

Book Review:

Collaborative Family Law: Another Way to Resolve Family Disputes

By: Richard W. Shields, Judith P. Ryan, and Victoria L. Smith

The authors of this practical easy-to-read text have managed to write with one voice, yet still bring the strengths of their various backgrounds and expertise to the advice offered in each chapter. Each contributor has considerable experience in both the adversarial and the collaborative law approach. They begin with some theory before briefly comparing the experiences of clients in the adversarial process as opposed to the collaborative process. Most would agree with them that family law clients want a process that is economical, efficient, empowering, and effective. I suspect few of our clients would say they were satisfied with the traditional adversarial approach where, despite best efforts, costs are usually more than initially anticipated, the process much longer, and the clients more spectators than participants. While the authors support collaborative family law (“CFL”) as a more client-focused approach, they caution that before being able to offer this option to clients, lawyers will need to make a “paradigm shift” in the way they practice. Most of the book is devoted to outlining the process and specific skills required to be able to make this shift.

As lawyers themselves, the authors appreciate our comfort level for information presented in an organized format. They provide a step by step approach that can be applied in every collaborative law case. The process is broken down into 6 basic stages: first meeting with the client, contact with the other lawyer, client preparation, first settlement meeting, subsequent settlement meetings, and final preparation of the agreement which leads to closure of the process. Each chapter concludes with a bonus - a short summary distilling the subject-matter covered into a few essential points.

As experienced CFL trainers, the authors stress the importance of local CFL organizations establishing minimum training requirements for members to ensure they are adequately skilled before taking on their first case. Do not consider buying this book *instead* of taking CFL training. It will not replace collaborative law and interest-based negotiation training. Rather, it is intended to act as an adjunct and support to training. You cannot hope to practice CFL while flipping the pages of a book at client meetings. The strength of this book is as an aid in putting your training into practice. It immediately locates you in the process and outlines what you should be doing at each stage, to keep you on track. This text will reinforce training and, in conjunction with mentoring, role-playing and other educational opportunities, help lawyers hone essential CFL skills.

I recommend reading the book through from cover to cover first to get an overview of the authors’ theoretical and practical perspectives. Then use it with CFL training as a resource, referring to chapters independently as a reference to return to again and again. For example, the chapter on effective communication provides a detailed summary of communication skills lawyers will need to develop to assist their clients. Learning to listen and paraphrase a client’s feelings and emotions is not part of standard law school training, but this text illustrates why such skills are essential for CFL lawyers. If the parties are

unable to communicate with each other, they will never be able to discuss and resolve their differences.

Most lawyers' experience is limited to "position-based" negotiations, where we take a position for our client, argue in support of it, and reluctantly make concessions to reach a compromise. The chapter on negotiations not only explains the alternative of "interest-based" negotiations but also applies this alternative in 7 steps to a collaborative case study. Another chapter provides practical approaches to help clients find their way past impasses in negotiations, without their lawyers taking over the process. For even more help, a chart with common problems and possible solutions is provided in the appendices aptly titled: "What to do When Things Go Wrong".

Collaborative lawyers are known for their willingness to share information. It is therefore no surprise that helpful precedents from across Canada are provided in appendices, including: sample letters to prospective clients and their spouses, retainer agreements, participation agreements, and a sample CFL separation agreement incorporating much of the Law Society of Upper Canada precedent separation agreement. These precedents, along with the authors' advice, are especially valuable for those just developing CFL groups.

This text is an excellent resource. Not only is it the only one of its kind in Canada but, to my knowledge, only the second of its kind in North America and perhaps world-wide, next to Pauline Tesler's book: *Collaborative Law: Achieving Effective Resolution in Divorce without Litigation*, published by the ABA in 2001. Both books offer different perspectives to the collaborative law practitioner. The great strength of this book is in its user-friendly practical approach to practising collaborative family law. This is a "must-read" for anyone inspired to learn more about the enormous potential of the collaborative family law dispute resolution process.

Reviewed by Judith Huddart