



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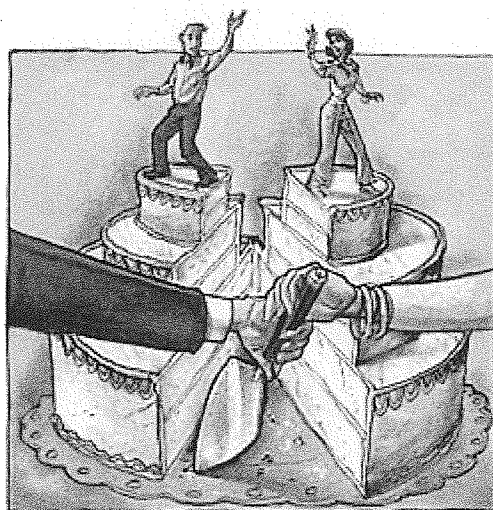
TASTE

Separate Peace

By **STEPHANIE COONTZ**
June 6, 2008

In March, comedian Robin Williams and his estranged wife, Marcia Garces Williams, filed for divorce after 19 years of marriage. But tabloids hoping for a juicy celebrity battle may be disappointed. In court papers filed last month, the couple announced they would conduct a collaborative divorce, pledging to be "honest, cooperative and respectful" and to put their children's interests first.

The past two decades have seen an explosion of interest in alternatives to adversarial divorce. Growing numbers of couples now handle their split without lawyers, often consulting "do-it-yourself" Web sites. Divorce mediation was unheard of before the 1970s. Today, about four-fifths of states either mandate it or allow judges the discretion to require it before they will set a trial date.



David Klein

Collaborative divorce takes this cooperative spirit even further: The divorcing couple and their attorneys agree in advance that they will disclose all pertinent information and will jointly engage neutral experts rather than hired guns if experts are needed. The attorneys agree not to litigate; if the process breaks down (as it does in about 5% of the cases), they are bound to withdraw rather than pursue the case in court. If the spouses then choose to litigate, each

must hire a new lawyer and start from scratch.

Pioneered in 1990, collaborative divorce has spread rapidly. In the past decade, the number of professionals involved in this process has

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increased 20-fold. It is not without its detractors, though. In February 2007, the Colorado Bar Association deemed the process unethical because it diluted a lawyer's undivided loyalty to the client. Many attorneys still advise divorcing clients that they'd be foolish to give up any potential advantage in a struggle with so many consequences.

From a different perspective, some people believe that "normalizing" divorce leads couples to take its consequences too lightly. "Divorce is a tragedy and should be treated as such," said one "pro-family" advocate on a radio talk show, in response to the idea that something good might come from the Williamses' divorce. "Telling people they can help their kids by divorcing civilly is like offering them low-tar cigarettes instead of explaining that smoking causes cancer."

But a growing body of evidence suggests that normalizing divorce and surrounding it with expectations of cooperative behavior is far better for everyone than the two extremes of trying to prevent people from divorcing at all or encouraging them to "win" or prove fault in a divorce dispute. Especially when children are involved.

It might seem that making divorce harder to get would benefit children, since children whose parents divorce are more likely to exhibit behavior problems than those in intact families. But a longitudinal study released in April by the Council on Contemporary Families found that many child problems commonly attributed to divorce actually have their roots in family dynamics that long predate the parents' separation.

Poor impulse control, antisocial behavior, disengaged parenting, contemptuous behavior toward a partner, and untreated physical or mental problems all make couples more likely to divorce. But each factor also raises the likelihood of maladjustment in the children even if the parents stay wed. Sometimes divorce, however painful, is the best outcome for a poorly functioning family.

There are instances, however, when divorce *does* make things worse for kids with adversarial divorce that have the worst effects. Children suffer when parents compete for their children's loyalty, bad-mouth each other, or ask the children to choose a former spouse.

Constance Ahrons's 20-year look at 173 children from 98 divorced families maintain a civil and at least minimally cooperative relationship with each other despite the problems associated with the divorce. But when parents remained in conflict, children continued to be distressed even 20 years later.

There is ample evidence that we can increase the incidence of "good" divorce assigned to either mediation or litigated divorce, Robert Emery and his colleagues found. Mediation had powerful long-term effects. Parents who took part in mediation had fewer problems 12 years later than parents who used litigation, and they were much more likely, even 12 years

moral training, school performance and vacation plans. Nonresidential parents have more contact with their children than those who had litigated.

In August 2007, six months after the Colorado Bar Association deemed the Committee of the American Bar Association repudiated the state bar's opposition to Attorney William J. Howe argues that lawyers involved in family law cases whose welfare may be affected by the outcome as a "phantom client," with advocating for the self-interest of adult clients.

Hugh McIsaac, a retired director of Family Court Services in Los Angeles says that mediators represent their clients' long-term interests, not their short-term anger. The average cost of a \$7,000 and of a collaborative divorce less than \$20,000. This compares with the cost of rival lawyers and about \$78,000 for a fully litigated divorce.

And it's not just the financial toll. When a parent maximizes his or her emotion for the other parent, this "victory" carries long-term costs. Researcher Paul Amato says that children in the middle of their parents' problems are less likely to be close to either parent.

Cooperative divorces deny clients the short-range satisfaction of "beating" the opposition, a lucrative source of income. But the benefits clearly outweigh these costs. So why do so many attorneys: Maybe we can learn something from a celebrity divorce after all.

Ms. Coontz teaches history and family studies at The Evergreen State College. Love Conquered Marriage.

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