

Taking divorce 'from battle zone to solution zone'

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Last week's confirmation a disgruntled ex-husband is a suspect in the January shooting of a prominent Colorado Springs divorce attorney underscores the risks inherent in the emotion-charged arena of family law.

Divorce often means months of bickering and financially and emotionally draining court battles that are unpleasant at best and can, in extreme cases, turn tragic. But some Colorado lawyers think they have a gentler, less combative approach that allows couples to split without as much turmoil and bitterness. It's called collaborative divorce, and its goal is to settle cases without court intervention.

Family law attorneys met in the Springs last week to learn more about the process. The approach allows all parties to solve disagreements without the distraction and intimidation of court proceedings, said Vincent Rahaman, a Colorado Springs attorney who has used the collaborative process in one case. "You come out of it with your dignity as opposed to coming out of it with a winner and a loser," Rahaman said. "You both have given, and you both have taken."

A key component of collaborative law is a contract signed by the lawyers and the divorcing couple pledging not to take the case to court, Rahaman said. Collaborative divorce moves couples "from the battle zone to the solution zone," said Denver attorney Sheila Gutterman, an expert in the process who spoke to Springs lawyers Wednesday. She has settled four cases through collaborative divorce and has 10 in the works. "It's as if we're all in a lifeboat together," she said. "Everybody gets to shore together, or the lifeboat tips and everybody goes their separate ways." The results are promising, Gutterman said. The cost is less than one-tenth the price of a full-blown court battle. Divorcing couples end up with fewer emotional scars. Attorneys who practice collaborative law report enjoying their jobs more. Nationwide, fewer than one in 20 collaborative divorce cases end up in the courtroom. The approach can neutralize emotional situations that sometimes lead to tragedy, Gutterman said.

John Ciccolella, one of Colorado Springs' top divorce attorneys, was blinded in one eye after being shot through a window Jan. 23 while working in his second-floor office on Cascade Avenue. Police confirmed last week what many family law attorneys had theorized - the former husband of one of Ciccolella's clients is a suspect.

Bruce Nozolino, 41, is being investigated in the shooting. No arrests have been made because investigators don't have enough evidence to establish probable cause in an arrest warrant, detective Terry Bjorndahl said.

Nozolino's divorce case, filed in June 1999, was especially contentious. In court papers, Nozolino, who represented himself, repeatedly accused Ciccolella of acting unethically and asked for sanctions against him. In each of more than a dozen accusations, the request for sanctions was denied.

"Divorce comes with heightened emotion," Gutterman said. "Just putting one toe inside the courthouse escalates the emotion. It (the collaborative approach) is a way to defuse the feelings." Fourth Judicial District Judge Douglas Anderson sees potential in the collaborative approach.

Anderson, who has seen the need for a gentler approach to divorce, started the "Divorce with Dignity" program in January 1999 in El Paso County. The voluntary program was created to resolve divorce cases in an informal, nonadversarial way by having the parties meet in the judge's office and develop "peace treaties," he said. His program became the model for a statewide program started in February 2000.

The difference between Anderson's approach and collaborative divorce is judges manage the Divorce with Dignity program while attorneys and their clients navigate the collaborative process.

Collaborative divorce is a step in the right direction, Anderson said, because it would reduce the time judges spend resolving divorces, freeing them to concentrate on other cases.

"A lot of people are looking for a nonlitigious, noncontentious approach to divorce," Anderson said. "People just don't want to be drawn into the battle if they can avoid it."

He said programs such as Divorce with Dignity and collaborative divorce reduce the number of

people returning to courtrooms because of dissatisfaction with the original divorce terms.

Each year about 4,600 divorce cases are filed in El Paso County, and another 4,000 are reopened for modifications such as changing child support or parenting-time arrangements.

The main drawback Anderson sees in the collaborative approach is when negotiations break down, it quickly can get ugly and expensive.

If the "lifeboat" tips, the husband and wife must each hire new attorneys and, in many cases, new financial specialists and counselors who are unfamiliar with the case.

In Gutterman's experience, that's a risk many parting couples are willing to take.

"It (collaborative divorce) is catching on like wildfire nationally," she said. "Consumers have lost their trust in lawyers. It's really a market-driven solution. This is a whole new way lawyers can help their clients without exacerbating their problems."

FIGURING OUT AN AGREEMENT

How collaborative divorce works:

At the outset of a divorce, all parties, including attorneys, agree to work toward a mutually agreeable settlement out of court.

The attorneys and other professionals such as therapists and financial specialists sign a contract in which they agree to withdraw from representation if negotiations break down and adversarial court proceedings are required. Lawyers for both sides are bound to work toward the most fair agreement for everyone involved instead of just looking out for their own client's interests.

Couples meet with their attorneys in an informal setting outside the courthouse and work out their differences over such issues as parenting time, money, stock options and pensions.

A judge enters the picture only to sign the final decree after negotiations are complete.