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Sting of divorce is less if parties try cooperation

SANTA MONICA — Family law attorney Michael Kelly believes the financial and emotional sting can be removed from divorce proceedings if both sides agree to work in cooperation rather than as adversaries.

Kelly, who has been practicing his "mellow" form of divorce law for the past six years and lectures on the subject, says the vital component is good will on both sides.

"This is not a process that can be done unilaterally. It requires cooperation and an intention (to settle rather than litigate)," he said. "I cannot produce that result when the other party will not do it."

In fact, Kelly has been known to turn away clients having a "get him" or "get her" attitude.

He avoids the courtroom battlefield, preferring to settle matters in private consultations with the feuding spouses and attorneys. He reminds the divorcing couple that until they put the hurt and resentment resulting from the marriage behind them, they can't get started with their new, separate lives.

"You can take a divorce two ways," he says. "You can either say, 'Oh my God, here we go, I'm gonna have a couple of terrible years.' Or you can say, 'I'm gonna be a responsible adult and take the circumstance and choose to have it be an opportunity for me to have personality growth through it, physical growth through it and actually expand my horizons.'"

Kelly first advises his clients to have a physical checkup, believing that the tension buildup associated with divorce can produce ulcers, colitis, backaches, headaches and "all kinds of physical problems people get from being in incredible stress."

And he cautions against alcohol and drugs, such as Valium, as an unhealthy refuge from the pain and stress.

Then, usually within a week of taking on a client, he arranges a face-to-face session with the opposing spouse and lawyer.

"If you start out your conversation with another lawyer saying, 'What can we do to handle this problem between our clients?' as opposed to 'My client just told me your client (cheated) him or was a liar,' you start steering him toward a mutually acceptable termination as opposed to a useless confrontation," he said.

Next, he separates the issues that both spouses agree on from those in conflict, as means of minimizing the number of matters that must be negotiated. Also, he urges concessions, telling his clients, for example, to forget about who gets to keep a particular antique.

But doesn't playing Mr. Nice Guy put him at a disadvantage in a field dominated by "bombers" — unmerciful, grab-for-the-jugular lawyers who seek to wring every last penny from the opposing spouse?

No, says Kelly, noting that he stands up for his clients as much as necessary.

"What that's saying is, 'I'm gonna get a bigger stick and beat you to death for leaving me,'" he said. "I cannot, obviously, and will not

stand idly by with a complete peace branch if I am dealing with one of the lawyers who simply litigates a case, period, no matter what happens."