

The Integrated Team Approach

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I. Overview

The Revolutionary Nature of Interdisciplinary Practice

To my mind, when one steps back and takes the broadest possible view of what it is we collaborative practitioners are doing, one cannot help but be struck by the revolutionary nature of interdisciplinary practice. Although lawyers have been bringing financial experts into cases for a long time, embracing their direct work with the clients as part of a multi-disciplinary team is a new and salutary development. Mental health professionals (MHPs) working co-equally with lawyers to resolve legal cases is nothing short of a mighty tectonic shift, particularly when one considers the origins of our legal system.

Our Anglo-American system of jurisprudence has its roots in a medieval view of human nature that sees people as mutually antagonistic and potentially hostile; that tends to see individuals as wholly separate from one another, and in need of *individual rights*, enforced by law, to act as barriers that serve to protect them from intrusion by others or by the state. Our current system of law is still an expression of this worldview and mindset. And yet, as we are seeing more and more, this approach tends to downplay or ignore concepts such as relationship, care, feelings, connection, and mutual responsibility—and this failure is often devastating to people, to cultures, and to the planet. It's certainly problematic when it comes to divorce cases, where emotions play such an obvious and central role. It seems to me that what we interdisciplinary practitioners are trying to do is to remedy this ancient one-sidedness, by re-introducing these long-neglected values of *communion* to our jurisprudential system, which heretofore has emphasized almost exclusively values of *agency*. Interdisciplinary Collaborative Practice's approach draws upon the rich heritage of law, finance, and psychology to offer the possibility of an *integrated* approach to dispute resolution—one that addresses people's emotional, financial, and legal needs in a holistic way. What does it take to put that possibility into practice?

II. The Integrated Team

In the past, mental health professional have generally played a subsidiary role when they have been brought into divorce cases at all. Lawyers ran the show (cases were almost exclusively litigated cases), and the MHPs typically did custody evaluations, offered emotional support (usually in separate, private sessions with a client), or helped the clients negotiate a parenting plan. With regard to financial specialists, it has been more or less the same: it's the

litigator's show, and the financial specialist's efforts (e.g., valuations, projections) are the attorney's "work product." Collaborative Practice, with its emphasis on interdisciplinary teams, offers the possibility of something substantially different. And yet, it would seem that there is still confusion among some Collaborative practitioners about the proper roles of the various professionals, and how they should optimally work together. The integrated team approach is one attempt to remedy this confusion and maximize the promise of interdisciplinary practice.

The integrated team approach has two major components: (1) the members of the team have to be on the same page in terms of their theoretical approach to resolving cases; and (2) the team members need to work together in a seamless and mutually-supportive way. Let's look at the latter first.

A. Dancing Together

In the integrated team approach each professional has to be familiar in a rudimentary but still not insubstantial way with the areas of expertise of the others. While each professional is primarily responsible for his or her own professional bailiwick, in practice the lines are somewhat blurred, rather than strictly delimited. In other words, the lawyer doesn't just address the legal issues, the therapist doesn't just address the emotional or child-related issues, and the financial neutral doesn't just address the financial issues. Instead, because each professional has familiarity with the area of subject matter proficiency of the others, everyone supports each other like pilot and co-pilots, alternating the lead-taking as appropriate, each professional bringing in what's needed as needed.

Thus, in this approach, all the professionals (note just the MHPs) listen and empathically connect with the parties, making sure they feel heard and attuned to at all times. For example, if one of the professionals is taking some heat from one of the parties for something the professional has said, the lawyer or financial neutral can say, just as easily as an MHP, "here's what I see happening right now between the two of you." Similarly, all of the professionals simultaneously track the financial concerns and particulars of the parties, and all look for the overlaps between purely economic interests and emotional or psychological interests. In a similar way, because in this approach all of the professionals have a basic understanding of relevant family law, all of them can more fully participate in a discussion on legal issues—both in terms of following along and understanding the legal principles, but also to be in a better position to see the overlaps and entanglements between legal and non-legal issues. The professionals on an integrated team learn to dance together in a seamless way, sensitively taking their cues from each other, from the parties, and from the process, alternating the leading role as the circumstances dictate. As my colleague, Edith Politis, a skilled ballroom dancer, likes to say, "just because one person is leading doesn't mean only one person is dancing."

