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Modern mediation a respectful process focusing on the full picture

In the midst of a high conflict divorce, it can be easy to lose hope that your clients will ever come to a sustainable agreement. I recently had the chance to visit with Beverly R. Tarr of Certified Divorce Mediation LLC. Tarr said that in her last 10 years of practice she has had only 10 couples out of the more than 1,300 that she has seen not come to a resolution. Given her unique way of mediating, I felt it worthwhile for others to know this awesome statistic.

Tarr hails from the United Kingdom, where she practiced as a barrister before moving to Chicago. She focuses her practice on two-day, attorney-assisted mediations.

While the collaborative law process can take months, clients going through her two-day mediation process initially spend a full day in her office resolving any parenting issues. The clients return after a three- to four-week break for another full day to resolve any financial issues.

Tarr mediates the parenting issues before financial issues so that parenting time will not be used as a negotiation tactic when discussing financial issues. The term "two-day mediation" refers to the two days of in-person negotiation. Although the clients may only mediate with Tarr in her office for two days, the whole process from start to finish often takes two to three months.

The parties must first meet together with Tarr for a preliminary consultation to decide whether they both desire to proceed with mediation, and specifically with her, and by utilizing her model. Both parties must then confirm with her, separately, and in writing, about whether

they wish to proceed.

"I believe this helps start the process of giving the parties' ownership of their individual decisions," Tarr said. "If the parties can agree to mediate and agree on the mediator, they have already agreed on two important points."

Sometimes, one of the parties may need more time to process what is happening. In those instances, Tarr will suggest the parties wait a certain period of time before beginning. "Some people are in such different emotional stages and may need more time to emotionally prepare to make such important decisions."

Well before each day of the mediation, the parties are directed to prepare by meeting with their attorney and reviewing all relevant information. Tarr consults with both parties' attorneys prior to the mediation date and will not proceed with the mediation unless both parties have all the information that they need to proceed.

In addition, the parties must each prepare an interest statement that they will then exchange with the other party prior to mediation.

"The key to this process is that when the parties and the attorneys are in mediation, they are in a position to make informed decisions."

In complicated financial matters, Tarr will have a preliminary meeting with the attorneys, which may or may not include the parties, to discuss a realistic time line and disclosure requests. The attorneys can often decide in consultation with the parties to hire independent financial and/or business evaluation experts.

Tarr said, "The key to this process is that when the parties and

COLLABORATIVE CONCEPTS



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the attorneys are in mediation, they are in a position to make informed decisions. If the decision is not informed and thoughtful, the agreement will not have longevity or staying power."

Tarr goes on to say, "In my process there is a clear demarcation of roles. I run the process exclusively, the attorneys advise as to the law exclusively and the parties make the decisions exclusively."

The importance of neutrality is not lost upon Tarr. She does not utilize any social media platform out of respect for boundaries between her and potential clients, and she also does not attend social events with potential participants in the process.

When asked for attorney recommendations to assist a client in the process, Tarr will suggest attorneys that she knows will work well together and with the process. "My goal in all of this is to create a respectful process where the parties are able to make informed decisions, not rushed decisions, but decisions with the full picture in mind."

As always is the case with collaborative law, the crux of the process lies in allowing clients to

make informed decisions. "The parties make the decisions. It is not for me to say whether I agree or disagree. I do not make assumptions or advise what is fair or unfair or likely outcomes at court.

"The attorneys assist the parties in being realistic and work with the mediator in listening carefully to the underlying needs and interests of the parties. There is often a way that both parties' needs can be met but rarely is there a way for both parties' wants to be met."

Following the completion of the two-day mediation, Tarr drafts a memorandum of understanding. She drafts the document within 48 hours of the final mediation so that the clients have an opportunity to review the memorandum while the mediation is still fresh in their minds.

The document is first sent to the clients for review. After client approval, the memorandum is sent to the parties' attorneys to incorporate into the marital settlement agreement and joint parenting agreement. The parties do not sign the memorandum.

It is important to note that this process works well at any stage of marital conflict. For example, the process can work prior to filing, in the midst of negotiations or even trial and for any post-decree issues which may arise.

In July 2014, Tarr spoke about her mediation sessions at The World Mediation Summit in Madrid. She has been invited to speak again at the World Mediation Summit in June in Berlin and will be addressing the four-day conference on Professionalism in Mediation.

It is important for attorneys to know this two-day, attorney-assisted mediation is yet another tool for clients and attorneys alike to be aware of when guiding clients through the divorce process.