In the Metropolitan Museum of Art, in Manhattan, my wife and I stopped to behold an armless statue of Aphrodite, the Greek Goddess of Love. The placard purported to depict the sculpture’s original form in which Aphrodite’s arms are crossed in what was suggested to be a pretty half-hearted effort to cover her female parts. My wife stared intently at this iconic work for what seemed a long time, then pronounced her verdict: “Aphrodite had a muffin top.”

Now, let it be admitted, my wife is no art critic. But was she on to something? Was Aphrodite simply trying to hide the slight bulge in her midsection? As an advocate, I can make a case: Aphrodite wasn’t a prude. She roamed around naked all the time. She was the Goddess of Love, for crying out loud! Why suddenly get modest when some random sculptor wanders by? Isn’t it more reasonable to give her credit for covering up just what she wanted to cover up?

In the 15th century Botticelli painted a curvaceous Venus (Aphrodite by her Roman name), in the fashion of the time, when plenty of flesh was considered a sign of health and prosperity. If my wife had lived in the 15th century, and ran across Botticelli’s depiction, she probably would have ached for the poor underfed(!) model. Attitudes change.

And that’s the thing. In New York the fall fashions have just come out. You may love them or hate them, but you are going to be exposed to what’s trending in fashion one way or another. And you are going to have a reaction.

In law, what’s trending is collaborative practice. And people are reacting. The growth of collaborative law, especially in family law is extraordinary. According to IACP, there were about 4,700 fully certified collaborative sculptors as of September 19, 2012. And, in designing each collaborative experience, like the artist or designer, we are challenged to decide what to reveal and what to conceal. I am deliberately suggesting, of course, that what we are doing is creative, an art form, if you will. But it is a science, as well. Art and science are not dichotomous. Sculptors and painters must study anatomy in close detail. They understand light reflection and refraction, and pigments, and geometric perspective, the way clothing designers understand fabrics and patterns. You don’t become the founder of a “new school,” like Picasso or Yves St. Laurent, without first learning all the elements of your craft, and how those elements have been assimilated and displayed in the past. Without the proper context, departing from the fashion norms of your time is just rebellion, not revolution.

So before you select your legal fabrics and start cutting and sewing, join me in a walk down memory lane. The subject is divorce law in Pennsylvania. For older practitioners, this may be a fond (or not so fond) reminiscence. For many of you, it will be like stories about silent movies were to my generation, quaint but not especially interesting. For my youngest readers, born after the adoption of the Divorce Code of 1980, there may

(continued on page 10)
By David A. Miller

A heartfelt thank you goes out to everyone who has joined our new Pennsylvania Bar Association Collaborative Law Committee and to the 41 subcommittee volunteers. What the committee achieves will depend upon the continued efforts of our volunteers. I know our subcommittee chairs are sending reports on their efforts so I won’t bore you with a recap. I do however want to offer a special thanks to the Communications Subcommittee and the efforts of its chair, Mark Criss, in putting together this newsletter.

I grappled with a title for the message from the chair and ultimately decided to call my message the Peacemaker’s Corner. At a seminar in February 2012 in Pittsburgh, one of the trainers, Forrest “Woody” Mosten, encouraged us to use that term to describe what we do. It is now part of my short description of what I do. I am a “Collaborative Peacemaker.” I would encourage others to use that description if you are comfortable with it.

The word “peacemaker” has two definitions in the American Heritage Dictionary of the English Language. The first is “one who makes peace, especially by settling the disputes of others” and clearly that is what we do. The second was humorous and does not apply to what we do: “a revolver, especially the 1873 Colt model, used by law officers on the U.S. frontier.” I suppose there was no collaboration on the U.S. frontier in 1873. However, the word “peacemaker” has been around since at least biblical times. Most of us are aware of Jesus’ Sermon on the Mount during which he offered the following: “Blessed are the peacemakers for they are the children of God.” Also, President Abraham Lincoln used the word when he said as a peacemaker the lawyer has superior opportunity of being a good [person]. So, in my mind at least, with this history of the word in mind, you cannot go wrong calling yourself a “peacemaker,” unless you also want to promote yourself as a hired gun!

There is also a word I think of which describes my introduction to collaborative law. The word is “epiphany.” One definition of this word in the dictionary cited defines “epiphany” as “a spiritual event in which the es-

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BUCKS COUNTY GROUP TACKLES GROWING PAINS HEAD ON

By Tracy Timby, President

Is your practice group looking to keep the enthusiasm going or re-energize?

