

Collaborative Divorce Could Be Society's Wave of the Future

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Two fascinating legal trends reflect society's sea change in attitude toward family and interpersonal relationships. The first is collaborative divorce, which sounds like an oxymoron but is actually a brilliant concept. The second, which I'll get to in my next blog entry, is "legalized friendships."

Marriage expert Stephanie Coontz wrote recently in the Wall Street Journal that since the 1980s, Americans have been inventing ways to make divorce less adversarial.

"The War of the Roses" is so yesterday. Divorced best friends is so 21st century. We've finally learned that failed relationships need not ratchet up to and end in nuclear-like conflict.

There are several reasons for collaborative divorces, not the least of which is cost savings. Mediation is still cheaper than collaborative divorce. But collaborative divorces are considerably cheaper than nasty, drawn-out, litigated divorces. Coontz quotes one expert who estimates the average cost of a mediated divorce is less than \$7,000. The average cost of a collaborative divorce is less than \$20,000. The average cost of a divorce negotiated by rival lawyers is \$27,000, while a primo-style, nasty, litigated affair runs some \$78,000.

So what is a collaborative divorce? The rules, Coontz says, are simple: "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 . . . The attorneys agree not to litigate; if the process breaks down (as it does in about 5 percent 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."

My first husband and I must have been trendsetters when we used the same lawyer in our mid-'80s divorce. We were in our twenties, just starting our careers, and had no children, and there was not a lot on the table to scrap over. We jointly owned a one-bedroom condominium, and neither of us had much in savings. I do not recall the exact cost of our parting, but it was minimal. Clearly there are the Paul McCartneys/Heather Millses of the world, to whom a civil parting of the ways is impossible. But for most of us, collaborative divorce is a welcome addition to the array of options.

The family-values crowd apparently worries that more options will drive up the divorce rate. That seems like a silly objection. If I wanted to be funny, I'd ask: What could drive up the divorce rate much higher than it already is?