

Collaborative Divorce for the Masses

If we ever hope to make collaborative process the norm and not the exception, collaborative divorce must be readily available and affordable to most families. Joryn Jenkins and Shannon Green analyzed statewide statistics and determined that an average collaborative divorce costs a total of \$34,980 or \$17,500 per spouse. In *Isn't Collaborative Divorce Too Expensive for Regular People Like Me –FACP blog post June 18, 2019*-Joryn posits that these statistics tell her that “collaborative divorce is not just for the rich and famous.”

I wholeheartedly agree that \$35,000 is a fraction of the cost of a litigated divorce. And undoubtedly, this is money well spent on a value-added process that leads to enduring agreements, enhanced communication skills, enrichment of co-parenting relationships and a peaceful ending. But, I do not agree that this cost puts collaborative divorce within reach of anyone *but* the rich, which I define as folks who are part of the top 10% of wage earners in Florida, earning over \$150,000 per year.

Let me pause here and acknowledge the work that Joryn Jenkins has done to create and foster a pro bono collaborative program in the Tampa area. Joryn was a pioneer in Florida and we all owe a debt to her for focusing on accessibility of collaborative process, doing something about it and then teaching us all how to replicate it.

In Florida, 23% of the population earn less than \$25,000 per year. Those earning between \$25,000 and \$50,000 comprise an additional 25%. The median income for a family of four in Florida is \$52,000, a bit less than the national average of \$61,000. 80% of Floridians earn less than \$100,000 per year. None of those families could afford a \$35,000 collaborative divorce. This means that collaborative divorce is only available to 20% of Florida families experiencing the pain of divorce or other family conflict.

Looking at these statistics, I suspect and perhaps hope that the average cost of \$35,000 for a collaborative divorce may be skewed by the larger number of cases occurring in more affluent counties which tend to be more populous, have more collaborative cases and where lawyers tend to have higher hourly rates. Within the state of Florida, there are rather stark income disparities between counties. Palm Beach and Duval counties are among those that have the highest median incomes (they are also among the most populous), topping out at \$73,000 while Madison and Putnam counties bottom out at a \$31,000 median income (they are also among the least populous). An analysis of the data by county would be helpful in figuring this out, but that is another article altogether!

Sometimes I think about this conundrum like I think about the purchase of a car. Not everyone can afford a Ferrari, not everyone needs a 3 ton pick-up truck, not everyone can afford a new car with all the bells and whistles and may need a basic model or a used car without too many miles on it, some people need a car that will tote a family of six around and some can get by with a Smartcar. Some people have ride the bus or use pedal power. What the statistics about the cost of a collaborative divorce tell me is that we are only offering Ferraris, 3 ton pick-ups and new cars with all the bells and whistles. To reach a larger segment of the divorcing population, collaborative professionals must determine ways to offer makes and models that fit more budgets.

We are doing well for the people who cannot afford a car at all. All across the state, collaborative practice groups are working on pro bono programs for families at the very bottom of the socio-economic ladder. The pro bono programs partner with community legal aid organizations, churches, social service organizations and family courts to identify cases that would be appropriately handled by a volunteer collaborative team working for free. This is important and heroic work but these efforts reach an equally small slice of the divorcing population as does the \$35,000 collaborative divorce— and the volunteer resources are limited, unlike the resources for couples who can pay full freight.

I believe that some practitioners are trying to accommodate people who can only afford a basic model. Collaborative groups and practitioners are working on low bono programs for middle income families—usually defined as families earning less than \$100,000. These programs vary in cost, income limits and services provided. The most common

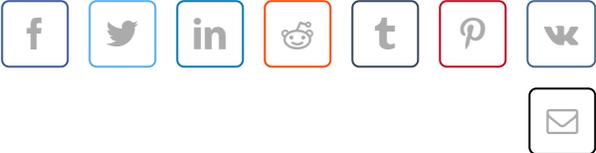
model is one that offers three team meetings at a total cost to the family of \$7500. I would argue that even this cost is prohibitive for that half of the population earning less than \$61,000 per year, especially families with children. Additionally, as with the pro bono programs, finding collaborative professionals willing to work at a reduced fee can be a challenge.

As chair of the Access to Collaborative Committee of FACP, I spend a lot of time researching, thinking about, talking about and working with these issues. I acknowledge that analysis by income alone is an oversimplification—some families of relatively modest means may have assets from which to pay for a collaborative divorce. I know that every community is different and that the needs of every community are unique. I also know that there are no easy answers, no quick fixes and no one thing that will work everywhere. But most of all what I know for sure is that if we are going to create a paradigm shift in the resolution of family conflicts, collaborative divorce must be more readily available and affordable to all those families that are not part of the top 10% of wage earners.

Please let me know what is going on in your community, any ideas or thoughts you have about the affordability or availability of collaborative process, and please consider joining FACP’s access to collaborative committee.

July 14th, 2019

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