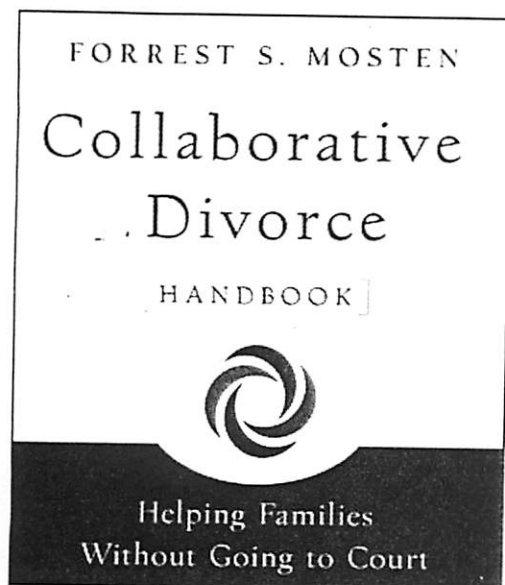


Collaborative Divorce Handbook: Helping Families Without Going to Court



*Collaborative Divorce Handbook:
Helping Families Without Going to Court*

By Forrest S. Mosten

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Forrest (“Woody”) Mosten’s book, *Collaborative Divorce Handbook: Helping Families Without Going to Court*, is a treasure trove of good advice for a wide audience—seasoned practitioners, novitiates hailing from a variety of professional disciplines, curious consumers, or anxious divorcing partners. The book will assist lawyers who seek a more client-centered, less adversarial practice; mental health practitioners who wish to add interdisciplinary skills to their repertoire; accountants and financial planners who want to help



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both parties going through divorce to coordinate their finances; and other professionals (such as clergy, educators, judges) who try to guide divorcing couples to less destructive methods for parting ways than litigation provides.

The book is composed of nine chapters, ranging from the theoretical (“A Paradigm Change from an Adversarial to a Collaborative Perspective”) to the eminently practical (“Toolbox of Strategies for Collaborative Agreement”) to the philosophical (“Walking the Collaborative Walk: Taking Twenty-Five Steps Toward Peacemaking”) to the entrepreneurial (“Building a Profitable Collaborative Practice”).

Although the focus of the book is divorce, Mosten also makes the important point that collaboratively based practice is being widely used by professionals in other arenas, such as premarital and postmarital agreements and nonfamily civil matters. According to Mosten, the collaborative approach is well-suited “for businesses of all sizes and sectors in the marketplace”—including disputes pertaining to professional practice breakups, real estate disputes, employment problems, professional liability matters, and any other issue where contractual or commercial disputes are at stake.

Mosten’s writing style is concrete and direct. He uses lay language in an effort to engage audiences ranging from clients to lawyers and mental health professionals. By including tables, charts, and templates throughout the book, Mosten make this an eminently practical handbook. For example, the five-page template entitled “A Guide for Discussion with Clients on Collaborative Practice” provides a step-by-step road map for educating clients about the unique aspects of collaborative law—including its advantages and disadvantages. On the critical issue of withdrawal/disqualification of counsel if either party decides to litigate the divorce, Mosten explains both the potential cost and the benefit of that aspect of collaborative practice—namely, that it “can increase the motivation of all parties and attorneys to reach a settlement. . . . As a result, everyone in the collaborative process focuses exclusively on reaching agreement.” His bottom-line advice to clients is as candid as it is vital: “You should be cautious about using a collaborative process if you do not trust that your spouse will negotiate honestly and sincerely.”

In one of the more engaging portions of the book

("Court Field Trip: Help Your Client Gain Reality"), Mosten recounts the experience of one of his clients who visited the family court in downtown Los Angeles, where her case would be heard if the collaborative process was not successful. More than 18 cases were heard that day; the courtroom was packed with high-priced lawyers who sat around all morning waiting to get their five minutes in front of a judge. Once in front of the judge, only one or two issues were brought to the judge's attention, paperwork was missing, files were misrouted, and cases were continued for 30 days due to docket overcrowding:

8:15	Courtroom opens
8:30	Roll call of cases
8:45-8:50	Judge heard 2 cases and continued both cases for 30 days
8:50-10:50	Judge said that she needed to review some court documents and heard 2 cases briefly in chambers—all the while everyone just sat around and waited for her return
10:50-11:30	Judge heard 4 cases with breaks for court interruptions and each of those cases got 5 minutes or less in front of the judge—noncomplex issues and usually the lawyers were just posting the judge on an update of the case
11:30-12:00	Longest case of morning where each lawyer got 10 minutes to summarize his views
12:05	Lunch break

The reader's conclusion: *res ipsa loquitur*.

One of the most novel features of Mosten's book—beyond the rich blend of theory, philosophy, and practicality—is his generous inclusion of the voices of many collaborative colleagues, whose comments about collaborative practice are sprinkled in sidebars throughout the book. Among the most striking are Shields, Ryan, and Smith's piece on the power of an apology; the Goldberg and Shaw study on the two "most important" attributes of a successful collaborative divorce professional—namely, trust and rapport; and Nancy Cameron's introspective selection entitled "One Horse or Two," in which she likens the tension between being both a conflict resolver and a courtroom advocate lawyer to being asked to ride simultaneously two horses.

Collaborative practice has begun to fill a wide bookshelf of resources—Pauline Tesler's guide published by the ABA being the first of that group. Woody Mosten's book takes its place, in good company, among the very best. ♦