



COLLABORATIVE FAMILY LAW?

A new book shows you how.

INTERVIEW BY LINDSAY STAFFORD MADER

The *Texas Bar Journal* recently interviewed San Antonio lawyer Kim M. Munsinger, editor of *Collaborative Law—Start to Finish*, published in 2014 by TexasBarBooks. Collaborative law involves an alternative approach to resolving divorces and other family law matters and is characterized by a non-courtroom setting, transparent and cooperative joint discovery, and settlement discussions that use interest-based negotiation instead of positional bargaining. Proponents of collaborative law say that by deciding not to approach divorce as adversaries, a couple can work together toward settlement with their lawyers and any neutral experts. For more information, go to collablawtexas.com.

Why do you think this book was needed?

Collaborative law is such an important innovation in family law. Although Texas has a statute that describes the process, many lawyers don't realize that conducting a collaborative case involves technique, not just following rules. The book provides a step-by-step guide through a process that otherwise would be difficult to navigate. The chapters are roughly chronological and include pointers to the annotated forms so the practitioner will know which form to use at each stage of a case.

Do many law schools feature curricula on collaborative law?

A few Texas law schools mention collaborative law as part of their alternative dispute resolution courses, and one—South Texas College of Law—offers bi-annual two-day trainings, but law school courses in collaborative law are rare. This book was designed to educate and could be used as a textbook, so that may change.

What are the most significant points that Texas lawyers will take away from this book?

Texas law now offers two distinct paths to getting divorced and resolving family law matters. One path is cooperative and collaborative, and the other is adversarial (traditional litigation). Lawyers can advise clients about which process is appropriate; neither process is right for all cases.

Collaborative law is a surprisingly structured and ordered process. The lawyers, clients, and any neutral experts don't simply sit and chat in meetings but work from agendas and follow a road map. Interest-based negotiation is used in settlement discussions in order to optimize the outcome for both parties.

Why should attorneys—as well as clients—be interested in collaborative law?

Litigation is an effective system, but it's hard on families. Sometimes people are hurting for years after an ugly divorce, and the children aren't spared. Modern couples often don't want their parents' divorce or their friend's divorce. They want a respectful, private way to settle their differences, and they want to protect their families.

Lawyers might be interested in collaborative law, too, for at least a couple of reasons: to offer a constructive alternative to their clients and also for themselves. Collaborative law was invented by lawyer Stuart Webb in Minnesota who was sick of what litigated divorces were doing to his clients—and to him!

What was the process like for putting together the book?

It was enjoyable and a lot of work. For weeks, all I did was read continuing education articles on collaborative law to find topics of interest and select authors. I chose enthusiastic contributors who are smart, experienced

practitioners—and good writers. I didn't twist any arms. I wanted a motivated team to write chapters that would each fill a unique place in the book. My editorial experience from the *Texas Law Review* helped with the nuts and bolts. In addition to contributing a chapter and tweaking some of the forms, my job was to keep everything on track and make sure the chapters covered the topics I wanted and had a consistent tone. The authors had an overall idea about where we were headed from the initial outline, but I evaluated each component and made adjustments.

Can you describe a client, case, or a mentor that influenced this book?

The book was designed from the ground up without a prototype, but the goal was to create a clear, readable, interesting book to educate Texas lawyers and others about this novel concept. Allan O. Kownslar, a history professor at Trinity University in San Antonio, believes that subtle ideas can be made easy to learn. Bryan Garner, known to attorneys everywhere for his books and seminars, has made a career of creating practical books for lawyers. They both offered inspiration for this book. **TBJ**

For more information on Collaborative Law—Start to Finish, go to <http://texasbarbooks.net/collaborative-law-start-to-finish/> or call the State Bar sales desk at (800) 204-2222, ext. 1411.

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