

Collaborative Practise: Better for Clients, Healthier for Lawyers

By Catherine A. Regier

The practice of family law is extremely challenging. Our clients draw us into their family dynamics, and their family dysfunction daily. We are challenged to engage with them emotionally, and to take on their concerns, fears and stresses. While the Law Society is becoming more and more progressive - offering the Mentor Program and the Assist Program - lawyers are still loathe to ask for help.

Sometimes we have difficulty even realizing that we need help, or understanding that the work we are doing is harmful to our health. Family lawyers are constantly hearing stories about our client's problems and difficulties. We routinely hear narratives of interpersonal violence, neglect of children, and the ravages of addiction. Some of the stories are very graphic. Those stories, repeated to us daily and often repeated by us, through the preparation of Affidavits and in Court, are the source of vicarious trauma. Vicarious Trauma is not simply secondary or second-hand trauma. It is the effect that listening to or seeing traumatic stories has on our brains and on our health. Brain research shows that the neurons in the brain create a loop which originates in the mirror neurons and travels to the different regions of the brain to create the same sensation in the listener that you would have if you actually experienced the trauma. This is the method by which we are able to empathize with others. In a normal situation, after hearing the story, the listener's brain works through the sensation and slowly returns to its normal patterns. However, when professionals hear these stories, our brains are required to interrupt that normal process and stop the body's natural reaction, to allow us to give our clients legal advice and information, based on the story we just heard. That automatic empathy loop is interrupted. In their book *Day after Day the Price that You Pay: Managing Your Second-Hand Shock*, Ellie Izzo and Vicki Carpel Miller liken this to putting a top to spinning and then immediately stopping it. The listener's brain never has the opportunity to resolve the process of empathizing with the client.

The traditional legal training that I received in law school centered on this type of reaction. Prior to receiving collaborative training, I would completely adopt my client's position. Traditional family legal practice led me to see my client's spouse as "bad" or "evil" or "wrong". I would often add fuel to my client's fire, through the drafting of inflammatory and incendiary pleadings and affidavits. I would express disbelief at what my client's partner had done or threatened to do and would validate my client's feelings of victimization and negativity. All of these things kept me rooted in the vicarious trauma.

However, my collaborative training has helped me to let go of the outcome of the problem for the client. I have come to understand that I do not own the problem that my client brings to me. My job is to help the clients solve their dispute, not to solve it for them. I no longer work harder than my clients at reaching a solution. Instead, I put my clients in charge of reaching a resolution that works for them, their spouse and for their children. This has significantly reduced on me the stress of arriving at a favourable solution for my client.

In addition, when I am fortunate enough to have a full interdisciplinary collaborative team engaged, I am freed through

the process to concentrate on what I know how to do and to do that for which I am trained. I am able to bring value to the clients by using my dispute resolution training. I am able to concentrate on knowing the law, so that I can use it as a reference point for my client to be able to make decisions and reach settlement on each particular issue. It also allows me to off-load the items with which I have over 20 years of experience, but no formal training; items like psychology around a parenting plan and the tax effect of each particular settlement option. I have often said to my clients that my undergraduate training was in Political Science - it was interesting, but is not overly applicable to assisting my clients with their parenting plans and the tax consequences of their agreement. As a result, I do not have to continually stretch to meet my client's needs that are beyond the scope of my expertise and knowledge. In my collaborative practice (and as much as possible in my litigation practice) I no longer engage in those types of activities that keep me up at night.

One of the most important lessons that the collaborative training has taught me is that, since my training is in conflict resolution, my most important job is to try to teach my clients how to resolve their own conflict. I try not to engage in telling clients the answers, or resolving their issues for them. Instead, I work towards giving them a model, a method that they can use in future disputes (which, in family law, are most certainly going to arise) to resolve their differences on their own. This allows me to have the job satisfaction of truly helping the families to move through their separation and divorce and on to meeting the needs of their children. In addition, I do not have to continually suffer the devastation of the client (or to their spouse) who has "lost" and believes that their world is coming to an end. I am not continually suffering that secondary traumatization.

Being involved in the collaborative community has shown me that there is a place out there for me and like-minded individuals who want to accomplish these same goals. There is a group of people who also want to work at creating a solution for each family, instead of wanting to work at creating animosity and adversity within each family. Not only does this group want to work that way, they constantly want to help me do better on each file by providing feedback on what worked and what did not. Shouldn't we all be looking for this type of feedback to help us improve on every file? Finally this group is here to provide a listening ear and assistance when I become enmeshed in the dysfunction of the family and need to regain my perspective to reach a solution for the family we are trying to help.

I truly believe that collaboration is what is best for most clients to be able to reach resolution and move forward with their lives. However, I also believe that it is what is best for me as a practitioner. It allows me to focus on my highest skill set and gives me the satisfaction of truly helping a family move forward. Mostly, it has reduced my vicarious trauma, and helped me to sleep better at night. 🌙



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