve a working relationship between divorcing parents so they can continue to raise their children together.

Collaborative practice came to Toronto in 2000, when a group of 20 lawyers founded what has become Collaborative Practice Toronto. It now numbers 120 lawyers and other professionals.

Huddart believes so strongly in the process that after 25 years in practice, she has begun weaning off her litigation clients to focus on collaborative law.

"I don't want to be part of destroying what's left of a family. In the old way of doing things, I had lots of clients say to me: 'Thank you very much, I hope I never see you again.' Now I get hugs, I get thank-yous, I get flowers."

Critics say that while collaborative law may work in cases where there is low-to-medium conflict, high-conflict cases still tend to need a judge.

Collaborative law worked for Andrew and Miriam Grenville. They met about four times in the company of their respective collaborative law lawyers. They paid for some accounting to ensure the assets of the marriage were equally divided. They emerged with a separation agreement covering all of the major issues.

That doesn't mean it was painless. Miriam and Andrew were in the grips of the emotional storm that accompanies divorce. The process itself helped – the first guideline participants are issued is that they must attack the problem at hand, not each other.

"My first impulse was to make sure that nothing touched my kids," said Miriam, 42, a Toronto artist. "When you make that decision, you decide that you have to act as a grown-up in order to let your children be children. In order to make that decision you have to deal with your emotions in a grown-up way."

Andrew said the idea of a collaborative law solution appealed to him because it emphasized fairness and respect instead of setting divorce up as a battle with a winner and a loser.

"You don't want to take a sad thing and make it worse. You don't want to take something that's difficult and potentially make it horrible. That certainly can happen if you get lawyers who are trying to get the advantage for their clients, which may or may not be in their best interest in the end."