In addition to the various professionals' familiarity with the others' areas of specialization, what further increases the seamlessness of the process is the essential equality between the professionals. This equality, when demonstrated in practice, can have a major impact on the parties and the process. The integrated team approach is not a lawyer-driven or lawyer-dominated process. Rather the professionals function absolutely as equals, free from vestigial biases between the professions that might tend to undervalue or inhibit the contributions

of MHPs and financials (whether in the view of the parties or the lawyers). This is both new and powerful, and it makes significant demands on the lawyers, MHPs and financial neutral in terms of functioning differently as professionals. The co-equal status of the professionals makes a powerful statement to the parties about the co-equal value that the process and the professionals place on the emotional, legal, and financial aspects of the case.

B. A Common Theoretical Approach: Differentiating the Legal Case From the Emotional Case

The theoretical approach with which I am most familiar has two parts: (1) interest-based analysis and negotiation (diving underneath positions, exploring interests, brainstorming options, evaluating options against interests, etc.), and (2) what I call “finding the emotional truth of the case.” Since interest-based analysis and negotiation are well-known to most dispute resolution professionals ever since Roger Fisher and William Ury published their ground-breaking book, *Getting to Yes*, in 1981, I’ll move on to the second part.

The second part has to do with understanding and making intelligent use of the emotions that are present in a given case. It also has to do with recognizing that, in the lives of most people going through a divorce, divorce is not primarily a legal or a financial event. Without underplaying the huge legal and financial repercussions of divorce, I think it’s safe to say that for most people actually going through a divorce, divorce is primarily a human event, an emotional event. Most of the time it’s heartbreaking, tearing people apart at the core of their innermost vulnerability, narcissistic wounding, and attachment needs. And this is not just “baggage” that needs to be “dealt with” in order to get to the grand prize called the judgment. Rather, the emotional dimension plays a crucial role in every aspect of the process.

Why? Because, as Freud so ably pointed out, people live on the level of emotional truth. They may not be conscious of this fact, they may mistakenly believe that their intellectual selves are masters of their house, but the truth is that by and large people are governed by the more primitive parts of themselves. Nowhere is this clearer than in the kinds of cases collaborative practitioners deal with every day. Not only do emotions tend to dictate the legal positions that people take, not only do emotions tend to govern the way people conduct themselves, but by and large people *want* to deal with the emotional truth of their situation, they want this part of their experience to be heard and acknowledged, even if it’s painful. It is this level of emotional truth that we need to address and communicate with and connect with, if we are to effectively fulfill our mission of helping clients get through their divorce in the best possible way.

Moreover, as most dispute resolution professionals have discovered, it is frequently the parties’ emotions that tends to drive the substantive or “legal” aspect of a case. This is why it can be exceedingly helpful to analytically divide all cases into what might be called the “emotional case” and the “legal [including financial] case.” Making this distinction, and taking the emotional case as seriously as we take the legal case, has many advantages. First, it helps us avoid the temptation to simply ignore or suppress difficult emotions and their expression—both the parties’ and our own. Avoiding this temptation is not an unwise thing to do, for as most of us have discovered, trying to suppress parties’ emotions is like trying to keep several beach balls submerged in the sea—they will keep trying to bob up to the surface. Or it’s like the story of the man looking for his keys under the street lamp, even though he dropped them somewhere else in

the dark. This is what many of us might prefer to do when it comes to dealing with difficult emotions: rather than look in the dark, we prefer to look where it's easy—usually meaning the legal issues. It's easier, yes, but we won't find the keys. A better approach is summed up by the poet Rumi, who said, "The cure for the pain is in the pain." More specifically for our purposes, one might say that the emotional pain that is present in so many cases is often the key that unlocks the whole problem in such cases. If one can identify and work skillfully with the emotional case, one drastically increases the odds of a successful outcome to the case as a whole.