The Bucks County Collaborative Law group was formed by a trio of dedicated professionals in 2009. Under the founding president, Timothy Adams of the Princeton Group, the word spread and many new members joined and followed through with the Basic Training. In September of 2011, I was charged with keeping the momentum in the group going as the new President. My mission since that time has been to build trust and team in our practice group. Several professionals were involved in cases but others were not and we faced a critical point in our development. I reached out to Shireen Meistrich of the North Jersey Collaborative Law Group, http://njcollaborativelaw.com/.

Shireen came to our meeting in April of this year and offered some great ideas for Practice Development centered on team and trust building. Her key theme was to avoid the “us versus them” mentality. Speaking ill of fellow practice group members only tears the group down. Likewise, the expectation that if you train, the cases will come is unrealistic. Each and every member bears the burden of marketing for cases. Snickers were heard throughout the room that night when I asked, “At what stage of a group’s development does this pop up?” She responded, “Early, about year two or three”. We were right there and at risk. We are growing — many of us in the group are team members on a Collaborative case or are on the verge of our first case! Shireen stressed any member can be the point of entry for a case and it is critical for us to get to know each other and build trust.

Here are some comments from our group members about the experience:

I really left energized. I also thank Tracy for making the arrangements to have someone so valuable to our young group spend her time with us. So much was discussed, and so much learned. I look forward to using some of her experience to grow our practice.

Paul T. Murray, ChFC®, CDFA™, ADPA℠

Two back-to-back great programs with Katherine (Miller) and Shireen. Their practical insights, grounded in their years of experience, are quite useful.

Fredric D. Rubin, Esq.

Implementing the various small groups and online discussions is a great idea. Keeps everyone in touch and focused.

Loretta D. Hutchinson CDFA, NCC

Shireen’s perspective on the growth of her collaborative group was helpful. We sometimes get discouraged by the lack of cases and I was heartened to hear that her group experienced growing pains similar to our group.

Eleanor M. Flannery, Esq.

After Shireen’s visit we implemented her suggestions of a Bucks County Collaborative Law Group list-serv, informal brown-bag discussions where members bring concerns, challenges and of course accomplishments to share, a Lunch and Learn with an initial interview, fish bowl role play. On “tap” next — Happy Hour! Since that night in April our cases have increased and Collaborative teams have been formed by members who had never worked together before.
KEY WEBSITE LAUNCH IMMINENT FOR CENTRAL COUNTIES

By Rosadele Kauffman, President

The Central Counties Collaborative Law Community group is currently comprised of attorneys and allied professionals located primarily in Centre County. At present, we have eight attorney members, including a leading local mediator, as well as an experienced psychologist who can act as a coach or a child specialist. Additional professionals are expected to be trained by year end. We are always on the lookout for folks in the surrounding counties who are interested in joining our group.

The Collaborative Process is building steam in our area. We are in the final stages of launching our website. Besides the usual function of getting our message out to the public, the website will provide an important link to the court system. Although our local judges have expressed support for the Collaborative Process, they are understandably reluctant to give out a list of attorneys. With the website, the judges and the parenting education staff can simply refer people to the website without appearing to favor certain lawyers.

CONTINUED MOMENTUM AT CLASP

By Susan DiGirolamo, President

The Collaborative Law Association of Southwestern Pennsylvania, (CLASP) currently has more than 65 members, most of whom are attorneys, but some of whom are mental health and financial professionals.

CLASP was formed in December 2006. Since that time, CLASP has become the leader in training new collaborative professionals in our region. Each spring and fall CLASP offers the basic two-day training, which is required for membership. On several occasions we have hosted nationally known practitioners for advanced training. Our next basic training will be held in November 2012. Check the CLASP website, www.clasplaw.org for more details.

CLASP celebrated its five-year anniversary with a meeting and celebration on December 1, 2011. We followed this event with a series of strategic planning meetings which will culminate in a member retreat on October 6-8, 2012, at the Lakeview Resort in Morgantown.

Our goal for the next five years is to establish the collaborative dispute resolution process as the primary process used in family law in Southwestern Pennsylvania, and to introduce it for use in other appropriate areas of civil practice.

