

Avoiding a Fracas

Collaborative divorce is catching on as a less expensive option.



Last July, five years after launching his practice, divorce attorney Adam Cordover decided he was finished going to court. “I’d spent most of my career fighting in court for clients and had seen the devastating effects. I’d seen clients literally go crazy,” says Cordover. “I decided I no longer wanted to be part of it.”

He converted his firm to a litigation-free practice focused on what’s known as collaborative law. In a collaborative divorce, a couple agrees to settle their differences outside the courtroom through negotiation.

The process — which has gained traction over the past decade as a less expensive, less contentious approach to divorce — begins with each spouse hiring an attorney who is trained in the collaborative divorce method. Other neutral experts, such as financial planners and mental health coaches, are also typically brought in to help sort through financial matters and child custody issues.

The process depends on the couple agreeing on a settlement without fighting; if they can’t agree, both lawyers must withdraw from the case, and the couple has to start from scratch with a traditional divorce filing.

Collaborative divorce is successful

about 90% of the time, according to the International Academy of Collaborative Professionals. Practitioners say it is quicker than the alternative. While divorce litigation can drag on 16 to 18 months, collaborative divorces can be settled in 16 to 18 weeks. A couple with few debts and assets and no children may be able to reach a suitable agreement in just one meeting, says Cordover, though most cases require between two and four meetings to work out the details.

It’s also generally less costly than traditional divorce. Joryn Jenkins, a Tampa Bay attorney who has facilitated collaborative divorces since 2002, says the price for the typical collaborative divorce is about \$32,000. Divorces that go to trial, she says, can run upward of \$100,000.

Some of that savings comes from the fact that collaborative divorce attorneys don’t spend their time on depositions and the pretrial discovery process. Clients also save money because the collaborative experts on the team often charge less than lawyers do. It makes more sense, says Jenkins, to pay a CPA \$250 an hour to work out the financial aspects of a divorce than to pay their lawyer \$450 an hour to do it.



“The reason I’m able to survive as a law firm without doing litigation work is people realize they don’t want to be adversaries.”

— Adam Cordover



▲ Joryn Jenkins

The confidentiality of collaborative divorce is also appealing. Dirty laundry stays private. Collaborative divorce is also a good option for gay and lesbian couples and families “because the laws of Florida have not yet caught up with the reality of families in Florida,” says Cordover.

Not everyone buys into the approach. Howard Iken, an attorney with Ayo and Iken law firm, which has offices in Tampa, Miami and Orlando, says he doesn’t believe collaborative divorce necessarily best serves the client. Rather, he sees it as a “profit-oriented” business model with too many professionals seeking a cut of the action. “It’s based on an aspiration to make the process better, but I think it’s morphed into something that makes more money, in a less stressful way, for the individuals involved.”

Iken, who doesn’t practice collaborative law, is also bothered by some attorneys who ignore a key tenet of collaborative practice — that they withdraw from the case if they can’t reach an out-of-court settlement.

To that end, proponents of collaborative divorce are pushing Florida lawmakers to follow in the footsteps of more than a dozen other states and pass legislation to regulate the process. The Florida Supreme Court has said that if the Collaborative Law Process Act passes, it will create rules of procedure that would prohibit collaborative attorneys from appearing in contested court hearings, except in very special cases. The legislation also ensures that discussions that occur in the collaborative process can be enforced as confidential.

The collaborative approach is also beginning to sprout up in the commercial cases. In 2014, Guilene Theodore left Ogletree, Deakins, Nash, Smoak & Stewart, a Tampa-based employment and labor law firm, to set up a boutique practice specializing in collaborative civil and commercial cases. “It is good for employment and business disputes in the same way it’s good for divorce. These cases have emotional issues as well,” says Theodore. ■