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Editorial

Looking Again at Models of Practice

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Over the past two-and-a-half years, disagreements about the proper model for Collaborative Practice, at least in the domestic arena, have created uncomfortable divisions within the CP community in Georgia. Training under the banner of the Collaborative Law Institute of Georgia (CLIG) has followed the “full team” model, which encourages the participation of two lawyers, two coaches, a child specialist when children are involved) and a financial neutral in every case. Although these trainings have acknowledged that the full team approach is not always feasible due to finances, when leading practitioners say “I only accept cases using the full team model” (as they have every right to do), others hear a judgment that there is no other way to practice.

Without trying to establish the superiority of any one model over all others, let’s consider pros and cons of various models, and listen for how other Collaborative communities across the country are dealing with these issues. As a consistent “lurker” on the “Collablaw” Yahoo listserv, this summer I collected a remarkably thoughtful and incisive series of postings – nominally on the issue of “one coach or two” but actually much broader – on the ways CP is being taught and practiced beyond our state borders. While I borrow directly from these mini-essays, the conclusions are mine.

The cornerstone of the argument about how much of a team is necessary to make CP successful is the cost to clients. While practitioners with wealthier clientele can afford not to be as concerned with this issue, all agree that some clients are turned off or deterred from embarking on the collaborative route by the necessity of “hiring all these people.” Whether a client wants the bigger team is likely to depend on how she answers the question “what do you want as an end result from the process you choose to terminate your marriage?”

The answer may be “an efficient, inexpensive route to a settlement agreement that ends the marriage?” Or it could be “a genuinely new and maybe even deeper relationship with my ex-spouse?” But how do we act on the answer? It seems to me that practitioners will always seek to deliver “fuller and deeper” satisfaction, but CP will gain market share only when it can also take its charge from the demand for efficient, inexpensive solutions.

“One-coach-or-two” is the major pole around which the discussion of models continues. When we first had that conversation in the early days of CLIG, it was my impression that the decision to adopt a two-coach model and train in it exclusively was made almost at a gut level. Somehow it seemed challenging for one mental health practitioner (MHP) to work with both spouses, whereas it would actually be unethical for one lawyer to represent both parties. We sensed that there is mischief in one person trying to coach two people for different interests and outcomes. But I question whether we adequately focused on the key distinction between the single MHP who is a neutral, and the separate coaches who are allied with their clients. So while Georgia has given itself to the two-coach “full team” model – and I express no opinion for or against it – we should take note that other states have utilized other models in completing as many or more cases than we have, and are presumably no less satisfied with their results.

In fact the IACP has collected statistics on CP cases using one and more than one MHPs which will be fully displayed at the 9th Annual Forum this October. According to a preview of that report provided to the listserv, of 482 reported cases, 54% had only one MHP involved, 26% had two, and 19% had three.

In cases with only one MHP, the term “child specialist” was applied to 27% of them and 27% of them were described by a variant of the title “coach.” In 42% of those cases, the single MHP was described as a “Facilitator,” a “Communication Facilitator” or simply as a “Mental Health Professional.” These data come from 26 US states, two Canadian provinces and England. The single-MHP cases include 12 from Minnesota, 13 from New York and 41 cases from Texas, where that is still the dominant training model. Another 13 US states and two Canadian provinces have each reported six or fewer cases.

Of the two- and three-MHP cases, 15 are from California **and 28 are from Georgia**. Nine or fewer cases in this category have been reported each by 14 other US states, one Canadian province and England.

Judging by the labels, then, it seems that more often than not, practitioners are steering away from calling the single-MHP a “coach.” But the data fragments that have so far been released from the IACP survey raise questions about how consistent they are in presenting themselves as “neutral” as opposed to “aligned” when working with one spouse or both.

