

MIDDLETON FAMILY COLLABORATIVE DIVORCE

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Brad offers this fictional account of one family's collaborative divorce to help partners considering collaborative divorce to better imagine the process. Brad also hopes to help attorney professionals better grasp the dynamics of collaboration and deliberate the trajectory of their legal practices.

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First Segment:
TINNITUS

Helen Middleton sits before my hear-see-speak-no-evil monkey sculpture. She smiles for an instant, pain etching her eyes. I introduce myself, and offer water. Helen nods without speaking. My Client Information form waits for her. A tear splashes in the “spouse’s contact information” block. I set Kleenex on the table. Helen melts. Tears well and stream. Eyeliner smears. She coughs out, “My life is ruined.”

We wait in silence. She fills the form, soothing herself by rummaging in her purse for numbers. Helen sips water. Then she croaks her story: wandering husband Joe, possibly unfaithful; two scared kids, Peter (7), and Hallie (9); bills gobbling paychecks, ravenous. Three rounds of marriage intervention: their pastor, a therapist she chose, and, last, one Joe picked. Her eyes whisper, *For naught. All is lost.*

I know it is not so, but doubt it will help to contradict. I listen for another half hour. I take notes, and keep what eye contact she permits. Helen’s breathing stabilizes. Tears dry. Her hand stops trembling. She settles the much-fidgeted pen. Helen looks at me. “What should I do?”

Helen wants rescue, wants *me* to rescue her. I want to rescue Helen; the idea stokes paternalist fires and heroic self-delusion. I resist. “What do you want to do? If you summon the best parts of yourself and bring them to bear, what will you do?” Helen knits her eyebrows. She asks about the law. I tell Helen the law. I also tell her the courts will not help her, and will likely injure her and Joe, Peter and Hallie. Helen puzzles. I ponder what I might say that could be helpful.

Much in our culture undermines Helen. Her meaning is fractured. Sigmund argued that examining the meaning and value of one’s life is a sickness, because neither exists. If Freud is right, Helen is sorely deranged. Helen prays to redefine meaning, reshape her future. I hope she will find truth in Abraham Heschel’s insight: “Life is not meaningful . . . unless it is serving an end beyond itself; unless it is of value to someone else” (*Man Is Not Alone*, 1951). Helen is that sort of person, I think. I suspect she will want to collaborate.

I raise my eyebrows, crinkling my baldness. “We could collaborate your divorce. You can stay out of court, protect your children, respect your spouse, and stick by your values.” I give Helen a collaborative divorce book to read. She shuffles out my door, stunned with that tinnitus of soul which the din of divorce summons. “Call me Tuesday.” Helen nods.

A weak smile creeps onto Helen’s lips, a wan glimmer of hope. I recognize in it the beginning of a collaboration.

Second Segment:
HANNIBAL

Helen Middleton’s husband, Joe, seeks divorce counsel. Helen is pushing Joe to speak with a collaboratively-trained attorney. She shoved a book about collaborative divorce into his hands over their last coffee. Joe skimmed it, but had difficulty focusing. Helen’s shrill staccato, her usual tone these days, makes Joe’s skin itch. It was not always so. *When did Helen stop cooing to me?* Joe wonders. Helen believes collaboration will protect Peter and Hallie, their seven and nine year olds. And “We can be fair with one another,” Helen predicts. Joe doubts that, but hates conflict. Joe’s bowling buddies urge a pit bull lawyer. They should know. They’re all divorced. Joe is confused.

Joe calls two Snohomish County attorneys. The first, J. Something Something, knows nothing about collaboration, but opines that bear hugs and Kumbaya won’t settle Joe’s divorce. The second, Hannibal Zazie, a solo practitioner on Colby Avenue, says he took collaborative training from a couple smart Redmond ladies, but still litigates. Joe makes an appointment.

Joe’s Starbucks steams. Hannibal settles into his well-worn chair and loosens his tie, “I’ve got some questions.” “Mine first,” Joe interrupts. Hannibal nods.

“What’s collaboration?” Hannibal purses his lips, “I don’t know that much. Sat through some yammer last winter when I needed education credits. I’ve been litigating for forty years. I’m not gonna start rethinking all of law now.” Joe frowned, “What do the collaborative folks want to change?” Hannibal sniffed, “Pretty much everything. They want everyone to divorce outside the courts, except hopelessly nasty couples. They make a commitment to stay out of court. They push creativity, out of the box stuff. They want clients to invent their own solutions, with help. It’s a team thing; the lawyers pull together

communication, parenting, and financial professionals. They talk a lot about good faith and kids. They even want to do probate and medical malpractice and small business and neighbor disputes that way.” Hannibal paused, then sniffed, “I’m a lawyer, for gossake. I don’t do emotions.”

Joe speculates, “The collaborators must be newbies, huh?” Hannibal shakes his head, “No, Joe. These folks are mostly experienced litigators--fed up with the system.” “Why’s that?” Joe sought. Hannibal sighs, “Here’s how court works, Joe. You hire me. Helen hires someone. We get in front of a commissioner. I make Helen sound bad. Her attorney makes you sound bad. Then an overworked stranger decides when you see your kids and who gets what money and bills. You both hate the decision. Basically, after that first hearing, you and Helen will never again exchange a civil word.”

