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Family Law

Kinder, Gentler Collaborative Divorce Also Costs Less

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By Martha Neil

A kinder, gentler method of getting divorced has won fans among both clients and counsel. But it has yet to win over some traditionalists, who wonder, for instance, why collaborative divorce must include a promise not to litigate. (Those who violate the ban on courtroom battle have to start over again with new counsel.)

"I have no issue ... with two lawyers sitting down with two clients to work out a deal, but why it's necessary to wrap all these conditions around it is beyond me," David S. Goldberg, a Gaithersburg, Md., family law mediator tells the Daily Record, a Maryland legal and business publication.

Nonetheless, an increasing number of soon-to-be-former spouses and their lawyers are embracing collaborative divorce, as well as do-it-yourself divorce and mediation, in an effort to eliminate unnecessary animosity, reports the Associated Press.

"Most clients in a dispute are looking for an honorable peace, not war," writes David Hoffman, a Boston lawyer, in a Christian Science Monitor op-ed piece about collaborative law practice. "Collaborative lawyers can be just as zealous about seeking such a peace as litigators are about victory in the courtroom."

A recent American Bar Association ethics opinion provides important support for collaborative divorce, by finding collaborative law agreements consistent with lawyers' obligations to serve their client's best interest, notes Hoffman, who chairs the Collaborative Law Committee of the ABA Section of Dispute Resolution. (What Hoffman describes as a "maverick" Colorado Bar Association ethics opinion earlier this year reaches a different conclusion than the ABA and several other state bar associations, however.)

Cost may also be a motivating factor in the quest for a peaceful resolution of a problem marriage: The Boston Law Collaborative, where Hoffman works, recently analyzed 199 of its divorce cases. It found

that mediation had a median cost of \$6,600, followed by \$19,723 for collaborative divorce, \$26,830 for a divorce settlement negotiated by counsel, and \$77,746 for a litigated divorce.