COLLABORATIVE FAMILY LAW AFFILIATES OF SOUTHEASTERN PENNSYLVANIA

By Barbara Zulick, Special Correspondent to The Trend

Collaborative Family Law Affiliates, based in southeastern Pennsylvania, has 48 members, composed of 40 attorneys, five financial professionals and three mental health professionals. The practice group was founded in the 1990s and continues to grow and expand its mission.

On November 2, the group is co-sponsoring an all-day workshop lead by well-known collaborative leader, Katherine Miller, Esq., with the Montgomery Bar’s Collaborative Law Committee. Montgomery Bar Association President Donald Martin, appointed the new ad hoc committee this year.

The group may be reached at www.collaborativefamilylaw.com or 877-337-0553.
CPCP FOCUSES ON GROWTH AND TRAINING

By Jim Demmel, President

The Collaborative Professionals of Central Pennsylvania has been consistently growing in both size and influence since its inception. CPCP organized a basic collaborative practice training in the fall of 2011, which was well-attended and positively reviewed by participants. We have organized a basic 32-hour mediation training and a one-day advanced mediation training for September 27, 2012, through October 1, 2012, as part of our efforts to provide ongoing education and training to CPCP members and other interested individuals.

The group has a growing presence in central Pennsylvania, with more members joining from Lancaster and York counties. To enhance our virtual presence on the internet, CPCP is revamping its website to be more informative, interactive and user-friendly for group members, other professionals and members of the public. Many of our members have joined the PBA Collaborative Law Committee and are actively involved in that effort.

NORTHWEST PROFESSIONALS HIGH ON COLLABORATION

By Zanita A. Zacks-Gabriel, President

The Collaborative Professionals of Northwest PA (www.CPNWPA.org) is a vital, thriving group in this area of the commonwealth. At present, we have 12 attorneys, three coaches/child specialists, one mediator and four financial professionals. We have a relatively sizeable list of both attorneys and mental health specialists who are anticipating training in the very near future and joining our group. It is a very exciting time.

We are a “whole group” with the International Academy of Collaborative Professionals (IACP) (www.collaborativepractice.com). We are picking up cases steadily. In fact, at least half of us have committed to the notion of “collaborative Thursdays” where we devote the entire day to collaborative meetings, appointments and so forth.

Our members are committed, and we have a number of active committees. We have already developed excellent mental health and financial protocols. We are working on additional agreements and protocols.

At this time, we have a monthly business meeting. (I am absolutely certain that the wine and cheese provided at these meetings has nothing to do with our high attendance!) Once a month we also have a round-table discussion meeting where interested professionals gather and discuss their cases, give advice and so forth. We have also instituted a third monthly meeting for training. At this point, CLASP (www.clasplaw.org) from Pittsburgh has been generous and gracious about sharing their training tapes. We are on our third training session. All three meetings have been remarkably well attended. We have a devoted, committed group of people which is an absolute delight to work with!
Pennsylvania Collaborative Practice has used this year to rebuild and restructure. We started the year with a simple social gathering where we invited people from the legal, financial and psychological professions to just chat about collaborative law. This gathering was fruitful in two ways. First, it enabled us to increase our membership. Additionally, it gave us an opportunity to connect with some professionals for whom collaborative practice is not the right fit, but who grew to appreciate what we offer, and have become referral sources.

Our group meets the second Thursday of each month at noon in the Lawyer’s Room of the Schuylkill County Courthouse. We have decided that we would alternate our meetings to allow every other meeting to be substantive. One month we have role playing and thought provoking exercises planned, along with a sharing of experiences by those who have already handled collaborative cases, reports and impressions from those who had recent training, and discussion of member’s issues and questions. The alternate sessions are devoted to business meetings, planning new PR and public awareness initiatives, and other regular business items. Since our group encompasses Schuylkill and Berks Counties, we have several members that attend via telephone. We have very active and enthusiastic members in our group who look forward to an awesome expansion and growth in Collaborative Law in our region.

Peacemaker’s Corner
(continued from page 2)

sence of a given object of manifestation appears to the subject, as in a sudden flash of recognition.” Many of you have had this experience when you first heard the collaborative law process described. My epiphany occurred in September 2006 when I heard Connie Brunt and Diane Hitzemann (two of our committee members) describe collaborative law at an introductory seminar in Pittsburgh. After two decades of family law work, it all came together in a sudden flash of recognition that signing an agreement to stay out of court, and disqualifying the attorneys if a party goes to court, was the key to a system that would work. This epiphany may explain why I am now having trouble accepting the notion of “cooperative practice” in which the key to success (the disqualification requirement) is taken away. As we move forward, I look forward to seeing how this debate between collaborative practice and cooperative practice plays out. For my part, I am still fully in the collaborative practice corner.

