



The Florida Bar Family Law Section COMMENTATOR



Volume XXXI, No. 1 Tenesia C. Hall, Esquire and Belinda Lazzara, Esquire, Editors Fall 2017

www.familylawfla.org

When Miracles Become Mundane: The Magic Of Collaborative Divorce

By Joryn Jenkins, Tampa



J. JENKINS

If you know me at all, you know that for the first 29 years I was in practice, trial work was my obsession; “making new law” at least once a year was my prize; and when I opened my own practice, my sign out front promoted our firm as “Trial Lawyers.” Then, I represented a client in a collaborative divorce. What happened in that case caused me to change my entire approach to the dissolution of marriage services that we offer. What could possibly have happened to cause such a dramatic shift in my perspective? What has happened in one of every two of my collaborative matters since that time would be nothing short of miracle. The magical event was unique every time. The clients were different; the professionals were different; the circumstances were different—the only common element in each of these divorces was the process.

When such phenomena become commonplace, are they still “miraculous”? I will share what took place in three of these matters, and then you can tell me. Were they miracles? Was it magic? Or do you see such phenomena occur in your courtroom cases, too?

The Secret

The spouses had been separated for years. Wife lived with their two kids and her female lover; Husband had had a series of relationships resulting in four additional children with four different mothers. Over the years, Husband consistently had paid child support for all six of his kids, despite

at one point being laid off for over a year. What precipitated the divorce was his refusal to help Wife pay for their daughter’s Sweet Sixteen party. While assuring me that he was a great dad, Wife explained that he had always been willing to provide her with extra cash when she needed it, but not in the last few years. So she was finally done.

Early in our first team meeting, we discussed the couple’s personal goals in their divorce. Derek Lucas represented Husband and asked if he was ready to share his “secret.” His client’s responsive body language was loud and clear; though it made him uncomfortable, he would. Husband explained that he had been arrested for breaking the law of unemployment compensation, which he had not understood. The cost of paying back that money—as well as his attorney’s fees and his ongoing child support—had made funds tight, rendering it impossible since then for him to come up with any extra. He hadn’t shared his secret before because he didn’t want his wife or their kids to think ill of him. But in the safety of the collaborative setting, he did. I tell the full story in “War or Peace, Avoid the Destruction of Divorce Court,” but suffice it to say that when we were leaving the courthouse after their final hearing, Derek and I witnessed Wife throw her arms around her former husband, exclaiming, “I hope you know that I will always love you!”

The Apology

The couple had married young, investing 20 years in their marriage by the time Husband finally moved out. For months, he asked Wife to consult with a collaborative lawyer, but she ignored his requests. He kept putting

his paycheck in their joint account, she paid all the bills at their home and he managed to scrape together enough to pay his food and rent for a modest one-bedroom apartment. I wrote to her requesting that she retain collaborative counsel, but she disregarded me, as well. Finally, after ten months, Wife retained Adam Cordover.

During our first team meeting, Wife’s tears flowed non-stop and my client whispered to me loudly, “She’s trying to convince everyone that I’m the bad guy!” Our facilitator suggested that Husband and I step into the hallway for a quick tête-à-tête.

“No professional in that room will judge you, so stop worrying,” I said. “That’s not what we’re there for.” He visibly relaxed.

Wife had reproached him for emptying their joint account.

“Did you?” I continued gently, without judgment, although I had told him not to do that. “I did,” he admitted, averring, “I had to; it was the only way to get her to go to an attorney!”

“How much was in there?”

“\$20,000.”

“Can you put it back?”

The question floored him, as though I was being stupid. “Of course I can! I’m sorry I hurt her feelings but I had to get her to retain a lawyer.”

“Can you tell her you’re sorry?”

Again, the answer was obvious to him. “Of course, I can.”

“Let’s do that and see what happens.”

When we walked back in just moments after we’d left, everyone looked startled to see us so soon. Without even retaking his seat, Husband grabbed the back of the chair with both hands and leaned across the table. “Bella, I’m so sorry I hurt you

continued, next page



When Miracles Become Mundane

from preceding page

but I had to convince you to see a lawyer. I'll put the money back." Despite his surprise, without hesitating Adam inquired, "When can you get that done?"