Second, dividing a matter into an emotional as well as a legal case allows us to attend to what might be called "the emotional truth of the case." The *emotional truth of the case* is what the case is *really* about, what's driving the case, what the parties truly care the most about, even if unconsciously. It's the emotional *theme* of the case, the basic, fundamental emotional reality of the case. Often it can boil down to a single sentence like, "Husband is devastated by Wife's decision to leave him, but he can't face his pain and vulnerability, and instead resides in bitterness and anger toward Wife." Or "Wife is overwhelmed by feelings of betrayal and humiliation at Husband's affair, and yet is terrified of moving on alone." Or it might be a more complex statement relating to the parties' dynamics with each other, or their feelings toward one another and the children. Whatever it is, it is the central theme of the case, and, like a musical motif in a symphony, it will keep resurfacing in different forms and variations.

Knowing or at least having a sense of the emotional truth of the case can help us more efficiently navigate the case as a whole. How? One way is it can help us better understand some of the legal positions the parties choose to take. The legal positions that parties take are often means for accomplishing a hidden but crucial emotional end. But this is rarely conscious or obvious. When this happens one could say that the legal and emotional cases have become conflated. And when the legal and emotional cases are conflated, and they frequently are, this can often lead to impasse—in fact this is often the *cause* of impasse. The remedy is to *separate the legal case from the emotional case without dissociating them*. When the emotional and legal cases are expressly and explicitly differentiated, the emotional case can be dealt with on its own terms, independent of the legal issue behind which it was hiding. Through this process, the Collaborative team can help the parties shift from positions, not to interests, but to a vital intermediate step: the emotional vulnerability that was hiding behind the barricade of positions and legal posturing. From such emotional realness parties can more easily and directly identify their true interests in the case and, having been heard, seen and understood on this level, can more easily shift from a stance of blame to one of mutual understanding and cooperation—and thus deal much more effectively with the legal case.

Making effective use of one's understanding of the emotional case usually entails dealing with the emotional case first—finding out what the parties' true emotional concerns are and explicitly addressing them—without lapsing into therapy and losing sight of the legal goal that the parties want to accomplish. For example, is one party furious with the other, feeling horribly betrayed by an affair, and wanting to punish the other? Does one party not want to let go of their spouse and face their terror of being alone? Is one party being emotionally blackmailed by their own fear of hurting the other and feeling guilty about it? Such issues are rarely openly discussed by the parties. Rather, because people are often reluctant to feel or deal with this kind of painful material, the issues show up in distorted form, "symptoms" in the negotiation itself.

Examples:

(1) Wife wants divorce, Husband doesn't. Negotiations seem to go in circles and get nowhere. A lot of psychological and emotional processing. A lot of talk about ideals. Nothing gets accomplished. Professionals make all kinds of suggestions. Parties need time to think about them. By next meeting they still haven't thought about them.

(2) Husband wants divorce, Wife doesn't. Parties attempt to negotiate points, but are constantly interrupting each other, correcting the record, attacking and counterattacking, getting highly reactive, needing breaks, needing to reconvene. Very little gets accomplished.

(3) Husband had an affair, parties are quite amiable, agree on everything except the parenting plan. Wife wants Husband to have no visitation with their young son. Husband is willing to compromise on virtually everything, but he can't go this far. Wife will not budge. Her child needs to be protected. Period.

In each of these cases an impasse has been reached, and the cause may not be apparent on the surface level of positions (or lack thereof). If we try to break the impasse by providing legal information, offering possible alternatives if they were to go to court, make suggestions, conduct a thorough financial analysis, and so forth, odds are they will make no difference. The parties will remain stuck. To quote Isolina Ricci, who has made this point in terms of neuropsychology, "If the limbic system isn't buying it, it probably isn't going to happen." I.e., if you just try to be rational and suppress emotions, you're going to get very limited results, if any.