Finally, let’s set a goal of having maximum attendance at the upcoming meeting on November 15, 2012, at 1:30 p.m. in Harrisburg. This is our chance to see each other in person to discuss committee business. The PBA ADR committee is meeting in the morning so there is no time conflict. The time slot should also permit everyone from all corners of the state to make it. Hope to see everyone there.
Subcommittee Reports

REPORT OF THE EDUCATION AND TRAINING SUBCOMMITTEE

By Paula Hopkins, Chair

The Education and Training Sub-Committee (Michael W. Babic, Rose Evan Bana Constantino, Paula Hopkins, Julie B. Miller, Hilary J. Moonay and Tracy Timby) has met twice, by conference call, since our first PBA Collaborative Law Committee meeting in May 2012. We have identified a few priorities on which we are currently focusing our efforts.

First, many of you have responded to our request for volunteers to make presentations about the collaborative process to the bar associations in your own or a neighboring counties. We are in the process of forming a group of you who have volunteered (a sub-committee of a sub-committee) so that we can coordinate our efforts.

Second, we now have a LinkedIn page. To join, log-in to LinkedIn and then go to Group Directory. From there select the PBA Collaborative Law Group. Only those who are members of both the PBA and its Collaborative Law Committee may join this LinkedIn group. Over the next few weeks, we hope to have a profile completed for our group.

Our third project is to complete a bibliography of collaborative practice videos, books and articles.

Finally, and most importantly, we want to plan and schedule both basic and advance trainings in collaborative law across the state. If you are interested in helping with any of these priorities, please ask David Miller to add you to our subcommittee.

REPORT FROM THE SUBCOMMITTEE ON LEGISLATION AND PROCEDURAL RULES

By Zanita A. Zacks-Gabriel, Chair

The subcommittee members are planning a survey to be distributed to the entire committee, to determine the sense of the membership about the importance of adopting legislation or rules regulating collaborative practice.

Working on the assumption that some initiative will be desired by the committee at large, the survey will explore preferences between legislation and rules, and what types of legislation or rules might be desirable. The survey will use the Uniform Collaborative Law Act/Rules as a baseline reference, and it will be necessary for respondents to have a general familiarity with the Act and Rules to answer all parts of the survey. Look for the survey in your inbox, and please take some time to respond.

Following the November election the Collaborative Committee leadership will approach PBA President Tom Wilkinson for permission to correspond with Supreme Court Justice Castille, requesting a meeting with the Court’s Rules Committee. Subcommittee member Ray Pepe has authored a proposed letter to initiate the process and has offered to spearhead future initiatives, based on his experience in legislative and rule making procedures.
Subcommittee Reports
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REPORT OF THE SUBCOMMITTEE ON PROFESSIONALISM

By David Fitzsimons, Chair

The first meeting of the full committee meeting suggested the following aspirations for the Professionalism Subcommittee:

• Provide a template for a standard participation agreement
• Provide a template for a standard fee engagement letter
• Locate and maintain all written ethical opinions referencing collaborative practice
• Provide and staff an ethics answer line that members can call with questions
• Where indicated, provide an advisory ethics opinion, and keep a written record of such advisory opinions
• Consider developing a template for protocols (mandatory and suggested) for use statewide
• Recommend mandatory standards for an attorney collaborative professional
• Recommend suggested (not mandatory) standards for attorney collaborative professionals
• Adopt a system for receiving concerns about collaborative practitioners who do not meet mandatory standards
• Study whether specific experience in an area of practice is or should be require to handle a case using the collaborative practice model

That is a full agenda for the next five years!

In the shorter term, I expect the subcommittee to:

1) Focus on providing information to the committee members regarding professional ethical considerations of collaborative practice, together with any standards of professional responsibility which have been addressed and published.

2) Describe and disseminate the requirements of informed consent as provided in Pa R.P.C. 1.0 (e), a (relatively) new rule which provides useful practice guidance to any lawyer, and connects precisely (in my view) with the central tenets of collaborative practice and effective client communication.