"By 5 p.m. today."

At 4:07 that afternoon, our team's financial neutral sent out a full-team e-mail, notifying us that Husband had replaced the funds. Although it took us more than four months to finalize this divorce, Wife never teared up again.

The Testimonials

I was totally unnerved when my client, Jessica, ran sobbing from the conference room. I chased her and found her in my parking lot crumpled against the outside wall, crying. "This is what he always does!" she sobbed. "He never listens to me! He can't hear what I'm trying to tell him! He can't hear me!" I wrapped my arms around this wounded woman and suggested, "Come back inside and try again. He wants to understand, and we're here to help you explain it to him." She followed me back into the conference room.

This was not an easy divorce. The collaborative process is not all sunshine and butterflies; it's hard work. When we were finished, opposing counsel Tanya O'Connor and I separately debriefed our clients, asking each the same questions.

Jessica reported: "When I came into the process, I wasn't talking to my husband—just texting or e-mailing—because I didn't want my son thinking we were getting back together.

What I learned was that it was more important for my son to see that we do get along, especially so that he didn't try to play us off against each other as he has in the past. I learned how to communicate with him, to wait it out, to calm down and to think about the words I would say that could make our discussion better instead of worse.

"I was surprised that we were able to listen to each other as well as we did. This was because the professionals were so active in helping us hear each other's points of view. It certainly sounds different when someone else says it, even when it's the same thing your husband just said. The most amazing thing was how we were all on the same team, all of the neutrals and our lawyers, mine and his, and both of us just trying to get this resolved.

"It was a surprise that I got what I wanted and he got what he wanted. But I think what I wanted changed during the process, and we ended up compromising in the end."

Husband explained: "I felt that I had a voice and that I would be heard. It wasn't a lopsided process, I liked that. I also liked that it was timely. I liked working with the team . . . I felt like they gave Jessica and me the helping hand we needed to get through it. [We] were able to explain to one another (and hear each other) on how our son felt. It allowed us to share what he was saying in a neutral and safe setting without involving him in the process and potentially exposing him to conflict.

"I feel that the process gave me insight into a lot of things between Jessica and me and our son. The team was there to clear up any questions we had; I felt I could have an exchange with any of the team members and that shortened the process. I

liked that the process was goal-centered and common ground was easy to find. No downside. Finishing in such a timely manner . . . from beginning to end it was less than 90 days! It was easy, well plotted out and not at all nerve-racking.

"[It was surprising to me] that emotions surfaced that I thought had been resolved and put away a long time ago."

All of these stories, along with many of my tales of going to trial, are fleshed out more thoroughly in "War or Peace," but you get the gist of these three. What's so amazing is that collaborative lawyers can actually hear how positively the process has impacted our clients in their own words.

Long story short? My passion is no longer "making new law." I like to think that I've grown as time has passed and that my clients, both courtroom and collaborative, have taught me a few things. Not the least of which is that there is magic in collaboration. But you tell me. Were these miracles? Was it magic? Or do you see such phenomena occur in your courtroom cases, too?

Joryn Jenkins, Esq. – *Joryn's clients say, "She helps people divorce each other without destroying their families." She is a trial attorney with 37 years of courtroom experience, now in private practice at Open Palm in Tampa, where she concentrates on the courtless practice of family law. In her spare time, she teaches marketing to lawyers and to collaborative professionals. While practicing law, Joryn also served for ten years as the editor-in-chief of two national magazines. She is the author of Florida Civil Practice Motions (Lexis Law Publishing) and five books on the collaborative divorce process.*

Cover Photos Needed!

YOU COULD HAVE YOUR PHOTO PUBLISHED!

If you would like to submit a large format photo for consideration, please email it to Belinda Lazzara (blazzara@mslbb-law.com) or Tenesia Hall (tchall@legalaidthocba.org), Co-Chairs of the *Commentator*.