

## COLLABORATIVE LAW

I learned and confirmed a lot of things this summer. I learned how much a 10-year old matures in just two weeks away at summer camp and that there's hardly anything sweeter than a kid coming off the camp bus, scruffy, tired and confident - saying "bye" to her new pals. I also confirmed how nice it is to have those two weeks alone with her mom. I confirmed the beauty of the Northwest - particularly those places with nearly unpronounceable native names, *Ohanapecosh* in Rainier Park and *Skookmchuck Narrows* on the Sunshine Coast in Canada.

I also re-confirmed how destructive domestic relations litigation can be. I had two semi-benign cases come to trial this summer and one nasty piece of work round the home stretch headed for a Fall trial date. Even the lower key affairs were *brutal* for my clients. Both trials, I believe, could have been avoided and each subjected both parties to public claims and accusations which, while necessary to establish an adversarial position, were terribly painful and destructive on a personal level.

On my own personal level, I found that these experiences also confirmed my propensity to take these sorts of things way too personally. Too easily I indulged in righteous outrage over aggressive litigation strategies that ran up fees for everyone involved and sent my clients around the bend. Experienced practitioners would listen to me carry on, smile sympathetically and indulgently, and remind me that's how litigation works. I remember telling a colleague about one particularly tricky maneuver one opposing counsel tried to run and how I had to work intensely to prevent a misleading record from being created. I recall that I was fussing and fulminating and her response was, "It sounds like you did a great job of advocacy," to which I replied, "So what! Do you realize how much that whole sideshow cost these people?"

Now I understand *that's* naive to a good many practitioners. I recall a *huge* family motion battle I fought last year that I felt was entirely unnecessary and brought by the other counsel simply to run up fees. Yet, I made a lot of money from that effort - and I felt conflicted. On one hand, I was disturbed by the financial and emotional expense incurred by my client and on the other, my family and I both were glad that I had a good month, thanks in part to that effort. I kept thinking, "Imagine the people who don't feel that conflict at all." Well, I can assure you that, while naivety does have its benefits, personalizing counsel's strategies in the course of litigation isn't one of them.

So, with a raw sense of disenchantment, I attended the WSBA Family Law Section Mid-Year in June and heard Bellevue family law attorney, Rachel Felbeck, describe a new type of practice that is taking hold, finally, in the Northwest.

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I recall coming across an article about Collaborative Law by Pauline Tesler, one of its prime exponents, a year or so ago

and thinking, "This sounds wonderful, but you need other lawyers to be on board for this to work." In that June WSBA talk, Rachel announced that she, Stefani Quane and Don Desonier had started the NW Collaborative Divorce group. This collection of attorneys and other professionals committed to the evolution of this remarkably novel and effective approach to often vexing problems of dispute resolution is growing within our midst. \_\_\_\_\_

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Tesler, P., *Collaborative Law - A New Paradigm for Divorce Lawyers*, 5 *Psychology, Public Policy and Law* 967 (1999)

Anyone interested in further exploration of Collaborative Law in the Northwest should give Rachel Felbeck a call at (425) 453-9818.

Tesler, Nt.1 at 979.

In her recent talks on the subject, Stefani Quane, who has a great presentation style, often tells the story of the experienced family lawyer in Seattle who, when asked if she was interested in the collaborative approach, responded quickly, "Oh I'm very collaborative. Sure I do collaborative law." Within weeks, when the first disagreement arose over a particular issue, that attorney immediately filed an aggressive set of papers in the family law court, while all the time professing to be a collaborative lawyer. Generically, perhaps that could be true, but within this specific context such conduct represented a direct affront to the collaborative approach.

Thanks to Rachel Felbeck for these citations.

For more information, log onto [www.collabgroup.com/](http://www.collabgroup.com/).

Rachel Felbeck is actively seeking out practitioners from a wide array of specialities for inclusion in the NW Collaborative Law group and a number of personal injury and labor/employment attorneys have already signed up.