

# Chicago Daily Law Bulletin®

VOLUME 167, NO. 66

LAW BULLETIN MEDIA

## Interdisciplinary teams can be used in family conflict resolution

Family law practice has been moving to alternative methods such as mediation and the collaborative method. Clients are concerned with the high cost of litigation; it is not only costly but time consuming and destructive to marital wealth and the family members.

Litigants in domestic matters may seek resolution in less costly and offensive manner resulting in a surge in mediations. Using one mediator has been the norm; however, a team of professionals involved in the process is a new paradigm. Involvement of experts including legal, mental health and financial in family mediation is likely to provide for better and lasting results than single mediator mediation. In some instances the collaborative process is coupled with mediation.

Issues in family law are frequently complicated, involving not only emotions, but parenting and complex financial and tax issues. The dispute resolution of family law matters has been traditionally the province of divorce attorneys, as law is the profession having control over litigation.

Attorneys had traditionally and autonomously worked in "silos" only relying on subordinates in a hierarchical arrangement reporting to a partner who controls decisions. This configuration is likely the result of American lawyers trained to integrate all facets of practice much like

the rural doctor who was responsible for overall patient health care. This is in contrast to the English system, which relies on a division of labor between solicitors (office lawyers) and barristers (courtroom attorneys).

Nonetheless the American system perpetuates; law schools generally ignoring attorney team training with focus on an individual's legal competency and independent work. Some law schools such as California Western School of Law have adopted teamwork training similar to MBA programs which put emphasis on team dynamics, problem solving and organizational structure. Another factor contributing to the paucity of teams integrating non-attorneys with attorneys is the canon of ethics lawyers operate within. The canons proscribe against fee sharing with non-lawyers as well as confidentiality codes and attorney-client privilege protections complicate professionally teaming non-lawyers.

Nevertheless, the legal process has started changing, introducing non-attorneys into the mix. In the 1990s the collaborative process was introduced as an alternate process with the initial entrée of non-attorneys into the conflict resolution process; these specialists brought needed and valuable skills in aiding families going through divorce. Lawyers were historically accustomed to involving these professionals as consult-



*CARLTON R. MARCYAN is a senior partner at Schiller DuCanto & Fleck LLP who emphasizes matching the right divorce process to the client's needs. An experienced litigator, Marcyan has been a leader in collaborative law. He also is a certified public accountant and financial planner, and applies his business acumen to financial discovery, analysis and litigation. He can be reached at [cmarcyan@sdflaw.com](mailto:cmarcyan@sdflaw.com).*

ing and testifying experts; however, absorbing them into the process was novel.

Collaboration by the mental health, financial and legal disciplines has emerged. Collaborative law has brought together coaches (mental health professionals), child specialists (also mental health professionals) and financial

planners in a multidisciplinary model together with legal professionals.

In the early years of collaborative law there were two lawyers and two clients. From that developed a "referral mode" where lawyers had control of the case while bringing in mental health or financial professionals who remained outside the negotiation process. These "allied" professionals were on the periphery not attending the actual collaborative meetings. The mental health professionals coached clients to help them better cope with emotion laden issues, and the financial neutrals carrying out financial discovery, analysis and reporting to the lawyers. The "team" now engages in an interdisciplinary manner being present with the parties, lawyers and other specialists while fully participating in the negotiations.

Involvement of professionals of varying disciplines who bring different perspectives and opinions to the family conflict resolution process stimulates cognitive dissonance, "a state of tension that occurs whenever a person holds two cognitions (ideas, attitudes, beliefs, opinions) that are psychologically inconsistent." Bringing non-attorneys into the process sometimes introduces differing points of view, laying the groundwork for more in-depth thought and processing resulting in the probability of a better outcome for the

clients. This due to professionals' differing points of view, different breadth of knowledge, training and personalities. Further, with interdisciplinary teams there is greater opportunity for feedback loops within which the professionals are monitoring each other and encouraging each other to provide better and more complete services to the clients.

Much of the study of teams has been carried out in the business context of what makes teams effective. The three most important factors are compelling direction, strong structure, and support. Accordingly, in the context of family conflict resolution, a team with these will likely provide a successful construct toward resolution.

Increasing the effectiveness of family conflict resolution teams appears to be the next development. Ways to achieve this include (1) being intentional about team formation: is it multidisciplinary, interdisciplinary or transdisciplinary? (2) developing a common intake process to promote congruency among the professionals; (3) developing structure to aid case management, creating clear lines of communication using protocols and checklists minimizing misunderstanding; (4) respecting the process and the people with scheduling addressed well in advance to include pre- and post-full team meetings; and (5) building rapport, resources and learning. This is based on the Japanese approach of Kaizen,

continuous improvement and feedback to create an atmosphere of building team strength and maintaining interest in the overall process.

A 2012 study was conducted by the International Association of Collaborative Professionals which demonstrated the high success rate of resolving family law matters when using a financial professional in the collaborative process, yielding an 87.5% success rate in successfully concluding. In collaborative cases almost half use an interdisciplinary process, with the vast majority of collaborative cases coming to successful resolution.

Bringing other disciplines into the mediation process provides valuable resources and expertise that will

enhance the opportunity for successful resolution as well as provide the potential for better solutions.

### **Conclusion**

The use of interdisciplinary teams in collaborative process cases is highly beneficial to parties undergoing divorce as more experience, expertise and perspective are brought to the table. Similarly, with the mediation process, interdisciplinary teams can be used to help parties arrive at better and longer lasting solutions to family issues and conflicts. A hybrid of collaborative/mediation has been most recently introduced providing disputants the benefit of the team coupled with the direction and facilitation of a mediator.