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Beyond Mediation

The Collaborative Practice Experience

By Brian Galbraith

Collaborative Practice is a process to resolve family law conflict without the use of the court. Each person has their own attorney, but should the matter go to court, the attorneys are prohibited from participating in the court process. This changes everything. Instead of gearing up for litigation the attorneys become settlement specialists. Everyone has a vested interest in assisting the clients reach an agreement.

It also is an interdisciplinary process. We engage a neutral family professional (social workers, psychologists and other mental health professionals) to help with the emotional journey, facilitate the meetings and build a parenting plan. We also engage a neutral financial specialist who assists the parties share their financial disclosure and resolve the property and support issues.

The International Academy of Collaborative Professionals is the international community of legal, mental health and financial professionals working to create client-centered processes for resolving family conflict. We have about 3,000 members in 25 countries and we are growing quickly.

The pandemic has resulted in more and more divorce professionals, especially attorneys who have had less access to the court system, join our bandwagon. Attorneys sitting at home during the pandemic with their cases stalled in court saw our collaborative attorneys just

swamped with work. Not surprisingly, they decided to get the training and began offering Collaborative Practice as a service to their clients.

The Mission of IACP:

To transform the way families resolve conflict by building a global community of Collaborative Practice and consensual dispute resolution professionals.

We have a large tent! The mediation community are kindred spirits helping clients resolve their family conflicts without the use of courts. We are all pulling in the same direction. At our international conference each year we are seeing more and more mediation workshops offered. There seems to be some convergence between mediation and collaborative. Collaborative attorneys are inviting in mediators to resolve impasse. Some Collaborative teams are starting with mediators. Some mediators are engaging collaborative lawyers as their case progresses. Several hybrid systems are emerging combining the benefits of Collaborative and mediation. It just makes sense.

Most collaborative professionals are also mediators.

If you are a mediator, you should consider taking the training and joining our collaborative community. You would be most welcomed.

During the pandemic, Collaborative Practice went online. It was an easy transition for those who were working remotely already. Lawyers in my firm have all been working remotely at least part time. It was easy for us to pivot. Another Collaborative colleague, Russell Alexander, and I put together a 90 minute workshop on how to work remotely and it must have been seen by about 400 or 500 professionals. The IACP

offered many other workshops to help people transition to the new reality and to support them during the turmoil of the pandemic.

Soon most people were working remotely. Even those who were resistant to technology did the work to master working online. We had no choice.

And were super busy.

In the early days, it was all about developing protocols and mastering the technology. Those days are behind us.

Initially the IACP Standards and Ethics stated that our introductory trainings had to be in person. This was impossible so we modified our Standards to allow online training. This change was embraced by many trainers and the number of new professionals trained was greater than ever before. We used Zoom, break out rooms, played videos, did role plays, demonstrations, gave our students homework and found a plethora of ways to make our courses engaging. It was a lot of work but the reward was we found students who would not have been able to take the training the past who were able to do it because of our online format. Online training will likely become a permanent feature in the future.

What's next? Well, what we will need to review the protocols going forward. I anticipate we will be seeing more hybrid situations. Perhaps some of the participants will feel comfortable meeting in person and others won't want to be in person. What happens if someone is on Zoom and leaves the meeting?

Should those in person continue or end the meeting? We should have some discussion around any protocols for those in person meetings. Some may be wanting to continue to wear masks, others may not. Will social distancing be required or not?

Many in the collaborative community have really embraced the technology needed to work online. Most love it. Some not so much.

Many will want to go back to in-person meetings again. There are some in our community that feel that they can do better work when in the same room together.

I anticipate that we will continue to be doing cases using Zoom and other evolving technologies. We have learned from Colin Rule that virtual reality is being used in the legal community in China. Perhaps this will be coming to the collaborative community. The future of online Collaborative Practice will be interesting indeed.