

# A Different Divorce

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Nancy Anderson did not want a divorce. She wanted a dream. Launching her son into adulthood, traveling with her husband, grandchildren, knotted hands intertwined in old age. But she knew that fighting for the dream would be pointless. There had to be a better way to face this monumental personal crisis. So Anderson, a licensed marriage and family therapist, packed her figurative bags.

One was filled with fear, another with confusion. The heaviest was stuffed with grief. Then, for nearly six years, Anderson walked. She walked literally with her soon-to-be-ex-husband, Michael Baum, around city lakes. She walked emotionally with her sisters and friends. She walked philosophically with a soft-spoken mediator who guided her toward resolution, but never suggested what that resolution should be.

Her divorce was final four months ago. To say the grief is gone would be an exaggeration. But Anderson gained something powerful on her journey: solace in knowing that she had done the right thing, for herself, for Michael and, mostly, her son.

"No matter how you walk through divorce, no matter what you do, no matter what I could have done, there would have been pain," said Anderson, 55, of St. Louis Park. Nevertheless, "Michael and I ... can still communicate, we can still make plans together, talk about our son, even get together for a celebration or a cup of coffee. It's not without distress for me, but it isn't that horrible thing where you walk away and you're enemies."

For decades, divorcing couples have walked away as enemies, their savings depleted, their children devastated and any possible goodwill sapped by fight-to-the-finish legal battles in a court system grossly ill-equipped to assist them. Today, inspired by the vision of collaborative law pioneer Stuart Webb, a small but growing number of divorcing couples like Anderson and Baum are proof that better approaches are possible. And Minnesota is rapidly becoming a national model for innovative ways to divorce based on social science and common sense.

While Nancy Anderson needed years to get there, others are moving at lightning speed.

In an unusual collaboration, judges, lawyers, financial advisers and social workers have joined forces in Hennepin County (Minn.) Family Court in a new program called Early Neutral Evaluation (ENE). The program aims to guide families in – but mostly out – of the legal system quickly, inexpensively and respectfully, so they have the best chance to heal and move forward as successful co-parents. Proponents



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say that cases once lost in the legal system for years are flying through ENE in months, weeks or, miraculously, even faster.

"We can, and have, wrapped up in one day cases that would have lingered in the court system for years," said family lawyer Suzanne Remington, head of the program's two-year-old financial arm, which helps couples settle spousal maintenance, division of property and debt disputes. Since 2005, 73 percent of 106 such cases have been settled in an average of 59 days at an average cost to the divorcing couple of \$923. Before, Remington said, couples could spend years "burning through" as much as \$30,000.

The social portion of ENE, called SENE, focuses on child custody and parenting time (formerly called visitation), and has grown from 88 cases in 2003 to nearly 500 in 2006. Couples and their lawyers meet with the judge assigned to their case within three weeks after filing for divorce. This initial case management conference is an opportunity to resolve less contentious issues and then focus on tougher remaining parenting disputes in an informal setting, said lawyer and social worker Jim Goetz.

In the past 18 months, about 90 percent of couples have chosen to try ENE and, in about 65 percent of settled cases, all issues were resolved at the first meeting.

"The earlier parents can make decisions, the better," said Goetz, who, with SENE co-coordinator Maryellen Baumann, oversees as many as 10 "socials" a week. "If they can get custody issues over, they can get on with their lives and co-parent their kids."

Goetz and Baumann conduct training in cities nationwide. Ramsey County has expressed interest, they said, as have judges in Minnesota's Third and Fifth Judicial Districts. Remington predicts that ENE will soon go statewide as this and other fresh approaches to family law gain favor. Among the approaches: the use of child specialists, parenting consultants and divorce coaches, increased reliance on mediation, and the burgeoning field of collaborative law.

Two weeks ago, a young couple sat in a conference room at Hennepin County Family Court, tense and tangling over parenting time involving their 8-year-old daughter. Lawyers sat at each of their sides, but the drivers were Goetz and fellow social worker Jennifer Livingston Rojer.

The team explained the program in gentle voices, showed no preferences, gushed over pictures of the couple's daughter, asked questions, let each parent vent: She attended a parent-teacher conference without telling him! He is allowing their child to wear a strapless dress at his upcoming wedding! The team then candidly shared its views of what a judge in the case would be likely to decide. Wouldn't they rather make that decision about their precious child for themselves? the parents were asked. Yes, the couple said, they would.

In under three hours, the couple agreed that Dad would get more parenting time. The couple also agreed to return for free mediation help to work out summer schedules.

"What's nice about dealing with the social workers is they're trained to work with people," said the mom, Jessica Dahlheimer, 30, of Prior Lake, Minn. "They look at it like this is a very emotional topic. Lawyers look at logistics."

Not everyone is enamored of these new efforts. Some lawyers and judges, according to Remington and others, say the approach can cause couples to be rushed, depriving them of sufficient time to process important changes, and causing them to make financial and practical decisions they later regret.

There's even grumbling within the ranks. Some collaborative lawyers see mediation as too touchy-feely, with too much talk and not enough documentation. Some mediators say collaborative lawyers are still lawyers, pointing out that even though they boast about keeping couples out of court, only about 3 percent of cases go to court anyway. Others challenge the wisdom of ENE experts seeing children through photographs only. "If you don't see (actual) children, you've got a piece missing," said one parenting consultant.

But Assistant Chief Judge James Swenson of the Fourth Judicial District Family Court remains convinced. Swenson, a former litigator, has been at the family court for 10 years – enough time to form a full picture of families' unique strengths and struggles. It was time, he said, "to turn family law on its head." Now, in child-related ENE cases, he sees "far more civil moms and dads and far more civil lawyers."

Although she felt her heart "ripping" over the past six years, Nancy Anderson said she wouldn't go back. In addition to a small private practice, she has put her experience with suffering to work by adding grief counseling in hospice settings. She said Baum, who asked for the divorce, ("I felt like we had gone in different directions in terms of our lives," he said), never rushed her emotionally and always was fair financially. "If (Michael) hadn't shown up on the other side, it wouldn't have happened," Anderson said. "I feel proud of myself. I feel proud of us."

Most gratifying, though, is that the couple's son, now 20, said he has grown and become a better person as a result of his parents' efforts to divorce amicably.

"The three of us will always be connected around our family," said Baum, who was "very pleased" with the conciliatory process. "The good news is that, because we did things the way we did them, there's no reason that can't happen."