Joe’s eyebrows furrow, “But then it is pretty much over, right?” Hannibal frowns, “No. Helen’s lawyer and I exchange nasty-grams for a few months. Trial approaches. People settle to avoid the costs. Very few get before judges. Then, you’re divorced, sort of. Every couple years, one of you will try to modify the orders. That will last until your kids are in college.” Joe sputters, “That’s a decade!” Hannibal purses his lips, “Yup. It’s like old Tacitus (Roman, 1st century A.D.) said, ‘A bad peace is even worse than war’ (*Annales*). Litigation makes unstable resolution, Joe. If you want a shot at stability, don’t litigate. The courthouse is all about litigation.” Joe rocks back in his chair, “That was frank.” A wizened smile tickles Hannibal’s lips.

Online, Joe found collaborative lawyers in Everett. He called one, and Helen.

Third Segment: FOUR-WAY

With trepidation, Helen and Joe Middleton are divorcing. Middletons gulp at the risks to their children (Hallie and Peter, now nine and seven). Joe interviewed Hannibal Zazie, Everett courthouse curmudgeon, who said family litigation is like appendectomy by chainsaw. Middletons know their marriage is over. A sequel must be written. And they want to do that well. Joe hired Everett collaborative attorney, Marge Stimson. Helen hired me. Marge and I took collaborative training together.

Marge hosts Middletons’ initial four-way meeting. Helen and Joe and Marge and I sit with coffee and pastries around Marge’s downtown Everett conference table. We make small talk. Helen wrings her hands, forces a laugh. Joe shifts in his chair. Outside, rain soaks the harbor’s fog.

I begin: “We are starting a conversation, a series of structured talks over months. You both feel discomfort. What was normal between you has collapsed. In our talk, you will fashion a new normalcy. This will not be an easy exchange. An old Greek said, ‘Learning is no amusement, it goes hand in hand with pain.’ (Aristotle, *Politics*). My job, with Marge, is to make this a safe and effective place to talk, and to get your paperwork right at the end.” Marge nods and hands Helen a Kleenex.

Taking turns, we read the Collaborative Participation Agreement out loud, paragraph by paragraph. We highlight deviations from litigation: no courthouses, a professional support team, no bad faith acts, complete transparency with voluntary full disclosure, open communication, no seizing advantage from error or oversight, brainstorming, team communications, expansion of confidentiality boundaries, expansion of the scope of dissolution issues, divorce communication coaches, child specialists to give the kids a voice, and a certified divorce financial analyst to project outcomes of contemplated money scenarios. As the minutes pass, Middletons’ flurry of questions subsides.

Marge directs, “Now to high end goals. Helen, what do you want for Joe’s life, and for your own life, thirty years from now?” Helen opens her mouth, then bursts into tears. We take a break. Twenty minutes later, Helen offers, “I want us both to have financial security, a great relationship with our kids and grandkids, and to be friends.” Joe nods. He adds, “And to be happier.” I scribble notes. We set a tentative schedule, assign homework for each person, and ask Middletons to meet with divorce coach Susan Saltish, a couples communication specialist.

In the hallway at the elevator, Joe asks, “Latte?” Helen nods. They walk to Coffee Corral, where clothing is mandatory, and the coffee—not the barista—is hot. Over mugs, Joe says, “Sounds expensive. All those professionals...” Helen shoots, “No, Joe. I looked over the collaboration budget. It seems reasonable. If we argue like maniacs, this gets expensive no matter how we do it. The divorce coach will help us.” Joe frowned. Helen chided, “Come on, Joe. If we sold our house, we’d pay ten percent

transaction costs. This divorce is a big transaction. We need to do it right--for the kids, for ourselves.” Joe raised an eyebrow, then nodded. He flipped open his phone and punched in the divorce coach’s number.

Fourth Segment:

RESOLUTE

Joe Middleton plops himself on a barstool next to Hannibal Zazie at Everett’s Balefire. They shake hands. Joe orders Heineken, and says, “Surprised you called.” Hannibal smiled, “Me too.” Joe continued, “You know I hired Marge Stimson to collaborate my divorce.” Hannibal slurps Cragganmore, “Yup. I’m not looking for a client, Joe. Just interested in this collaboration thing.”

Joe wonders, dabbing condensation on his beer glass, “To me, my divorce is riveting—like rivets through fingertips. But to you, Hannibal, my mess has got to be plain vanilla: two kids, flirtations with infidelity, a house, IRAs, credit cards, hard feelings.” Hannibal nods, “My interest is not your facts, Joe. It’s your process.” Joe asks, “Collaboration?” “Yup,” Hannibal taps his temple, “Inquiring minds.”

Joe confesses, “Your litigation talk scared the bejeezus out of me.” Hannibal grimaces, “Never been much of a salesman.” Joe continues, “The attorneys, Stimson and that rotund Lancaster guy, met with Helen and me. We all agreed to collaborate, act in good faith, make full disclosure. Frankly, a lot of that meeting slid by me. It was hard sitting there with Helen.” Hannibal turns toward Joe.

Joe continues, “Last night, Helen and I talked for a couple hours with our divorce coach, Susan Saltish. It was pretty amazing. She started with Helen. Helen rattled off her litany about me and life. Susan stopped her, and began asking questions. How are you right now? What are you feeling? What do you need? What do you want? How are your kids? How do you think Joe is doing? What do you want for Joe?”

“I jumped in, and suffered Susan’s lecture on courtesy and respect. Susan fixed her eyes on me: ‘Listen. Enter Helen’s perspective. You’ll get your turn. Winston Churchill (British, 20th Century A.D.) said: ‘Courage is what it takes to stand up and speak. Courage is also what it takes to sit down and listen.’ You will need to be resolute in speaking **and** listening in this room.”