3) Emphasize to our members the importance of how “informed consent” applies in both general legal and collaborative practice. A good participation agreement and a good fee letter (or fee letter and collaborative addendum combined) should provide a written record to establish informed consent by the client should the issue arise after a case is started.

4) Develop a checklist for the elements required for an effective informed consent in collaborative practice.

5) Examine the debate about execution of the participation agreement by parties and counsel versus executing the agreement by clients only. This was an issued raised by the Colorado Bar Association and its ethics opinion which had found that the practice of collaborative law violates Rule 1.7(b) of the Colorado Rules of Professional Conduct insofar as a lawyer participating in the process enters into a contractual agreement with the opposing party requiring a lawyer to withdraw in the event the process is unsuccessful. The Colorado opinion viewed Collaborative practice as impermissible because they found that the 4-way agreement created a non-waivable conflict of interest under Rule 1.7(a)(2). However, in the ABA formal ethics opinion promulgated by the American Bar Association, the ABA disagreed with the Colorado opinion because they felt it turned on a faulty premise.

As a “trained but not practicing” collaborator [my initial interest is as a mediator] I am intrigued by the fact that various collaborative groups which have developed by geographic connection, have independently developed standard materials for Participation Agreements and other matters. I would like to have a geographically diverse subcommittee which can review all such materials, and possibly recommend agreed minimum standards, statewide.
REPORT FROM THE PUBLIC EDUCATION SUBCOMMITTEE

By Diane Hitzemann, Chair

The PBA Collaborative Law Committee Public Education Subcommittee (Public Education) has identified the following 2012-2013 objectives: to provide educational resources and to provide a structural framework for Collaborative Law Committee members to educate the public about choices in dispute resolution.

From regional meetings the committee identified creation of a PBA Collaborative Law brochure and a Collaborative Law PowerPoint presentation as needed resources. Public Education raised questions related to the logistics of designing and printing a brochure and what funds are available to do so. We decided to research how PBA brochures are developed and funded, after which we can determine whether the development of a brochure is economically feasible and how best to achieve this objective.

Those members familiar with the IACP PowerPoint Presentation developed in 2007 agreed that it is a flexible and effective presentation tool, which can be adapted in duration and content by a presenter. We determined that a prototype 20-minute bullet point outline presentation with accompanying PowerPoint slides would help Collaborative Law Committee members provide public education presentations. We intend to challenge every Collaborative Law Committee member to provide a minimum of two public presentations in the next year. Potential recipients include service groups (Lions, Kiwanis, Rotary, etc.), clergy, church groups, human resource professionals and employee assistance providers. Public Education is willing to compile a report of presentations made throughout the state to provide outreach ideas for members to educate the public about the Collaborative process option.

Public Education also identified the importance of presenting a choice of options for all new client consultations; many Collaborative professionals offer a free one-half hour consultation to potential clients about choice of legal process. We agreed that a “fish bowl” training format about how to have the conversation describing available options would be helpful if time can be allotted at a Collaborative Law Committee meeting. Another training idea is to provide an overview of available IACP website resources. ✫

PBA Committee/Section Day

Nov. 15, 2012
Holiday Inn East
Harrisburg, Pa.

Collaborative Law Committee: 1:30 p.m. - 3:30 p.m.
Collaborative Practice Leisure Suit or Little Black Dress? (continued from page 1)

be some problem relating to this antediluvian tale at all. Close your eyes.

The year is 1977. A tumultuous time to be alive. The Cold War, high interest rates, and disco (Donna Summer excepted) are vying with one another to end civilization as we know it. Thomas Wolfe famously labels it the time of the “Me Generation.” As the pace of communications and travel accelerates, so too does the rate of divorce. Marital relationships, once sacrosanct, are becoming increasingly easy to discard, as no fault divorce sweeps the nation. But in Pennsylvania, the levees are stout and, for the moment, divorce trends are in abeyance.

Getting a divorce in Pennsylvania in 1977 was pretty much the same as it had been since 1780. There were three parties; Husband, Wife and the commonwealth. That’s right, the state. The state was deemed to have an interest in the sanctity of marriage — really, the integrity of households — because the taxpayers didn’t want to have to support indigent ex’s as public charges. Did I mention there was no alimony, except for the institutionalized insane? So you had to have “grounds” for divorce.

