

# David & Sara's Story

By Dr. Serena Patterson and Monika Grünberg, RCC

It was the darkest time of David's life. Sara had been his first love, and after ten years, with two children, he was stunned to find out that she was leaving him. Sara was his closest friend and ordinarily the one person who he relied upon for advice. Now, when he most needed an ally, she was the one person who he could not turn to. He couldn't get over the loss of trust, and wondered how they could ever work together again, even for the sake of the children.

It was important to draft a separation agreement, and soon. The job of dividing up what they owned, the debts that they owed, and the care and time with the children was too important to muddle through without a plan; they both knew this. There were joint accounts and lines of credit, Registered savings plans for retirement and for the children. And, most importantly, there were the children themselves. David knew that the children needed him to put away his hurt and anger, to keep working as a team with Sarah in parenting. But he didn't know how to do this. In fact, underneath his anger David felt right now a bit like a lost child, himself.

Psychologists and counsellors agree that divorce is one of life's most difficult transitions, especially when children are involved. Reactions vary, but it is very common to feel some combination of abandonment, anger, hurt, spite, hope and freedom. In addition to powerful emotions, there are many practical skills to learn, fast, as each person assumes the jobs that they once delegated to their spouse. With finances, car maintenance, household repair and the care and comfort of children, people find themselves suddenly "flying solo" where they used to have help. Even the task of negotiating the divorce and separation agreement itself is new and challenging terrain. "Divorce calls upon us to function at a very adult level, just when we may feel our least like fully competent, independent adult", says Monika Grünberg, a local family counsellor who specializes working with families in transition.

David and Sarah knew of two possible paths to a separation agreement. The first path was to hire a mediator to work with them. David learned that the job of a mediator in divorce was to take a neutral position between the two spouses, and to help them to draft an agreement that was fair to everyone and likely to meet legal requirements. This sounded very reasonable, and inexpensive, which was important because, with one household becoming two, there would be little to spare. And yet, each privately worried. David worried that a mediator would see Sarah as the more important parent to the children, be charmed by Sarah's humor, or just not like him. Sarah worried that a mediator would hold against her the fact that she had chosen to leave an apparently happy marriage, or that a male mediator might side with the man. She worried that David would be able to play on her guilty feelings, and she would give away too much. How could they trust the mediator to stay neutral? How could they trust each other to tell the truth in mediation, when they didn't even agree on what the truth about many things was anymore? Each felt, in the end, they needed someone in their own corner, looking out for their interests.

But the second path, of hiring lawyers, also had problems. Each had heard many sad stories of divorce cases that went to court. They knew that if they went to court, it could be very costly. They knew that some lawyers had reputations of fanning the flames of conflict, driving former spouses further apart and even placing children into parents' conflicts. Almost everyone told them that it was best to keep divorce out of court. But they wondered; if everyone agreed that divorce court was harmful to adults and to children, why did so many people end up going there? Maybe, thought David, it was because being one person's advocate tended to make lawyers less aware of the whole picture than they could be if they really heard both sides. Or maybe it was because many divorcing people felt like he did; unable to keep behaving in a mature and adult fashion when he wanted to lash out. Or maybe it was because divorcing people stopped listening to one another once they hired lawyers, and, instead, listened to their own fears and insecurities. For whatever reasons, David and Sarah did not trust themselves to go through litigation; they were afraid that once the



lawyers were involved they would become enemies to one another. And both knew that if two enemies tried to raise the children, it was the children who would suffer.

Every one agrees, says Ms Grünberg, that children need the continued love and support of both parents after divorce. And every parent usually wants their child to have the very best, including that love. And yet, researchers report that up to half of children who experience divorce actually lose contact with one parent at some point after the divorce, despite the promises made. “Putting the children first” sounds easier than it is. Lawyers may be excellent advocates for their clients as they make their way through the legal maze of family law. But neither they nor the court system are particularly well prepared to help parents through the maze of emotions that leads to a successful post-divorce partnership for the children.

Fortunately, there is a third path. David’s colleague told him about Collaborative Divorce, a new “team approach” to divorce. In collaborative divorce, the team begins as a group of four: the separating couple and their collaboratively trained lawyers. Each lawyer works as an advocate for his or her client, but with a difference. In collaborative divorce, all parties start with an unusual commitment: going to court is not an option. In fact, if the case gets “stuck” and one side decides to pull out of the process and go to court, the couple will have to start over with new lawyers. None of the things that are said or proposed during the collaborative process can be brought to court later. This was important to David, who was afraid that something he suggested tentatively in negotiation might come back to haunt him if the case went to court. With a lawyer “in his corner”, but with the commitment to stay out of court, David felt safer to negotiate. Sarah liked the fact that the lawyers didn’t just give lip service to staying out of court; these lawyers would actually lose business if the couple gave up and went to court. She decided that she could trust them to do their very best to help.

Over the following weeks, David and Sarah had a series of meetings. Some were with their own lawyers, and others were “four-way” meetings that included both of them, and both lawyers, too. At one point, David’s lawyer suggested he work with a collaboratively trained “divorce coach”, a personal counsellor who could give him the emotional support he needed to see past his hurt and anger that were getting in the way of seeing solutions. Sarah wanted to know how the children felt, but didn’t want them to feel like they were choosing between parents. The lawyers suggested a child specialist, who met the children and became their special ally in the process, advising both parents and lawyers about their worries and their needs.

Divorce coaches, child specialists, and financial specialists are all available as part of the Collaborative Divorce team. They are professionals in their areas of expertise, and they also have received training in the Collaborative Divorce process. Training and ongoing support networks provide the lawyers and other professionals with opportunities to strengthen their skills in multidisciplinary teamwork. Since each couple’s needs are unique, the initial “team” of two divorcing spouses and their lawyers may be kept at a simple minimum, or expanded as the need arises. And although some may initially balk at the idea of paying for specialists beyond the lawyers, most agree in hindsight that access to such support and expertise saves much more in the long run, as costly mistakes are avoided.

On the surface of things, financial costs of a typical Collaborative Divorce tend to fall in between those of mediation and those of a traditional, lawyer-driven separation and divorce process. But the true benefits are counted not only in money saved, but in pain avoided and lives enriched. Collaborative Divorce started out as a process designed to minimize the harm done on the divorce battleground, explains Ms Grünberg; what it has become is also a process designed to make us into better functioning people. In sparing children pain, we just may become better parents. In working through our blocks to co-operation, we just may become healthier people and model healthier relationships for our children. And nobody can put a dollar value on that.

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