Hannibal smirked, “Preachy witch.” Joe shakes his head, “She was tough. But Susan was right, Hannibal. I never really listen to Helen. Last night I listened for an hour. I learned the Helen of old is still buried in her bean somewhere. By the time Helen was done, I felt pretty overwhelmed. Susan saw that, and called a break.”

“I began my turn: ‘I want to set the record straight about....’ Susan interrupted me, ‘Don’t. We’re talking now and the future. The Middleton past is relevant only to the extent it affects now and the future.’ So, I told Susan and Helen how I was feeling, what I want and need. I got teary about our kids. I am so afraid for them; I have read about divorce and kids. The amazing part was Helen listened. For a decade, our conversations have died at thirty seconds. I speak; she blows up. She speaks; I sit silent. Helen listened for an hour. That lifted a burden. I felt better. Is this what you want to know about our collaboration?”

Hannibal sighs, “I don’t know what I want to know. After my temporary orders hearings, clients are unspeakably angry with one another. Your experience is....” Joe finishes for him, “Different.” Hannibal purses his lips, “No. Intriguing.”

Joe starts to pay for his lager, but the barkeep waves him off, “Lecter caught it.” Hannibal winks.

Fifth Segment:

ALARM

Helen and Joe Middleton enter the child specialist’s Everett office, another facet of their collaborative “divorce with dignity.” Gold letters read “Jamie Langdon, MSW, ACSW. Child Specialist.” Helen whispers, “The kids are fine, right?” Joe shrugs, doubting it. Helen looks away. Jamie greets them, then they sit at Jamie’s conference table. The three chat over coffee. Jamie lays out her program, “Tell me about your kids. I will meet with your children individually. Then I will help you create a post-divorce family structure to keep your kids prospering.”

Helen shares pictures of the kids, and rattles off their statistics: seven, nine, elementary school near home, Peter the perpetual clown, Hallie so serious, good students, generally respectful, much loved.

Helen concludes, “So, overall, Peter and Hallie are doing great. Right, Joe?” The moment of truth, which Joe has been dreading. “I hope they’re good.” Silence ensues. Jamie prods, “But....?” Joe frowns, “Well, both have been listening more, and being really helpful.” Helen laughs, “That’s a problem? You’d gripe about surplus chocolate cake and sunshine.” Joe sputters, “I’m just saying--things have changed somehow. A month ago, Hallie and Peter yammered and giggled more.” Helen sniffs, “I don’t see that.” Jamie stretches out a palm, “Let me repeat what I am hearing. Helen hopes the kids are doing fine, and has not noticed anything very different in their behavior. Joe worries that subtle changes he’s noticed portend greater changes, possibly negative ones. Is that right?” Joe nods. Helen says, “I suppose.”

Jamie continues, “Separating parents have difficulty seeing how their divorce affects their kids. The transition demands so much of parents individually—new routines, grief, job changes, compressed time with children, new people. Most parents parent less well during and after divorce.”

Helen intervenes, “Joe and I still support one another. We each see the kids about the same number of hours as before.” Jamie catches Helen’s eyes, “I am sure. And that is good. I need you to hear me on some difficult thoughts.” “Okay,” Helen says. Joe nods. Jamie continues, “Statistically, children of divorce are more frequently disciplined at home and school. They are more often depressed, less studious, more distant from friends. Children of divorce mature more slowly, commence sexual activity sooner, bear more children unwed, marry less often and for shorter periods, are more likely to be jailed, do drugs, and commit suicide.” Helen and Joe sink back in their chairs, stunned. Jamie goes on, “I am not saying all—or any—of these particular things will happen to Peter or Hallie. I am saying your kids emerged from your togetherness—their physical bodies, their psychological selves. Yours is their primary social world. Your marriage implants expectations about their own chances for future relational success.” Helen flares, “You’re saying we should not divorce!” Jamie shakes her head, “No, I am saying that your divorce injures your children. It’s your job to minimize that damage. My job is to help you see your divorce from your kids’ perspective. For them, this transition is a cataclysm.” Red splotches appear on Helen’s neck.

She spits, “This is crap.”

Jamie winces at Helen’s pain, “Tell me what you are feeling.” A tear courses down Helen’s face, “Can’t. I’m done for today.” Helen’s cell phone rings as the door clicks shut behind her. Joe grimaces, “Stormy, isn’t she?” Jamie sighs and starts clearing coffee cups.

Helen sticks her head back through the doorway, flustered. “We gotta go, Joe. Peter pulled a fire alarm at school. An officer’s got him in the principal’s office.” Joe pops up. Jamie injects, “I will call tomorrow to make a time to visit with Peter. And Hallie.”

Helen nods, abashed. “Sorry,” she says. “Just shooting the messenger.”

Sixth Segment:

HOME(S)

I set the conference table with pads and agendas for our six-way meeting. A knock comes at my door. There stands Hannibal Zazie. We hug like two well-fed bears. Years ago, Hannibal and I stood before judges and commissioners shredding one another’s clients in family cases, before I swore off. Now, we drink scotch together, when opportunity arises. “Odd to be here,” Hannibal says. I smile, “I’m glad you are here, my friend. Just be a bump on a log. Middletons are happy to have you sit in. They signed the waiver. I put a chair over in the corner for you.” As Joe and Helen arrive, Hannibal grazes the fruit and cold cuts on the counter. Jamie, the child specialist, slips into her chair, as does Middleton’s coach, Susan Saltish. Marge Stimson, Joe’s counsel, bustles in, out of breath, “Damn freeway.” My paralegal brings Marge her usual cup of coffee, steaming and black.