Frankly, grounds were plentiful; incurable impotence (if known to the impotent party and concealed at the time of marriage), bigamy, desertion, adultery and cruel and barbarous treatment to name a few. But the leading ground for divorce, probably by a 50:1 margin over all the others put together was indignities. Who, practicing in 1977, can forget the soaring prose of that era? The Complaint charged that “the Defendant has engaged in a course of conduct whereby he/she has committed such indignities to the person of the Plaintiff, the injured and innocent spouse, as to render his/her condition intolerable, and life burdensome.”

Well, on the surface of things, that sounds pretty much like your average marriage on a bad day, when somebody leaves the toilet seat up or burns the vanity top with her curling iron, and you feel like a victim. But bear in mind, if he left the seat up, and she burnt the vanity, neither was innocent and injured; ergo, no divorce. So, to prove indignities in 1977 we needed to go beneath the surface and deal with the real human drama in the marriage.

We would explain to the client that, in general terms, “indignities consists of everything that annoys you about your spouse.” There were specific, useful guideposts abundantly available in the case law. To this day, 32 years after they were last dusted off for use at trial, these timeless phrases come effortlessly to mind: intentional incivility, habitual contumely, settled hate and estrangement, vulgarity, malignant ridicule, studied neglect and unmerited reproach. Good stuff.

Now, if you were the defendant, you had quite a few cards to play, regardless of the merits of the plaintiff’s case, because all you had to do to win was play for a tie. If the plaintiff was as big of a boozer, jerk, fornicator, or whatever, as you, he/she couldn’t be “innocent and injured.” Or, if you just called her a “GD *expletive* *expletive* only once then, again, no divorce, because indignities involved a “course of conduct,” not a single incident. And there were specific defenses, like recrimination: “he did the same thing to me;”or condonation: “she readmitted him to her conjugal embraces with knowledge of his infidelity.”

You get the picture, wheels within wheels, and a lot of moving parts.

It followed that, if your client was accused of indignities, you needed to know what the specific allegations were before you went to trial. So you praeciped for a Bill of Particulars. And this is where it really got good; you got chapter and verse on whatever perversions your client had perpetrated or repeatedly threatened. Did he photograph her in the shower and show the pictures around the Elks club? Did she run screaming from the house and threaten suicide when he tried to have sex with her, then return to the marital bed with her mother and a young girl in a continued effort to repel his advances?

Picture yourself, daydreaming in your office three weeks after serving your praecipe. The secretary taps on the door and enters with the afternoon mail. On top is a somewhat bulky, carbon smudged envelope with a return address you recognize. Is this it? Yes, it must be! Back then, you may have lit a cigarette, savoring for a delicious moment or two, the suspense of not quite knowing, and the impending joy of finding out. Finally, fingers trembling slightly, you slit the envelope and spread the Tales of Degradation upon your desk. Sometimes, there was just a routine litany of swearing, drunkenness, public humiliation and name calling.

Occasionally though, if your adversary was a truly artistic practitioner, the Bill of Particulars became a real page turner, containing morsels of salacious detail, while hinting at carnal acts so unspeakably licentious

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as to prevent the writer from, in good conscience, spreading them upon the public record “at this stage.” The bodice, in such cases, hung by a thread, in jeopardy, but intact until trial. It was a great era for drama.

Confronted with the often sordid, always censorious tale of their bad acts and shortcomings, clients predictably reacted with emotion. They cried, denied, lied, defied, and heatedly replied. Just like real people in real relationships. Was it really so bad to require people to vent about and thrash through their conflict before they got their divorce?

Apparently it was, because in 1980, the Legislature adopted the Divorce Code, and spoiled all the fun, supposedly, to:

(1) Make the law for legal dissolution of marriage effective for dealing with the realities of matrimonial experience; (2) Encourage and effect reconciliation and settlement of differences between spouses, especially where children are involved; (3) Give primary consideration to the welfare of the family rather than the vindication of private rights or the punishment of matrimonial wrongs; (4) Mitigate the harm to the spouses and their children caused by the legal dissolution of the marriage; (5) Seek causes rather than symptoms of family disintegration and cooperate with and utilize the resources available to deal with family problems; (6) Effectuate economic justice between parties who are divorced or separated and grant or withhold alimony according to the actual need and ability to pay of the parties and insure a fair and just determination and settlement of their property rights.

