

WARD & MURPHY

ATTORNEYS AND COUNSELORS-AT-LAW

2008

Collaborative Law: a new way to resolve disputes

As we have discussed in prior newsletters, family disputes are often the most difficult to resolve in Court; Resolving disputes in Court is costly and the rules governing courts restrict what is possible. In family situations, it is particularly difficult for courts to tailor solutions since it is difficult for anyone - and especially a judge - to understand all of the aspects of the family's problems.

Most people are already aware of three traditional ways to resolve disputes: negotiation, mediation and litigation. **Negotiation** is a two-way conversation. You can negotiate through lawyers - who act in negotiation as your "mouthpiece." Once you find your solution, you write it out yourself, or ask a lawyer to help you write your agreement. In **Mediation**, you and your partner pay a neutral third person to help you discuss your situation. Specially trained mediators, like the people at Community Dispute Resolution Center ("CDRC"), guide parties to discuss their situation so each party understands the other party better. If you come to an agreement using a mediator, you again write that agreement. **Litigation - or "Going to Court"** -- happens when you just can't agree with another person. When you go to Court, you are asking to have a third person hear both parties' versions of the facts and how the law applies to those facts: you go to a judge. The judge then ensures the lawsuit moves to trial according to the rules set by the Court.

Collaboration - or Collaborative Law - is a fourth and new way to resolve disputes. In Collaboration, the parties each have their own specially-trained lawyer and discuss their needs and interests in a series of four-way meetings. Everything said in these meetings is confidential and cannot be used in Court if the parties end up in litigation. Collaborative lawyers: 1) help the parties accumulate the information needed to resolve their situation so everyone makes decisions using the same information; 2) help the parties set the rules for their discussion and plan the topics to be discussed and then 3) help guide the parties' discussion of their interests. Everyone commits in writing to finding a mutually agreeable resolution. Finding that resolution is the only focus of the lawyers in a collaborative process - if the

parties cannot reach a settlement, they must hire new lawyers to represent them in litigation or mediation. If the parties reach agreement, the lawyers can draft the papers necessary to turn the agreement into a court order.

At Ward & Murphy, Mr. Murphy is Collaborative Law trained and he is a member of the New York State Bar Association's Collaborative Law Committee. He has helped clients resolve family disputes using Collaboration, and, with other members of the local Collaborative practice group, he is pursuing the idea of using Collaboration outside the family law context.

To learn more, visit any one of the following websites:

Ithaca Area Collaborative Professionals

www.collab-law.com

International Association of Collaborative Practice

www.CollaborativePractice.com

How to Reach Us...

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Website

Please be sure to visit our website at "www.ward-and-murphy.com." In the website, you will find lists of documents needed in different cases, information on local courts, and links to general legal resources. You can also find back issues of this newsletter and background information on the Firm. We are continually expanding and improving our website; If you have suggestions, please or email us to let us know!

HOLIDAY - please be aware that Mr. Murphy and his family will be taking a long-planned vacation starting December 29 and returning January 12

Why can't I talk to someone right away?

We appreciate that when you call us, you have a problem that needs resolution promptly. Our policy is to return all phone calls within a day. This means if you call on a Monday, you will generally get a return phone call on Monday (Tuesday at the latest). Sometimes, we are already dealing with an emergency or meeting a commitment to a client, so you may reach the answering machine. Please leave a message. If you leave a message, we will call you. If you believe you left a message and did not get a call back, then please call the next day: machines sometimes do not save messages promptly.

Interns

We hired Arleigh Van Order of Groton as an Intern in our office in December. Arleigh has kept us up-to-date with our filing and helped get our mail copied and out-the-door. This summer we were also joined by Raychelle Cahoun, a sophomore at Groton High School. Raychelle helped us with some special projects while she started investigating a possible career in the law.

Softball Teams

The Firm sponsored teams both in the Groton Girls Softball league as well as the Ithaca Youth Bureau's National League. In fact, you might have seen Ward & Murphy's team in action on the front page of the June 21, 2008 Ithaca Journal.

Scouting

Mr. Murphy is a Boy Scout and Girl Scout leader who helps scouts with badge work. Ms. Jackson is also a Girl Scout leader and, from time-to-time, her scouts meet in our office after-hours. If you are ever interested in supporting Scouting in our community, please let us know.

Future Newsletters

With this issue, we are starting to send a link to the newsletter on our website to clients who use e-mail. If you would rather get our newsletter this way, please call or email us and we will change our address lists accordingly. If you have ideas for articles, send them along - we're always looking for new ideas!

We cannot negotiate with those who say, "What's mine is mine and what's yours is negotiable."

— *John Fitzgerald Kennedy*

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