It is my turn to lead. “I want to confirm that Helen and Joe are comfortable having Hannibal Zazie observe today, as you have discussed with your attorneys.” Joe nods; Helen smiles at Hannibal. I say, “I take it Peter is not in jail?” Middletons laugh. The professional team learned from the coach’s status report that seven year old Peter pulled a school fire alarm last week. I continue: “To begin, I restate Middleton’s joint high end goals: great relationships with their kids, ending up friends, being happier, and ensuring financial security. In today’s meeting we will create options for Middleton’s parenting structure. Joe and Helen will generate ideas for co-parenting Peter and Hallie, then rank them.”

Jamie offers, “You agreed in our last meeting that you want to create a *two house happy home* for the kids. Your places together become their home, two separate but coordinated environments where the kids live under the same rules and with the same affection.” Middletons nod.

I continue, “We call this process ‘brainstorming.’ Remember: no judgment. Every idea, at this point, is as good as any idea. Some stupendously dumb ideas lead to creative approaches you’ve never considered. Jamie will write your ideas on our white board. Later, we will respond to each. Let’s start with Joe.”

Joe says, “Week on, week off.” Helen offers, “Day on, day off.” “All with one parent; the other moves to Tahiti.” “Kids with me, alternating weekends with Joe.” “Kids stay in the house, we move in and out on alternate months.” “Send the kids to a British military academy. Visit at Christmas.” Giggles ensue. With a smirk, I wave my hand, “No judgment, now.” Helen says, “Kids live with the grandparents, who seem more stable than we are.” Joe: “Adopt them out.” Helen smiles at Joe, “We could buy two condos in the same complex. The kids could rotate randomly.” “Or houses on the same street,” Joe adds. “We could reconcile,” Helen notes. Joe stops. He is thinking. Marge prompts Joe, “You mentioned flexibility when we talked before this meeting.” Joe: “Yes. Flexibility. We could meet once a month, decide what each kid needs, and do that.” “Or,” Helen chimes, “involve a child therapist and let him decide.” Jamie scribbles at the white board. The pace slows. I ask, “Done? Is that all your options?” Papers rustle. There is silence.

“Okay, let’s rank these ideas. Hot, warm, cold. Option one.” In the end, alternating weeks and residences in proximity get thumbs up. Tahiti and English prep schools are out. Joe and Helen agree to meet again with Jamie and work on specifics of a plan framing their preferences.

After the clients are assigned homework (checking out condo prices, Jamie to feel out the kids on these possibilities, and get their input), we set a time, place, and agenda for our next meeting. Coffee reappears and pastries. Folks drift out over the next twenty minutes. Joe and Helen seem relaxed.

When Middletons and the team are gone, I approach Hannibal. “So?” I ask. Hannibal sniffs, “Impressive, if it works. I need whiskey.” I rummage my bottle of Cragganmore.

Seventh Segment:

LUNCH

Hannibal Zazie, Everett law curmudgeon, plops down for lunch in a booth at Balefire pub. Rhema Papiere, Clerk of Snohomish County Superior Court, sits across the table from him. “Hey, Hannibal. Thanks for coming.” Hannibal says, “I’ve watched your rising star and razed you since you were a wet-behind-the-ears paper juggler. And now here you are: Queen of Pleadings. But lunch! Beyond the pale! I’m buying.” Rhema frowns, “You know you can’t pay. Bribery. Influence. Public scandal. Just eat. Dutch.” Hannibal orders a triple Scotch neat and a burger to soak it up. Rhema orders a salad.

Hannibal raises an eyebrow, “So, what’s up?” Rhema smiles, “I’ve been hearing about collaborative law in the hallways. I know if it’s law in Everett, you’ve got the scoop.” Hannibal smirks, “You know I am a litigator, Rhema.” “Yes,” she answers, “an unhappy one.” Hannibal sighs, “I suppose. Sometimes the conflict weighs on me. My clients are unhappy. I catch dysphoria from them, like flu.” Hannibal slurps Scotch. Rhema probes, “But you usually win cases.” Hannibal nods, “To what purpose? My winning clients end up losing; my losing clients are inconsolable. Parties keep on fighting; for some, divorce never ends. I think *I* am part of the problem!” Rhema smiles, “You mean *we*, don’t you?” Hannibal grimaces, “All of us. We accept that embittered conflict lies at the heart of most divorces. The collaborators disagree.”

Hannibal mulls his words. “Beneath their anger, my clients want something better, but have no idea how to get it. They want change, not war. They want respect, insight, and a dignified transition, not litigation. More than half brave the legal system without counsel. The *pro se* folk get their divorces over quick and cheap, like lancing boils with a utility knife.” Rhema says, “Nice mealtime chat, Hannibal.” “Manners. Unfathomable to me,” Hannibal admits.

“Anyway, collaborative process makes divorce more humane. The partners promise to stay out of court, make full and transparent disclosures, and negotiate in good faith. Collaborators form a supportive team: two attorneys, a financial professional, a divorce coach, and a child specialist. Humans tackle tough problems best in groups; it’s the way we’re built. Collaborators believe that most people want to be kind

and generous and make good decisions for themselves and their children. This process considers the future: emotional well-being, how to co-parent your children, the shape of post-divorce life. Divorce is tough, people are scared. They need a safe place to negotiate. Collaborators translate positional talk into the partners' interests and needs. They balance power between the divorcing partners, model collaboration for their clients, provide emotional support and education for the really scary parts of divorce." Rhema raises her eyebrows, "Like..."