For many higher functioning clients, just pointing out what may be the hidden emotional dynamic is enough to shift things. In most cases it's helpful to express compassion and understanding for the strategy such individuals have taken to cope with their pain. For others, just pointing out what may be happening may not be enough. Some may be too wounded and too defended to make use of such an intervention. In such cases it may be more effective to help them save face, or reframe things so they can feel less vulnerable and/or more magnanimous. Regardless of the particular way in which the emotional case is addressed, it is almost always turns out that when it is addressed meaningfully, it becomes much easier to deal with the legal case. When the parties' emotional issues have been addressed in some manner, the parties almost always are more able to turn their attention in a more rational and businesslike way to the legal and practical aspects of the case.

It's important to note that this approach of getting to the emotional truth of the case is not going to be appropriate in all cases. There are people who are either unable or unwilling to explore on this level. Some people are too shut-down emotionally, some people are too emotionally reactive. There may be cases where the parties are simply uninterested in dealing with feelings, or are too fragile to do so. However, in my experience it is simply not true that this approach is only workable with highly functional people, a tiny minority of the people we work with. In my experience most people are in a pretty vulnerable state during divorce, and hence have ready access to their vulnerability and their feelings, and are often quite eager to have these seen and validated. It's not a particular *party's* skill at expressing emotion that counts, it's the professional's skill at feeling and sensing what is truly of emotional importance to that party that

really makes the difference. I've worked with contractors and computer engineers that aren't particularly skilled at emotional inquiry who nevertheless are open to my reflections of what it is they're really feeling. So, while this may not be an approach that is appropriate in all cases, it is an approach and a set of skills that are vital when emotional issues are present and the parties are willing to address those issues. As such, it strikes me as one of the "many paths."

III. Case Examples

Case # 1

In this case, the two young parents were quite amiable, and were able to agree on virtually everything except the parenting plan. Mom wanted Dad to spend no time whatsoever with their 2 year old son. Dad, it turns out, had had an affair, felt remorseful about it, and was willing to give Mom just about everything she wanted. But he could not agree to have no contact with his son. The MHP asked Mom why it was important to her that Dad have no contact with their son. She said, "he's a monster." The MHP asked her to say more. Here's where things got mushy. She was no longer speaking from her rational self, instead awkwardly giving voice to her hurt. As the MHP continued to probe, what emerged was a sense of how intensely betrayed and hurt Mom felt by Dad leaving her for another woman. It also seemed that what Mom was saying was that she could not tolerate the possibility that she might have played a role in Dad's straying from the marriage. It appeared to the MHP that Mom's emotional reasoning underlying her legal position of no time-sharing went something like this: because she could not tolerate believing that *she* had something to do with his leaving, *he* must be the problem, *he* must be *all* of the problem, *he* must therefore be a horrible monster—and a horrible monster neither deserves, nor would it be safe, to spend any time with their child. Once the MHP identified the issue as being about Mom needing to make Dad all bad so she could feel that she was all good, she quickly saw the absurdity or untenability of her position, and she agreed to a parenting schedule that included timesharing with Dad.

Case # 2

In this case Mom and Dad, a young-looking, early middle-aged couple, were amicable, and wanted to negotiate a "separation agreement" without going to court. Mom was still living in the family home, but was now in the final stages of her education as a therapist, and was involved with another man. Dad and Mom were very clear that they were "alternative," that they wanted the process to mirror their sensitivities and values.

