

A Message from the President**The Price is Right: Communicating the Value of the Collaborative Process***Ron Ousky, JD*

The growth of the Collaborative Movement will depend, in large part, on our ability to communicate the value of what we do. Most of us understand that the true value of Collaborative Practice lies in the quality of the outcomes that clients can achieve and not in the cost or speed of the process. Yet this message is difficult to communicate to our clients, many of whom may seek us out as simply being a cheaper and faster way to get their case settled.

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The discussion of money and value is one of the truly difficult conversations that we have with our clients. I have learned a few things about this during my years of practice but I want to learn much more. I have found that, in this movement, the best way for me to learn something is to share my ideas and to invite others to share their ideas and experiences. Here are nine things that I have learned on this topic.

1. Avoid emphasizing cost when discussing the advantages of Collaborative Practice.

While Collaborative cases are, on average, less expensive, it does not serve our community well to promote the Collaborative option as being “cheaper.” Clients will not value anything that is promoted on the basis of cost. For clients who truly want a cheap way to handle their divorce, no process is likely to seem cheap enough. In addition, since cost is directly related to client commitment, clients who focus only on the cost of the process may not be able to focus on their role in the outcome.

Similarly, we need to separate “success” from cost. While keeping costs down can be a legitimate goal for clients, using the cost of the divorce as a measure of success impairs their ability to achieve their best outcomes. I often explain to my clients at the beginning of our relationship that many of my most satisfied Collaborative clients are people who paid far *more* in fees than the average case.

2. Help clients reframe their thinking about what a divorce *should* cost.

Clients often have distorted ideas about what an amicable divorce settlement “should” cost. I sometimes try to create a perspective on this by comparing the cost of the divorce to other

services they have purchased. For example, clients who are very willing pay their realtors \$50,000 to sell their house have a great deal of trouble understanding why a “Good Divorce” might cost them more than \$20,000. I sometimes point out this paradox to clients, not to pick on realtors, but to help clients think about why they would believe a divorce *should* cost so much less. Most clients, upon reflection, will agree that resolving the issues relating to their divorce is more complex – and likely more important to them – than the sale of their house.

3. Have clients consider creating a “peace chest” at the start of the case.

Clients who gear up for litigation sometimes set aside a “war chest” of the funds they may need for litigation. While Collaborative clients clearly do not need to set aside as much money, it is sometimes helpful to have clients designate an asset (or a debt source) for payment of their fees based on the maximum amount they believe they would be able to spend on getting the best possible outcome for their case. Earmarking this amount will help them be prepared to spend what is necessary to achieve the best outcome. If they truly set aside a maximum amount, they will most likely be able to reward themselves at the end of the case when they find they have not used their entire “peace chest” allocation.

4. Make intangible benefits more real.

One of the reasons clients may have trouble fully recognizing the potential value of a deeper resolution is that the greatest benefits of the settlement are intangible. We recognize that clients who have enhanced their parenting abilities, communication techniques or financial skills are often getting an added value that may be priceless. Yet, these benefits are difficult to measure and therefore may not be apparent to our clients.

In trying to help clients see these as tangible benefits, it can be helpful to have them quantify the difference in the quality of their post-divorce relationship on a scale of 1 to 10, where “1” is constant, all-out warfare and “10” is a friendly, respectful relationship without any awkwardness for parents or children. I sometimes ask clients to visualize what a “1” would look like (in terms of parenting, communication, financial skill, trust, etc.). I also ask them what they think a “10” would look like and then ask them where they find themselves on that scale. Finally, I ask them if they think it is possible for them to move up the scale and what value that upward movement would have to them. For clients who really think this through, even moving from a “4” to a “7” in one of these areas might be worth a great deal.

5. Look at big-picture costs rather than fragments.

It is sometimes important to help clients think about the total cost and benefits rather than the incremental costs of each hour. My hourly rate is \$250 per hour – about average in our community, but still a very large number to most clients. I tell them that if they think that each hour that I spend on their case will bring them \$250 of value, they will be very disappointed. However, if they look back at the total value of what the team has helped them achieve for themselves, the overall value will be far easier to appreciate.

6. Use the “rainy day” example.

There is a line in a movie where a divorce attorney tries to prepare his client for the cost of the divorce by saying, “Remember that money you were saving for a rainy day? Well, it’s raining.” Of course, this is language more suitable for putting together a litigation war chest than it is for a Collaborative case. However, the underlying concept is valid. It is sometimes necessary to help clients accept the reality that they are in the middle of a family crisis and that there are economic consequences that need to be accepted rather than resisted.

7. Talk about commitment.

One positive thing about the money discussion is that it can force you and the client to have a conversation about a more important issue: commitment. In my opinion, the most important factor in determining the quality of the outcome of a Collaborative case is the level of client commitment. The ability of the professionals in helping clients achieve that level of commitment is one of the professionals’ most important skills.

Generally, we talk about commitment on a more personal level to try to get clients to understand that setting aside ego, addressing emotions and developing empathy are the contributions by clients that yield the best results. Talking about the financial aspect of that overall commitment can seem crass, but can be just as essential. As with many things in life, people often get what they pay for.

8. Examine your own money issues.

One reason some of us struggle with talking to clients about money is that we have our own issues about money. Are our services worth what we charge for them? On an intellectual level, we may be fully convinced that the choices the clients are making are worth the money, but at an emotional level we may be more ambivalent. If so, the client will likely pick up on our hesitation. I have to confess that this is an issue for me. My family did not have a great deal of money when I grew up and I spent much of my youth doing hard physical labor for \$2.00 per hour. I understand all too well the apprehensions that clients may feel about paying hourly rates that may seem very high. I have had to look at the very personal way that I relate to money so that I can become more comfortable having discussions with clients

about fees. If you have had some of the same experiences, I recommend that you find a place to talk about your money issues so that you can become more effective in counseling your clients in this area.

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9. Shift the cultural concept of divorce from “just get it done” to “do it right.”

Divorce is often viewed as something to simply survive. Therefore, many of our clients are understandably tempted to seek the most painless route, economically and emotionally. While Collaborative Practice is designed to help them avoid the pain of adversarial processes, we have a responsibility to help clients understand that making difficult choices may be an important step toward their having a better future. Simply getting the divorce done – at the expense of foregoing opportunities to improve their lives – may, in the end, be something clients cannot afford.

The purpose of this article is not to suggest that the cost of Collaborative Practice must, by necessity, be high to achieve meaningful gains. To the contrary, I believe that we should be equally diligent in difficult, expensive cases and in those cases that can be resolved with very little cost. It always frustrates me when clients with simple cases are turned away from Collaborative Practice because they could not afford – or did not need – some parts of our process that are essential in most cases. We need to tailor the process to the true needs and resources of the clients. The point is that we have a duty to help clients make the best choices for their particular situations. A frank discussion about money is almost always essential to the guidance that we can provide them.

I would like to hear your ideas about how you have addressed these issues. If you have some ideas, or if you are interested in having more dialogue on this topic, please email me at ron@ousky.com. If there is enough interest, I will start this as a topic on a message board on the IACP website so that we can learn from each other.