Hannibal continues, "Like money. So, you've managed the house and raised kids for fifteen years. You're out of the workforce. Is \$2,000 per month in spousal maintenance enough? Too much? Your financial future rides on this decision. You are tempted to ask for more, because you don't know what enough is. Your escalating demands spark distrust. You are his financial black hole. A collaborative financial professional intervenes. She teaches the less-sophisticated partner about finance and budgeting. The professional creates a post-divorce budget for each partner, and projects the outcome of various divisions of assets years into the future. Fear subsides; guesswork plummets. Polar positioning in the zero sum financial game gives way to generosity and horse-trading." Rhema asks for the salt and chews her Romaine.

"Or kids. Another scary part. The husband's been working twelve hours a day for twelve years, putting food on the table and patching their leaky roof. The kids have grown up with one weekday parent and two weekend parents. The father knows little about school and the day-to-day mechanics of parenting, except second hand. He feels insecure; the mother feels protective of the kids. Their conversation can turn septic fast. A collaborative child specialist guides the co-parents to address their concerns. The child specialist speaks with the children, brings their voice into the negotiation. She helps the parents see their divorce through their children's eyes.

"The scariest part for most people lies in their psychological morass. Divorcing partners' identities are fragile and interwoven. People can separate those complexities with scalpels or chainsaws. Ninety percent of divorce is emotional. Distrust and alienation inclines partners toward the chainsaw. Moving people back toward calm communication and renewed trust is the job of the collaborative divorce coach." Rhema raises an eyebrow, "What do the attorneys' do?" Hannibal answers, "Mostly, they listen more and talk less. The attorneys manage the collaborative process, do the legal work needed, and ensure their client's views get expressed. But overall, they do less, which is cheaper for clients."

Rhema counts on her fingers: "Seven. I count seven people on this team: two clients, five professionals." Hannibal nods. "That's got to be expensive," Rhema gulps. "Not as much as you'd think. The statistics show that collaborative divorces frequently cost less than litigated divorces, even simple ones. The non-attorney neutral experts charge less and work for both parties. That saves money. But more important, collaborative law addresses issues neglected in litigation—the partners' legacy with their children, emotional equanimity, self-respect, and faithfulness to principles each values. Collaboration creates more durable resolution of the issues. Collaboration opens a door to better outcomes."

Rhema says, "Hannibal, you're convinced! You're a collaborator with rhino hide." Hannibal laughs, "Collaboration intrigues me. Attorneys know that litigation doesn't work well for most families. But there are issues in collaboration." "Hold forth, maestro," Rhema smirks. Hannibal nods, "Collaboration changes the scope of privileged communications. It leaves transparent factual disclosure to the professional team alone to verify. And it gives each divorcing partner the power to dismiss the other partner's attorney, provided he is willing to dismiss his own. I am cogitating these issues." Hannibal swishes the last of his Cragganmore, then gulps.

Rhema raises an eyebrow, "Any predictions on what collaborative law might mean for the Clerk's Office?" Hannibal guesses, "Fewer hearings. Fewer nasty divorces. Fewer *pro ses*. Less paper." Rhema laughs, "Collaborators could shrink my dominion over paper?" Hannibal winks, "Possibly."

Eighth Segment:

WALK

Joe stretches his legs out of the driver's door onto the asphalt of the east Green Lake parking lot. Nine year old Peter pulls on his sneakers sleepily. Millie, Middleton's cocker spaniel, nudges Joe insistently for her harness and leash. She wants her Sunday morning walk, and loves Green Lake's stew of smells—the dogs, people, rabbits, garbage cans, ducks. Joe snugs up his Reeboks, then locks the car.

Skateboards, bikers, in-line skaters, walkers, strollers, runners, dogs creep or streak past. Millie sniffs. Peter yawns and starts walking north on the pedestrian asphalt.

Sounds of rubber soles on pavement fill a few minutes. Young Peter says, "Sorry about the alarm thing at school." Joe nods and sighs. "What was up with that?" Peter stares blankly, then offers, "I don't know. It was just there. I was feeling bad. I pulled the alarm and ran. I laughed and felt better for a while." Joe says, "You remember our child specialist lady says that sort of thing happens, mostly to boys?" Peter nods. Joe puts his hand on Peter's shoulder. Joe whispers, "She's right. I did stuff when I was a boy too." Peter asks, "You still mad?" Joe grimaces, "Your mom and I weren't mad at you, Peter. We were worried. We know our divorce makes things hard on you and Hallie. Mom and I really worry about that." Peter watches his shoes.

Millie lunges at a rabbit. It vanishes into undergrowth. Peter blurts, "Do you hate mom?" Joe aims toward a piece of grass off the beaten path. They sit. Millie tests the limits of her leash. Joe looks at Peter, "I love your mom." "Then why...?" Peter asks. A tear forms at Peter's nose. Joe hugs Peter. "Son, I don't know why. Your mom and I just can't live together any more. We don't really understand either." Peter wipes his eyes. He leans his head onto Joe's shoulder. Peter says very quietly, "What if you or mom moves away?" Joe squeezes Peter. "Remember when all four of us talked with the child specialist? You and Hallie matter most to me and your mom. We will always be here for you. Your mom and I disagree about some things. But we completely agree about you and Hallie. We aren't moving. You will see both of us every week, if it is up to us. You and Hallie are the center of my life and your mom's life. A lot of things are changing right now, but not that." Tension drains from Peter's shoulders.

Millie pulls on her leash, urging her pack toward new smells. Joe asks, "Shall we get 'round the lake?" "Yeah," Peter nods, "I'm hungry." Joe suggests, "Julia's?" Peter smiles, "Yes. Cinnamon Yum-Yum French toast!"

So, they walk.

