



Women of Wisdom

Anne Wynne and Carrie Helmcamp Share
an Enlightened Approach to Family Law

Story by Leashya Padma-Munyon
Photo Courtesy of Anne Wynne

AUTHOR AND PLAYWRIGHT Jean Kerr had this to say about divorce: "Being divorced is like being hit by a Mack truck. If you live through it, you start looking very carefully to the right and to the left." Author and poet Margaret Atwood mused, "A divorce is like an amputation: you survive it, but there's less of you."

While others may not express their feelings through such dramatic analogy, most will agree that divorce is a stressful and difficult process. Along with the emotional upheaval that a person experiences at the end of a marriage, there exists a torrent of fear surrounding the divorce process itself. Austin attorneys Anne Wynne and Carrie Helmcamp understand

this fear and are part of a growing number of professionals who work cooperatively to ease it.

The process is called Collaborative Law and has been practiced in the United States since 1990. It is currently practiced in Europe, Canada and Australia as well. According to the International Academy of Collaborative Professionals, more than 10,000 lawyers have been trained in the U.S., with collaborative practitioners in at least 46 states. In 2001, Texas became the first state to pass a Collaborative Law Statute. So, what is Collaborative Law?

In her article, *Collaborative Family Law: A Means to a Less Destructive Divorce*, published in the *Texas Bar Journal* (February 2007), Helmcamp

describes the process as "an alternative to traditional divorce litigation that enables the parties to resolve their divorce privately without court intervention." The collaborative process requires that both husband and wife agree to work with their attorneys in a combined effort to resolve their divorce in a low-conflict manner. "It's a series of mediations," says Helmcamp. The mediations bring together the husband and wife with each of their attorneys. When warranted, there may be other neutral professionals, such as CPAs and mental health professionals, to assist in the process. "We work as a team moving toward a common goal," Wynne says. The primary difference between traditional mediation and

Collaborative Law is that mediation involves one "neutral" party who tries to work with the divorcing parties to resolve their case outside of court without offering any legal advisement to either party. In Collaborative Law, the attorneys strive to protect the rights of their respective clients while maintaining a commitment to settling the dispute cooperatively.

One of Collaborative Law's three basic tenets is "interest-based negotiation." Wynne explains, "Traditional divorce litigation is position-based, so it's adversarial. We help clients identify and articulate their interests." Says Wynne, "If a client says 'I want the house,' that's position-based, and there will probably be conflict, but if the

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client says "I am interested in having a suitable home in my current neighborhood so that my kids can continue to attend the same school," that's interest-based and it leaves more options available."

Another key aspect of the collaborative process is the absence of court involvement; both parties sign an agreement to give up their rights to participate in adversarial proceedings, unless the collaborative process

inevitable. Robert Emery, professor of psychology and director of the Center for Children and Families and the Law at the University of Virginia, concluded that conflict is often the direct cause of children's pain and confusion during the time of divorce. In his book, *The Truth About Children and Divorce*, Emery asks his readers, "Should parents carry their conflict into the public arena and put each other down in a

both methods, they were each drawn personally to the practice of Collaborative Law. "The idea that lawyers help people going through divorce resolve their case together rather than pitting them against one another is what really attracted me to collaborative law." Shares Helmcamp, "It is such a simple but revolutionary idea. So many people do not want their divorce to be ugly. They want to have the ability to commu-

Three Principles of Collaborative Law

- 1. No Court** – The husband, wife and their attorneys sign an agreement to reach a resolution without taking the matter to court.
- 2. Transparency** – All information is freely exchanged and both parties agree upon the hiring of neutral professional experts.
- 3. Interest-Based Negotiation** – The collaborative team works with the husband and wife to help them identify their interests, and then attempts to find ways to satisfy those interests.

fails. To further ensure that every effort is made to resolve the divorce collaboratively, both attorneys give up their rights to represent their clients in adversarial proceedings, should a resolution not be possible. "If the collaborative process breaks down, and the clients decide to go to court, they have to start the divorce process all over again," explains Helmcamp. For many years it has been argued that the courts are not the most suitable for making decisions about child custody and visitation, and that those decisions should be left up to those who are closest to the children and most sensitive to their needs. The collaborative process fosters an environment that supports both parents in making decisions that are in the best interest of their children.

As mothers, Wynne and Helmcamp are heavily concerned about the effects of divorce upon the children of their clients. Studies have shown that interparental conflict is detrimental for kids, and the traditional, litigious divorce process makes this kind of conflict all but

courtroom, or sit down in private and work out this intensely personal matter?" Researchers agree that conflict, rather than the divorce or residential schedule, is the single most critical determining factor in children's post-divorce adjustment. In other words, the greater the intensity and duration of the parental conflict, the greater the negative implications for the child.

The third basic component to the collaborative process is transparency; both parties and their attorneys are privy to all information, through an open exchange. "There are no surprises," says Helmcamp. This aspect further nurtures the environment of trust and greatly diminishes the clients' fear, thus encouraging communication and cooperation between the involved parties.

With over 30 years of combined legal experience, Wynne and Helmcamp have seen firsthand the vast difference between resolving divorces collaboratively and resolving divorces through litigation. While both women continue to practice

nicate well as parents or maintain relationships with their spouse's family. The collaborative process makes all of that possible. It is an amazing development in family law."

As for Wynne, she says, "What drew me personally to Collaborative Law was the chance to help people solve tough issues in a way that gave them the best shot at coming out of the divorce with a working relationship intact so that they could continue to co-parent." She says, "The notion that all the professionals were working as a team was very appealing. There is no 'Them vs. Us,' although both parties get great legal advice." For this writer, the true test of a person's commitment towards an idea or practice is the question of whether or not they would apply it in their own life. To this question, Helmcamp confides, "If my marriage failed, I would choose Collaborative Law." ★

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