Since the interaction with the parties is so different when there’s only one mental health practitioner (MHP) on the team, contributors to the listserv agree that we need to find a label other than “coach” for that person, maybe depending on which of several functions he is fulfilling. Some of the possibilities include:

- case manager;
- communications facilitator;
- “guardian of the process”;
- “family specialist” (the most generic descriptor)
- parenting consultant; and
- meta-mediator

We should at least touch on the substantive arguments about the relative advantages, other than cost, of having separate coaches for the two parties as opposed to having one MHP for both. Some contributors to the listserv say that one MHP can be more effective with high-conflict clients and more effective in keeping the team together and moving the process forward. Better, they say, to have one excellent “neutral therapist” than risk having two unequally-skilled coaches, exacerbating power imbalances between the parties, with no one responsible for pulling the case out of the ditch when it goes bad. Consider too, one pungent comment questioning whether

[m]any of our divorcing clients ... might have avoided divorce if they had not spent years talking separately to two different therapists about what a victim they were of their spouse, while the two therapists never communicated with one another.

On the other hand the variety of support which an MHP allied with only one spouse can give is undeniably greater, and the potential for healing and learning accordingly increased.

How the single MHP’s role is defined should logically depend on what kind of help a client wants in the course of the Collaborative process. This may range from

- I need someone to speak for me [an advocate], to
- I need someone to agree with me when I speak for myself [an ally], to
- I need someone who will let me speak [a neutral], to
- I need someone who will help me speak and hear [a “coach”/facilitator], to
- I need someone who will focus on keeping this process moving [a process facilitator], to
- I need someone who will actually challenge me in what I want to say and point out to me when I am acting against my interests [a coach-therapist].

As soon as a listserv contributor advocated one model or another as likelier to achieve more complete healing or a new and deeper relationship with the former spouse, another was bound to pop up suggesting “that sounds like you’re doing therapy.” I disclaim trying to define the line between coaching and therapy. But one of the great souls in the IACP – a fully credentialed “lawyer-mediator-coach-counselor” – said the real question might be “is the work therapeutic” in its effect?

If a Collaborative MHP is not trying to fix or even find problems that the client may have, but only to help him make good decisions and move forward productively, AND the client feels better afterward, why should it makes any difference whether that result was expected, or even intended? Arguably the use of the term “coach” was intended mostly to allay fear-based resistance by clients to seeing MHPs. It was just easier for clients to accept coaching without wondering whether someone thought there was something “wrong” with them or that they needed “fixing.”

The reader can hardly have missed noticing how the role-labels listed above for the single MHP tend to cluster around “mediative” functions. This ties us into the long-running but so far unproductive debate about how mediators can best be used in CP. It’s been fueled by claims by longtime divorce mediators that they can more efficiently produce the same results as CP and complaints that our “new thing” just marginalizes them. And there is frustration among experienced lawyer-mediators who have committed to CP but found little demand for their services.

I’ve seen nothing that points to a near-term solution for this dilemma. Experienced and busy CP lawyers and MHPs may think that the talents represented on the “full team” obviate the need for the specialized skills of a mediator, even if the road to resolution is longer and more tortuous than it would otherwise be. (After all, among professionals who call themselves collaborative, why should we need help managing our conflicts?) As new roles are being defined, it appears from comments

on the listserv that the most experienced, articulate and especially the mediation-trained MHPs, are better at defining subtly different roles for themselves than are many of us with less or no mental health background. On the other hand, based on the research results it is not clear that most MHPs have the same ability to guide or facilitate an entire Collaborative process as mediators are used to doing in other kinds of cases.

In summary, until more Collaborative professionals are able to get comfortable in more than one role or new combinations of roles, it looks like competition will continue fueling the debate over whether my model is better than your model. But then who could have imagined when some of us began practicing 30+ years ago that lawyers and therapists would routinely share the microphone at continuing education programs and learn from each other as we happily do today? As we learn new skills from each other so we can support each other's strengths, I hope we can get comfortable even in models that have yet to be devised.



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