Ninth Segment:

BRAINSTORMS AND STORM DRAINS

The Middleton's collaborative team, five professionals and Joe and Helen, assembles at my conference table. I begin, "We've all read the parenting notes. How has that gone for you two?" Helen clears her throat. "During the school year, Joe will have the kids Thursdays 'til before school Mondays, except the last week of each month. Summers, we will invert that pattern." Joe nods. Joe's attorney, Marge Stimson, smiles, "Congratulations, you two." Joe adds, "The brainstorming was fun, but exhausting."

I continue, "So the post-dissolution budgets are complete? You have both done your homework on assets and liabilities? You are clear on what you two have and what you owe?" Norm Bucks, the Middleton's certified divorce financial analyst, nods, "Joe and Helen have roughly equal incomes. There are a couple of details we are still chasing down. But those should not prevent some financial brainstorming today."

"Okay. You have done some brainstorming before, so the rules are familiar. Every idea is a good idea. The best ideas sometimes emerge from dumb ones. No responding to brainstorming; no long justifications for proposals. Just throw out ideas. Let's alternate between Joe and Helen. The professionals will jump in only if something is getting missed. Norm will write each idea on the white board. The goal here is to co-create solutions. When we get the options on the board, we will have each of you rank them: hot, warm, cool." Joe sits forward, "Let's go."

"Sell the house; split the proceeds," Joe offers. Helen smiles, "I keep my 401k. Joe keeps his IRA." "I take the credit card debt, but keep the RV," Joe queries. Helen says, "I keep the house, and pay Joe his half in six years. I want the riding lawnmower, if I keep the house," Helen adds. Joe frowns and sighs, "You don't need that mower; it scares you." Susan Saltish, the parties' divorce coach, intervenes, reframing Joe's comment, "Now there's a brainstorm: sell the lawnmower, buy a different mower." Joe jumps back in, "I keep the house and refinance Helen off the mortgage. And I really want my LazyBoy recliner." Helen smiles, "We each keep our cars, and buy the kids cars when they are old enough." Joe rubs his chin, "We each pay half of the kids' undergraduate college educations." Helen whispers, "I want things to be equal financially." Norm says, "I'll put that over on this side here. That's kind of an

overarching principle brainstorm.” I offer, “Equal does not seem to be so very equal in America. Men unaccountably get paid more than women for the same work.” Joe agrees, “Yup. Maybe fair and equal have some distance between them here. But I need to be able to live.” Norm interjects, “I will put that over with the principles. Each spouse should be able to live comfortably after the financial settlement.” A tear runs down Helen’s cheek. Marge suggests, “Shall we take a break?”

We reconvene fifteen minutes later. I ask, “Shall we do some ranking?” A pattern emerges from Joe’s and Helen’s preferences. Helen struggles to keep things as they have been. Joe embraces changes. Helen wants the house, though she cannot afford it on her income. Joe wants both to stay on budget by downsizing everything. The river of ideas slows to a trickle. Joe folds his arms and rocks back in his chair, staring out the window. Helen chews the inside of her cheek, and fusses with her pen.

Coach Susan takes the emotional overload in hand, “Brainstorming may create hurricanes of emotion. We should take some time to let your emotional storm drains clear the backup. We can talk through some of these issues more efficiently with just the three of us. Shall we adjourn?” Chairs scrape back from the table.

I start herding fruit plates and water glasses toward the kitchen.

Tenth Segment:

IMPASSE

Susan Saltish, the Middleton’s divorce coach, settles into her chair. Vapor rises from herAmericano into sunshine streaming through her morning window. Joe, unusually, declines coffee. Lines wrinkle the edges of Helen’s eyes and mouth. Susan begins, “In your collaborative divorce, we are building a garden, a structure to nurture you and your children for years to come. We till and plant. In our last team meeting, we hit hard scrabble just below the surface.” Helen nods. Joe frowns. Susan continues, “This is the good part of collaborations.” Joe smirks, “Sadist.” Susan laughs, “I said good, not easy. In these tough spots growth happens, renewed trust germinates.” Helen whispers, “Doesn’t feel that way over here.” Susan nods, “In emotional matters, movement spirals forward. In forward spiral motion, you are sometimes moving backward. We can deal with this. You have built a team of caring professionals. You can make good choices. Let’s approach it in this way: we will listen to Helen, then Joe.” All nod.

Susan turns to Helen and waits. Helen clears her throat, “I have thought about this a lot. I have to stay in the house with the kids.” Joe blurts, “Nope. We cannot afford that.” Susan raises her hand. “Let’s hear Helen.” Joe nods, “Sorry.” Susan reframes Helen’s thought, “You feel emotional pressure to keep the house for the kids.” Helen nods. Susan asks, “Tell me about that pressure.” Helen winces, “We are screwing up our kids with this divorce. I love my house; so do the kids. And all of this is Joe’s fault.” Joe shifts his knees toward Susan, who speaks, “You fear that the divorce transition is damaging Hallie and Peter. You feel there is too much change. Keeping the house will give the kids and you a lifeline. And the reason the divorce is happening is something Joe did.” Helen nods, “It is not only Joe’s fault. He had an affair but...” Joe bolts erect, stifling himself. Susan acknowledges Joe with her eyes, soothing him. Helen says, “I helped. I was a bore. I avoided sex. I let myself get over-involved with the kids’ lives.” Susan nods, “You think you were a bit distant and distracted.” Helen consents with her eyebrows. Susan probes, “So, tell me about the house.” “The house is part of me. I have scrubbed and sweated over it for years. Losing it is like amputation. I can imagine life without the house. I just don’t want to.” The room settles to silence.

