

# DIVORCE 101: DON'T LITIGATE – COLLABORATE!

By: Jody D'Agostini, CFP, Craig Hyldahl, CFP, Amy Shimalla, Esq., and Amy Wechsler, Esq.

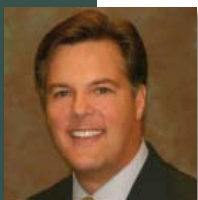
In the current economy, families are less able than ever to litigate divorces. The horror stories you've heard are true - couples battle for years, spending tens of thousands of dollars on combative legal processes, experts, depositions and document production. Parties hire aggressive attorneys to promote their individual agendas. When two lawyers attack an issue from two polar opposite directions, the ensuing battle often overlooks the big picture for everyone in the family. The result is either go to trial and have a judge decide everything or, fed up with the legal process, make a last-minute settlement to avoid a trial. Either way, resolution is achieved only after an arduous fight, leaving everyone embittered, frustrated and financially drained.

Fortunately, alternatives exist that not only cost less, but also provide for civility, respect and a personalized comprehensive process to resolve all the issues. One of those processes is Collaborative Divorce.



Unlike traditional litigation, Collaborative Divorce is a team approach that emphasizes settlement, cooperation and respect. Each

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party has a lawyer. Together, the parties and their lawyers decide whether other trained professionals should be added to the team, and, if so, they select them together. This may include a financial planner, business valuation expert, mortgage expert, child specialist, divorce coach, or a mediator. Other team members may not be needed, but, when they are, everyone agrees. Two Collaborative Divorce lawyers from Bernardsville, NJ, Carolyn Klaiman and Patricia E. Carney find that the collaborative process “allows us to focus efforts on guiding clients toward an amicable resolution without ancillary issues presenting roadblocks to settlement.”



At the start of a Collaborative Divorce, the parties and their lawyers sign participation agreements setting forth the rules to be followed. Everyone commits to settle all of the issues without litigation. In the unlikely event the process is unsuccessful, the participating attorneys agree to withdraw entirely from the case. If the case ends up in litigation, the parties must hire new lawyers. That aspect of the Collaborative Divorce agreement is a powerful incentive to find a way to settle the issues through the Collaborative Divorce process.



In traditional divorce, accusations submitted in court papers, as well as documents and testimony exchanged in discovery, can become a public record. In Collaborative Divorce, everything is confidential.

Traditional divorce often involves expensive applications to the court to address interim financial and custody arrangements while the case is pending. In Collaborative Divorce, those same issues are often addressed at the first meeting, and resolved shortly thereafter, so the team can focus on the long-term issues. In traditional divorce, litigation can last a year or more, depending as much on the court's calendar as on the parties' efforts. In Collaborative Divorce, most cases are resolved within several meetings among team members, under a timetable that the parties control. Participants in Collaborative Divorce develop positive problem-solving approaches that better equip them to address parenting and financial problems that arise in the future. Litigated cases often wind up back in court because the parties never learned to work together to resolve issues.

Traditional divorce often involves competing experts (custody, business, real estate, employability). In Collaborative Divorce, the parties can engage a neutral expert who becomes a team member, working with everyone to report findings and help resolve the issue. The financial specialist helps gather relevant financial information, creates budgets and educates parties about the realities of their financial situation - assets, liabilities and cash flow.

The financial specialist trained in Collaborative Divorce educates parties about tax consequences of distributing and utilizing assets, and runs projections to show potential outcomes for various settlement options. Nearly everyone is worse off financially after divorce. Careful planning, adjusting budgets and understanding the financial situation of both parties results in better-negotiated resolutions that are fair to both parties. It doesn't have to be an “I win/ you lose” scenario. The better parties understand the financial consequences of a settlement, the more they are in control of their futures.

Mental health professionals can assist in Collaborative Divorce, either as Divorce Coaches or Child Specialists. A Divorce Coach is a licensed mental health professional with specialized training in Collaborative Divorce and divorce coaching, who, with the other team members, guides parties into a collaborative problem-solving mode, and help them stay goal-directed. Tamsen Thorpe, a licensed psychologist, notes the process helps “keep emotions from making the process more lengthy, difficult and costly,” by coaching parties to stay focused on productive negotiations. Divorce Coaches educate parties about the psychological impact of

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divorce, suggest cooperative parenting models, and help parties improve communication and learn effective ways to resolve conflicts.

Child Specialists assess emotional, social, academic and parenting needs of the parties' children. This may be needed in difficult cases, such as those involving a parent who is chronically ill or disabled, a parent who seeks to relocate or remarry, or parties who need a complex-parenting plan or who can use help understanding their children's unique needs.

Divorce Coaches and Child Specialists do not serve as therapists, or make formal diagnoses of couples or children, but they can assess the need for therapy and make appropriate referrals. Although a Divorce Coach can join the team at any point in the process, the best time is early on, before an impasse occurs.

**Amy Zylman Shimalla and Amy Wechsler are Certified Matrimonial Attorneys trained in Collaborative Divorce and are Accredited Divorce and Family Mediators. Their office is located in Warren, NJ.**  
(908) 753-3833  
www.cswlawnj.com

**Jody D'Agostini is a Certified Financial Planner trained in Collaborative Divorce. Her office is in Morristown, NJ.**  
(973) 401-2399  
www.RICHPLANNINGGROUP.com

**Tamsen Thorpe, Ph.D., is a licensed psychologist trained in Collaborative Divorce. Her office is in Morristown, NJ.**  
(973) 425-8868  
www.drtamthorpe.com

**Carolyn Klaiman and Patricia E. Carney are family law attorneys trained in Collaborative Divorce and are Accredited Divorce and Family Mediators. Their office is located in Bernardsville, NJ.**  
(908) 696-0200  
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