



Book Review *The Four Ways of Divorce: A Concise Guide to What You Need to Know About Divorce Using Litigation, Negotiation, Collaboration and Mediation So You Don't Pay More Than You Should*

By Rachel L. Virk, 209 pages, Vanguard Books, LLC (2009)
Reviewed by Anu Osborne, LLM (ADR)

You may need to journey down the warpath to finally stand up for what you must. Or if you and your X2B don't hate each other just because you are getting a divorce, you may work together to custom design your new separate lives, or your restructured family. Whichever path you take, whether adversarial or nonadversarial, this book will guide you on your travels, and will point out for you what you need to think about and look at along the way.

The Four Ways of Divorce is meant to be a guide for those who want to be actively involved in re-designing their future following a separation. This book takes the reader through the process of separation and divorce: from the progression of emotions, to the impact on children, to the issues that must be addressed, to the options and processes available to address the issues, and to the selection and use of legal and other professionals to assist in the resolution of the issues. The focus throughout is on how one can minimize legal costs.

Lawyers who wish to inform clients about the pitfalls of litigation could suggest they read *The Four Ways of Divorce*, for it makes this point clear: “[L]itigation is a poor and outdated way to resolve family disputes.” *The Four Ways of Divorce* is also effective in suggesting how clients can be participants in the process they select to save costs. It contains some negative comments, however, about the practices of lawyers. Each lawyer must decide whether he or she is comfortable with these comments before recommending this book to their clients.

The author, Rachel L. Virk, is a lawyer and certified mediator who practices in Virginia. She litigates, negotiates, collaborates and mediates divorce cases.

Virk advocates for peaceful means of resolution: direct dialogue between spouses, mediation and collaboration. Virk’s goal is to encourage separating spouses to use direct dialogue as much as possible, in order to minimize emotional and financial costs.

Virk highlights the complexity of issues that separating spouses must address by posing a series of questions. She does not answer them; rather, she provides general information and warns that this information is not intended to be legal advice.

Virk states that there is a need for legal advice. She advises that the lay person should not draft legal documents, including separation agreements. Virk also states that proper therapeutic assistance and financial advice can be critical, whether in litigation, negotiation, mediation or collaboration. She states

that although experts are expensive, uninformed decisions are more expensive.

Virk’s message about the need to obtain appropriate professional advice is weakened, however, by contradictory messages. To save costs, she suggests, for instance, that direct dialogue is preferable so as not to “...waste money on lawyers” and “[e]ven sitting in a gourmet restaurant is cheaper than sitting in your lawyer’s or in your mediator’s office,” and that the use of mental health professionals in Collaborative Law cases may increase costs.

Virk provides an overview of litigation, adversarial negotiation, mediation and collaboration. Her preference for mediated settlements is obvious in her language, in her comparison of the four processes and in her description of Informative Mediation.

Informative Mediation is an evaluative approach to mediation. Participants are informed of the applicable law by the lawyer-mediator. They are not given legal advice, but the mediator does share how others have resolved similar issues in an effort to reduce costs. Participants thus hear what they might otherwise hear from lawyers. They are still encouraged to obtain legal advice during the mediation and at the time of the finalization of the separation agreement, which the mediator drafts.

Virk advocates for a dignified and respectful approach to separation and divorce and recommends listening to one's spouse and children, without anger or denial.

Virk’s view of Collaborative Law is that it is an alternative to mediation in circumstances when “...you need someone on ‘your side’ protecting your individual interests and [that] the mediator is too neutral for your liking. If you are in an abusive relationship, mediation may be inappropriate. You may want a lawyer to help you, but you ‘don’t want it to get adversarial.’ You may then want to explore the possibility of resolving your divorce collaboratively.”

Collaborative Law practitioners may not agree with some of Virk's perspectives about the Collaborative process. Nonetheless, Virk's overall review of the Collaborative Law process is positive. She states that "collaboration is respectful, private, more economical than litigation, more dignified than litigation and will certainly preserve your family relationships while resolving your marital relationship. The process however is not inexpensive. The benefit is that you have the opportunity to gain deeper insight into some of the emotional, psychological and financial issues surrounding the breakup of the marriage than you would have gained using traditional negotiation. You can then use that insight to determine how best to move forward."

Virk also refers the reader to the website of the International Academy of Collaborative Professionals and the online directories of local organizations to locate trained Collaborative Law practitioners.

Virk's writing style is direct. She uses lay language in an effort to engage her audience: the average separating person. In an effort to persuade her audience not to spend money needlessly, nor to engage in destructive behaviors and resort to adversarial negotiations or litigation, she uses humor, gentle sarcasm, tongue-in cheek comments and metaphors. She states that "... [if] life is an ocean, divorce is a riptide. Don't let the ending of your marriage pull you down to dark places where you'll founder. Keep your chin up, and ride it out until you recover, overcome, take new bearings and safely reach shores of new possibilities." Her graphic account, for instance, of the courtroom experience, would be a compelling deterrent to anyone contemplating litigation.

In *The Four Ways of Divorce*, Virk suggests that divorce is an opportunity for personal and spiritual growth. Virk advocates for a dignified and respectful approach to separation and divorce and recommends listening to one's spouse and children, without anger or denial. She suggests that thoughts of revenge and vindictiveness be set aside and recommends repeated reading from her list of thirty-six positive affirmations to convince and empower oneself to do what is best for one's family. Overall, Virk recommends that one behave in a way that one will later be proud of.

The Four Ways of Divorce is composed of fourteen chapters. They range from "Where to Start with Divorce" to "What Happens if We Go to Court." The chapter entitled "What About the Children?" is excellent. It has four pages devoted to the subject of how children can become emotionally damaged during the process of separation and divorce. By repeatedly using the phrase "[c]hildren can be emotionally damaged by..." and giving examples of destructive behaviors, Virk stresses the responsibility that the separating spouses have to act in the children's best interests by resolving their dispute amicably.

The appendices contain a table that compares whether or not court appearances will be required, cost, participant control, how decisions will be made, level of animosity, and the level of healing and goodwill. The appendices also contain forms for the organization and collection of financial information. C

The Four Ways of Divorce concludes on an optimistic note with six recommended practices:

1. Be your best. Conduct yourself honorably, truthfully and as an example to others.
2. Put your children first. Make decisions about your new life that are in their best interests, and not only yours.
3. Take care of yourself mentally, physically and spiritually.
4. Be smart about ensuring and working toward a financially secure future.
5. Act in a socially responsible way. Don't create dysfunctional children who will become a drain on society.
6. Remain optimistic about the future.

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