“Joe?” Susan asks. Joe lurches, “I know Helen thinks I fornicated. It is true, I wanted to have sex outside our relationship. I am starved sexually. And there is this consultant at work...” Helen sniffs. Susan fixes Helen with a look. Joe continues, “So, my penis has not wandered. But our pastor says it is otherwise with my heart. I take responsibility for that.” Susan replies, “You have not had extra-marital intercourse, but you are torn.” Joe nods. Susan continues, “The house?” Joe purses his lips, “I want Helen to have what she needs. My point about the house is practical—we cannot afford two houses if one of them is our present house. With me out of the house, Helen needs less space. The kids will be with me about half the time. We should downsize.” Susan summarizes Joe’s view, “Finances dictate selling the family residence, if a goal is for each of you to own a home.” Joe frowns, “I have made the bulk of our money all these years, while Helen parented. Since separation, I work less in order to provide care for Peter and Hallie. Helen will need to work some. Considered together, our income will fall. I am not willing to bear

all of that shortfall alone.” “So,” Susan reframes, “because you want a world in which both Helen and you are secure financially, you are asking Helen to parent less and work more.” Joe nods. A tear wets Helen’s nose.

The minutes become two hours. Joe and Helen listen and struggle to understand. Each toys with ideas and feelings in the other’s view. Their session ends amicably, but without agreement.

Eleventh Segment:

MUD

Joe Middleton, stuck in his collaborative divorce negotiation, thrusts out his hand to Hannibal Zazie, litigation counsel and, possibly, Joe’s friend in the making. They shake. Joe winces as the low sun slams through Balefire pub’s west windows. “Thanks for coming, Hannibal.” Hannibal nods and raises an index finger. Balefire’s barkeep pours scotch and slides it to Hannibal. Hannibal slurps. He turns to Joe, “Trouble?” Joe nods, “Helen and I seem to be at loggerheads. She wants the house. I cannot take on half the parenting and still make enough money to give her the house.” Hannibal purses his lips. “You know, Joe, I cannot be your attorney. I’m too involved observing your collaborative process. And I don’t want to sucker punch Lancaster or Stimson here, the other attorneys.” “I know,” Joe mumbles. “Just need some perspective right now.”

Hannibal drains his glass, and raises his finger again. Hannibal offers, “Getting stuck is normal in divorce. Separating from a partner shreds your identity. Helen’s too. So, there you two are, all tatters in the chill blast of divorce, negotiating. People snatch at fragments of normalcy, just to anchor themselves in the storm. Inevitably, each partner clenches something significant to the other. *Boom.*” Joe murmurs, “I want to be collaborative. I see how bad it will be for our kids if Helen and I go postal on one another. But Helen’s got her claws deep into our house. I don’t see her letting go voluntarily. If I take every other asset, I am still behind the financial eight ball. The house is most of what we have. What are my options here, Hannibal?” Hannibal snorts, “Can’t be your attorney, Joe.” Joe counters, “I got that, Hannibal. Can you be my learned friend?” Hannibal frowns, then nods, “Yup. You’re buyin’.” Hannibal’s finger prompts the bartender again.

Joe feels sweat trickle from an armpit. Hannibal speaks resonantly, “There exist two settlement engines: cooperation and coercion. Collaboration and mediation are all about cooperative agreement—good faith, emotional insight, transparency, problem-solving, keeping the spouses in control of themselves and their lives.” Joe nods, “Sounds familiar. Collaboration has been great, but we’re stuck now.” Hannibal sniffs, “Maybe, maybe not. People usually quit too soon on peace. It is a peculiarly human insanity that war sometimes sounds reasonable.” Joe asks, “Gandhi?” Hannibal smirks, “No. Lessons from misery in courtrooms.”

Hannibal purses his lips, “On to coercion. First, there’s the muted coercion of shuttle mediation. The mediator trudges from room to room, parties separated. For each, the wiley mediator paints a tailored picture of doom. After six hours, usually when your bladder is full, the other side makes an offer that’s marginally reasonable. The mediator pressures you to take it. You have to pee. You agree, then run to the bathroom. By the time you return, the mediator is gone, the agreement ready for you to sign, and everyone glares at you impatiently. You sign. As you walk out, you notice your zipper’s still down. The next morning, you kick yourself with big time buyer’s remorse. But no do-overs.” Joe grimaces, “Sounds fun.”

“Or there’s arbitration. This is outright coercion. Arbitration is litigation, but with a private judge and looser rules. You and Helen hire a stranger to read pieces of paper and decide the fundamental structure of your lives. The arbiter considers whatever she thinks relevant, and then boots you out the door. In two weeks, a letter arrives. It tells you how your life will be. Going to court is just like arbitration, only with more coffee breaks and bigger bills.” Joe closes his eyes, “And dirty bathrooms.” Hannibal chuckles, “There’s that.”

“As a friend, Joe, a friend who’s spent years in courtrooms, coercion’s a low road. Them what walks low roads gets muddy. Keep hoping. Work toward agreement. Stick to high ground.” Joe nods, “Got it.”

Hannibal summons the scotch-keeper again, and a taxi. Joe snaps his American Express card on the bar.

Twelfth Segment:
PASSING ON

Helen Middleton puts down the phone, stunned. Her first impulse is to call Joe, even though they are getting divorced. She does. Joe answers. Helen says, “My mom’s dead.” Five minutes later Joe slides through Helen’s door. He holds Helen as she sobs. “Another stroke,” she murmurs. As the first tsunami of emotion subsides, Joe takes Helen’s hand, “Come on. Let’s tell the kids their grandma’s gone.”