The vehicle chosen to convey us to this Valhalla was, of course, no fault divorce, with an expanded menu of economic rights. After the adoption of this well-intentioned law, which unfortunately did nothing to change human nature, some new trends in divorce practice became evident. Practitioners came to explain to clients that the law of divorce is not concerned with the physical and emotional torture to which they and their kids have been subjected; judges don’t attach much weight to even flagrant adultery; and putting their spouse’s name on that inheritance, or using it to pay marital bills, was a big mistake, in hindsight.

All of my readers, as collaborative professionals, know that no fault divorce as practiced in Pennsylvania has not reduced or eliminated conflict associated with divorce. The law has redefined which aspect of the conflict — money — the courts will deem to adjudicate. In the days when divorce was a moral drama, the goal was nothing less than freedom. Under no fault, freedom is a given, the contest is just about money and control. It has reached the point where practitioners have become uncomfortable with clients’ normal emotions, counseling against even thinking of “finding fault.” Somehow, despite the legislative attempt to dispel fault from our consciousness, divorcing parties still haven’t come to perceive the law of divorce as a fair way to resolve conflict. How odd.

The public is not entirely happy. Seemingly, some citizens refuse to be educated about how lucky they are to live in an era of no fault divorce. Practitioners are unsettled by some client’s inability to appreciate even excellent (monetary) settlements or judgments. “What do you mean, you aren’t happy?” Into this unsatisfactory world, in 1990, collaborative practice was formally imagined by Stuart Webb, and since then has been fashioned and refined by Webb and countless others.

The genius of collaborative law lies partly in its understanding that, while conflict is universal, each conflict is unique. Like our mediation brethren, we study conflict as a threshold subject to be deeply understood, not pushed aside in an effort to reach a “decision.” The study of brain science as it relates to conflict is becoming a matter of importance to every serious collaborative practitioner. This approach has contributed to a continuously evolving palette of techniques for managing individuals in conflict, without denying the individuality of their conflict.

Still in its infancy, collaborative law manages to strike a balance between wallowing in the emotional conflict of divorce, as we did in 1977, and the no fault era’s futile attempt to classify as unacceptable or irrelevant, certain typical human responses to relational conflict. Collaborative professionals acknowledge and deal with the emotional issues present in the conflict. Without that acknowledgment, there would be no point to our technique of challenging clients to aspire to their highest and best selves, and put aside their shadow selves, in settlement conferences.

Collaborative Practice Leisure Suit or Little Black Dress? (continued from page 10)
Committee Chair Recognized by PBA President

By Linda Pellish

David Miller, PBA Collaborative Committee chair, was presented with an award from then-PBA President Matt Creme, at the House of Delegates meeting in Lancaster on Friday, May 11, 2012, the last day of the PBA Annual Meeting.

The plaque presented to Dave states that the award is for his outstanding efforts to establish the Collaborative Committee, “which promises to be a very active and dynamic committee in the coming years.” The PBA not only recognized Dave’s great work, but also recognized the positive energy of the collaborative process and those who do collaborative work.

On behalf of our entire committee, I would like to wish Dave congratulations on receiving this award and our thanks for bringing us this far. I know with Dave’s guidance we are going to do amazing things as a committee! *

Collaborative Practice Leisure Suit or Little Black Dress?
(continued from page 11)

extremely dynamic, in comparison to the labored way change usually occurs in the legal world. The energy and success of each collaborative experience stimulates not only the practitioner’s appetite for more of the same, but a desire to innovate and experiment, as befitting a movement so young. Finally, we are inspired to share our experiences, innovations and experiments with our fellow collaborative professionals, as well as colleagues not yet initiated. From the perspective of an old timer, who has been on the firing lines of divorce litigation for 35 years, I am convinced that collaborative practice is truly what it claims to be – a paradigm shift – a new and superior approach for addressing conflicts having legal implications, a constantly evolving discipline which will become the norm within the next generation. The business of this committee’s newsletter, then, will be to chronicle The Trend. *

Footnotes

1 Turns out this conduct wasn’t an indignity, at least in Fayette County in 1921. See Aller v. Aller, 1 Pa D & C 16.
2 P. G. Wodehouse, creator of Jeeves, Bertie Wooster, and many other unforgettable fictional characters, likened his nonviolent stories to Greek tragedy in which “the really rough stuff takes place offstage.” To me, this is why using divorce coaches is so important to the success of collaborative divorces: There is somewhere for the emotional “rough stuff” to take place away from the full settlement conferences. But it is dealt with, not ignored.