

LIFESTYLE

Collaborative divorce 'best option available'

Editor's note: Several Dane County family lawyers who practice collaborative divorce wrote the following column as a response to Linda Roberson's recent "Ask the Expert Column" headlined "Collaborative divorce a no-no." The group includes Steven A. Bach, Rebecca A. Erhardt, Karen D. Julian, Robert A. Ramsdell, Anne T. Wadsack, Nancy C. Wettersten and Janice K. Wexler.

We were dismayed to read the misinformation about collaborative family law in attorney Linda Roberson's "Ask the Expert" column of Dec. 30. Unfortunately, Roberson has chosen not to practice using the collaborative model and, consequently, misunderstands the process.

There are many experienced family law attorneys in this area who believe the collaborative model is the best option available to parties going through a divorce who wish representation by an attorney, but fear the potential costs, both financial and emotional, of using the court system to resolve their disputes.

In the collaborative model, both parties and their attorneys agree they will reach a settlement of all issues between the parties which meets the legitimate needs of both parties, and protects the best interests of their children. If a party wants the "best deal" he/she can achieve, at any cost, and regardless of its impact on the other spouse or the children, then the collaborative model is

probably not the best choice for that couple.

People who choose the collaborative model value their privacy, mutual respect, control over their lives, and their future relationship. They trust each other to be open and honest in their financial disclosures, and they often have children they wish to co-parent.

Contrary to Roberson's column, information provided by a party to his/her attorney in confidence *must* be kept confidential by that attorney. A collaborative attorney will urge the client to disclose necessary information; failing that, the attorney may withdraw from representing that client. Similarly, if the client tries to hide assets during the process, or fails to follow agreements made during the process, the attorney may and should withdraw. In that event, the other party and attorney will probably conclude that the collaborative model will not work, and both parties will retain litigation counsel. We view that as a significant "remedy" for abuse of the process by a party.

Roberson fails to mention Wisconsin law mandates full financial disclosure between parties to a divorce, and attorneys are subject to professional discipline if they assist a client in hiding material information from the court and other parties.

It is true that both attorneys must withdraw if either party

decides to seek court resolution of any disputed issue. That is the heart of the collaborative model, and it is this commitment that helps both parties and their attorneys be creative in resolving all issues. In the collaborative model, no one may threaten a court action; it is not an option. In Roberson's cooperative model, which is simply a litigation model, the attorneys specifically reserve the right to walk out of settlement talks with the deal-killing threat, "I'll see you in court."

With that threat hanging over everyone's head, the inducement for compromise and resolution is lost, and parties face increased hostility, manipulation and costs. With the collaborative model, all energy is put toward helping the parties reach a resolution of all issues. Consequently, parties are able to reach agreement more efficiently, and at a lower cost than is possible with the litigation model.

If your readers are interested in learning more about collaborative family law, we invite them to visit the Web site of the Collaborative Family Law Council of Wisconsin at www.collabdivorce.com.

Linda Roberson responds:

I think one reason that the collaborative folks are incensed is that the headline on the column was pretty inflammatory. I truly cringed when I saw it. I understand that writing headlines is an editor's job — which is fine — except when it appears to put words in my mouth that I personally wouldn't have uttered.