In the sessions there was frequently a feeling of aimless drifting, of going round in circles. This was felt most acutely when Dad spoke, a sense of a lot of words without a lot of point or purpose. There was a lot of talk about being in integrity, and a lot of talk about feelings. Several sessions passed in which nothing meaningful was accomplished. After several sessions of being utterly confused, the MHP offered the following interpretation: It seemed to the MHP that Dad was still in love with Mom and was holding on desperately to the hope that he could win her back in some way, while Mom wanted desperately to avoid hurting Dad, to avoid causing things to get ugly between them, and to avoid being the Mata Hari, the bad guy, the unraveler of their family. Both, the MHP said, were colluding in the inertia of their relationship and of the

mediation.

Mom nodded in complete agreement. Dad continued to talk about wanting to stay in the house and see what kind of new relationship might “organically emerge.” The MHP said that in his experience, before a new relationship can be born, the old one has to die. He also opined that if they were to stay in the house and wait and see what kind of relationship “organically emerged,” what would emerge would come from the same place, particularly from Dad’s inner child who will not let go of Mom. The “new” relationship, he suggested, would be a castrated one, one lacking in vitality and robustness, one that would probably not be of much interest to Mom. Again she nodded in agreement. The MHP further opined that Mom probably *would* be interested in having a truly new relationship with Dad, one forged by a new Dad and a new Mom. Again, agreement by Mom. All this hit Dad hard. But once it sank in, the MHP asked Mom if she agreed with what he’d said—she said she did—and given that she did, how does that affect her view of the housing situation. She unhesitatingly said, “I should move out.” Dad on the other hand was not ready to go there. So they agreed to meet in a couple of weeks and let all that was discussed sink in. When the session reconvened, they were able to reach agreement on all essential issues in that single session.

Case # 3

Dad and Mom came in post-divorce to discuss how they should each contribute to paying for their kids’ college education. They were both lawyers. The MHP asked them, “From your perspective, what has kept the two of you from working this out on your own?” Mom said Dad wasn’t stepping up to the plate and didn’t believe her income/expense numbers. Dad said Mom was angry. They both said they wanted to have nothing to do with the other. Mom then said that she hadn’t come here for psychoanalysis. She does construction defect litigation and just wants to get to the numbers. MHP said that’s fine, and it’s also helpful to understand what their impasse is about.

They went on to explain that both of them were in difficult financial straits. Their eldest child, their son, who was a sophomore in college, was (according to Mom) a “pothead” who didn’t want to have to study something in college just so he could make money afterwards. The younger child, their daughter, said Mom should sell her house to pay for her college so she wouldn’t have to be saddled with student loans. The kids were playing one parent against the other (e.g., “Dad’s paying X dollars, why aren’t you?”). The MHP said, “Help me understand why you need to reach an agreement with each other in the first place. What’s keeping you, Mom, from just saying to your kids, ‘this is what I’m willing and able to contribute to your education’? What’s keeping you, Dad, from saying the same thing?”

The parties stated that they were afraid of the kids saying, “Well, you’re not paying as much as Mom is,” or “You’re not paying enough so you don’t love me” (which the son had actually said). The MHP said, “It seems you’d rather have a difficult negotiation/conversation with each other than have one with your kids.” When they saw that, they realized they really didn’t need to reach agreement with each other on this. They were independent agents, and could do whatever they liked. So the session ended with no agreement being necessary. It really came down to setting firm boundaries with their kids.

IV. Conclusion

The efficiency generated by the integrative team approach not only reduces costs, but also tends to result in the clients feeling truly heard, seen, and supported, because the human or emotional/psychological aspects of their divorce—arguably the part many care about most—are being taken into consideration at every point in the case alongside the legal and financial aspects. This allows the often difficult financial and legal decisions that the clients need to make to be placed in their proper emotional and psychological context. When contextualized and “integrated” in this way, the clients are able to make decisions that are “informed” at a deeper level, which often results in greater client satisfaction with the process and its outcome, a deeper, more comprehensive level of settlement and resolution, and a more durable, lasting agreement. A truly integrative approach can also plant the seeds of emotional closure and enhanced psychological adjustment post-divorce, as well as the establishment of a better co-parenting relationship going forward on the part of the clients.