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## Separate Peace

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In March, comedian Robin Williams and his estranged wife, Marcia Garces Williams, filed for divorce after 19 years of marriage. But tabloids hoping for a juicy celebrity battle may be disappointed. In court papers filed last month, the couple announced they would conduct a collaborative divorce, pledging to be "honest, cooperative and respectful" and to put their children's interests first.

The past two decades have seen an explosion of interest in alternatives to adversarial divorce. Growing numbers of couples now handle their split without lawyers, often consulting "do-it-yourself" Web sites. Divorce mediation was unheard of before the 1970s. Today, about four-fifths of states either mandate it or allow judges the discretion to require it before they will set a trial date.



David Klein

Collaborative divorce takes this cooperative spirit even further: The divorcing couple and their attorneys agree in advance that they will disclose all pertinent information and will jointly engage neutral experts rather than hired guns if experts are needed. The attorneys agree not to litigate; if the process breaks down (as it does in about 5% of the cases), they are bound to withdraw rather than pursue the case in court. If the spouses then choose to litigate, each must hire a new lawyer and start from scratch.

Pioneered in 1990, collaborative divorce has spread rapidly. In the past decade, the number of professionals involved in this process has increased 20-fold. It is not without its detractors, though. In February 2007, the Colorado Bar Association deemed the process unethical because it diluted a lawyer's undivided loyalty to the client. Many attorneys still advise divorcing clients that they'd be foolish to give up any potential advantage in a struggle with so many consequences.

From a different perspective, some people believe that "normalizing" divorce leads couples to take its consequences too lightly. "Divorce is a tragedy and should be treated as such," said one "pro-family" advocate on a radio talk show, in response to the idea that something good might come from the Williamses' divorce. "Telling people they can help their kids by divorcing civilly is like offering them low-tar cigarettes instead of explaining that smoking causes cancer."

But a growing body of evidence suggests that normalizing divorce and surrounding it with

expectations of cooperative behavior is far better for everyone than the two extremes of trying to prevent people from divorcing at all or encouraging them to "win" or prove fault in a divorce dispute. Especially when children are involved.

It might seem that making divorce harder to get would benefit children, since children whose parents divorce are more likely to exhibit behavior problems than those in intact families. But a longitudinal study released in April by the Council on Contemporary Families found that many child problems commonly attributed to divorce actually have their roots in family dynamics that long predate the parents' separation.

Poor impulse control, antisocial behavior, disengaged parenting, contemptuous behavior toward a partner, and untreated physical or mental problems all make couples more likely to divorce. But each factor also raises the likelihood of maladjustment in the children even if the parents stay wed. Sometimes divorce, however painful, is the best outcome for a poorly functioning family.

There are instances, however, when divorce *does* make things worse for kids, and it is precisely the behaviors associated with adversarial divorce that have the worst effects. Children suffer when parents assign fault, justify their own behavior, compete for their children's loyalty, bad-mouth each other, or ask the children to take sides, keep secrets or tattle on the former spouse.

Constance Ahrons's 20-year look at 173 children from 98 divorced families showed that when divorced parents were able to maintain a civil and at least minimally cooperative relationship with each other, the children experienced no long-term problems associated with the divorce. But when parents remained in conflict or totally disengaged from each other, their children continued to be distressed even 20 years later.

There is ample evidence that we can increase the incidence of "good" divorces. In a 12-year follow-up of couples randomly assigned to either mediation or litigated divorce, Robert Emery and his colleagues found that as little as five to six hours of mediation had powerful long-term effects. Parents who took part in mediation settled their disputes in half the time of parents who used litigation, and they were much more likely, even 12 years later, to jointly discuss children's discipline, moral training, school performance and vacation plans. Nonresidential parents with mediated divorces maintained much more contact with their children than those who had litigated.

In August 2007, six months after the Colorado Bar Association deemed the collaborative process unethical, the Ethics Committee of the American Bar Association repudiated the state bar's opposition and endorsed collaborative divorce. Attorney William J. Howe argues that lawyers involved in family law cases have an ethical duty to regard every child whose welfare may be affected by the outcome as a "phantom client," with interests that must be taken into account before advocating for the self-interest of adult clients.

Hugh McIsaac, a retired director of Family Court Services in Los Angeles and Portland, Ore., advises divorce attorneys to represent their clients' long-term interests, not their short-term anger. The average cost of a mediated divorce is less than \$7,000 and of a collaborative divorce less than \$20,000. This compares with nearly \$27,000 for a divorce negotiated by rival lawyers and about \$78,000 for a fully litigated divorce.

And it's not just the financial toll. When a parent maximizes his or her emotional position by undermining a child's respect for the other parent, this "victory" carries long-term costs. Researcher Paul Amato notes that children who report being put in the middle of their parents' problems are less likely to be close to either parent as they age.

Cooperative divorces deny clients the short-range satisfaction of "beating" their exes, and they deprive attorneys of a lucrative source of income. But the benefits clearly outweigh these costs. So best wishes to the Williams family and their attorneys: Maybe we can learn something from a celebrity divorce after all.

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