Six days later, Helen’s family mills about the pretty Michigan funeral home her father chose to cremate mom. The family shares cherished stories and a photo montage of mother. Good coffee and plastic cake tempt the thirty. Young cousins, Peter and Hallie included, distract themselves playing with the funeral director’s rambunctious puppy on the back porch. Joe Middleton gives Helen’s father a long, warm embrace. They share quiet words and smiles. Her father has always loved Joe. Joe gathers some plates and disappears into the kitchen. Helen’s older sister, Markee, throws her arm around Helen and kisses her cheek. Markee whispers to Helen, “Tough times. Mom, you and Joe...” A tear slides down the left side of Helen’s nose. Markee notes, “It is good of Joe to be here, given everything...” Helen says, “Joe’s a good man. Always has been. And mom’s his mom too.” Markee raises one eyebrow, making sure Helen sees, then moves on to Aunt Tess.

A quiet panic slithers up Helen’s spine. She walks to the bathroom. She closes the door, and sees red splotches and gravelly eyes poking back at her from the mirror. Helen rummages for words for her terror. Finally, some emerge. *When dad dies, Joe may not be here. Not if things keep going as they have been in our collaboration.* Helen tastes in her mind a scratchy look from beneath hooded eyes. Eyes of the future, set in Joes’ face. Overworked eyes. Tired eyes. The resentful eyes of a loving man giving too much to keep peace. His withdrawal, first from her, then a bit from the children, certainly from this distant adopted tribe. Something shifts in Helen. She feels movement in her chest. Her past breathes its last, expires within. As with mom, so in Helen. Passing on. Helen splashes cold water on her face and pats herself dry. Helen appraises herself, *I look a wreck.* She does not care. As Helen unlocks the bathroom door, she resolves.

Helen asks to sit next to Joe on the return flight to Seattle. Somewhere over Montana, Helen says, “Thanks for loving my family.” Joe nods, “They’re good people. Comes naturally.” Helen takes a deep breath, then says, “I want to make sure you keep feeling that way, Joe.” Helen pauses, “I’m done with the house, Joe. I don’t want to do that to you. Can we buy a couple small houses on the same block, or two condos in a complex?” Joe smiles and kisses Helen’s cheek.

The next morning, Helen calls me and Joe calls Marge. By Friday, draft pleadings lie on my conference table. The Middleton’s collaborative team haggles details, following Joe and Helen’s lead. On Monday, Helen and I enter final pleadings before the *ex parte* Commissioner. Often, before I stopped litigating, before collaboration, that Commissioner would tell my traumatized client, “You folks go out in the hall and settle this. I don’t know you. You don’t want a stranger making decisions about your life.” I no longer hear the Commissioner say that, thanks to collaboration. For me and my clients, that is a step forward.

I tell Helen, “When I drop these papers in the Clerk’s bin upstairs, you are divorced.” Helen takes and squeezes my hand. “Thanks for everything,” she says. Helen walks under the stairs, out the east courthouse door, to her future.

Thirteenth Segment:
HITHER

Reginald Coccyx, software magnate, rings up Hannibal Zazie’s office. Hannibal’s assistant, Mamie, interrupts to report Reginald’s summons for an immediate face-to-face. Mamie grouses, “I know Coccyx is stupendously rich, but his burps become your emergencies.” Hannibal grunts, and schedules Reginald for the next hour. Hannibal calls the hapless bumpee client to reschedule.

Reginald parks his Jaguar across two spaces. Peons do not ding his doors. He breezes past Mamie into Hannibal's private office. "Hannibal, my man," Reginald beams. "Reg," Hannibal notes flatly, peering over his reading glasses, "What god awful mess have you made now?" Reginald says, "Trading up, Hannibal. Moving on." Hannibal complains, "Again?" Reginald flickers an eyebrow, "I surely hope that prenuptial you foisted on me stands up." Hannibal grunts dismissively. Reginald pours himself a glass of Hannibal's Highland Park, a pricey bottle reserved for Reginald. Whiskey waft penetrates the office. "It is drinkin' time in New Orleans," Reginald murmurs. Hannibal answers, "We are not in New Orleans." Reginald waves as he sips.

Hannibal squints, "Your Lucy is the loveliest, most faithful creature on God's good earth, Reginald. Educated, cultivated, and plainly sweet. What seems to be the problem?" Reginald drops his eyes in faux shame, "Boredom, Hannibal. Cursed sameness. I need my variety, to which she objects. And her daddy." Reginald snorts, "We must make a bit of an example of Miss Lucy, Hannibal. She fluffs about her rights and all. That sort of thing is bad precedent for my future Mrs. Cocyxes." Hannibal rolls his eyes. Reginald commands, "Wave your baton, Hannibal-- hide and seek, floods of interrogatories, evasive depositions, hunting a friendly judge. Spend her prenup money in gobs, and rely on the pay-your-own-fees clause in the prenup. When she gets pallid from blood loss, she will cave. Miss Lucy needs to learn humility. You are her instructor, Hannibal." Hannibal growls. He pours himself a two-in-the-afternoon Cragganmore.

Hannibal sits silently, sipping. One, then two minutes pass. Reginald shifts in his chair. Hannibal starts to speak, but then closes his mouth and sips again. After another minute, Hannibal says, "No."

"What do you mean, my old friend?" Reginald asks, astounded. Hannibal responds, "I will tell Lucy and her attorney what you have, give them a good copy of the prenup, and broker a fair deal." Reginald objects, "But if you tell Lucy what I have, she will want more." "Then you could give her more," Hannibal grumbled, "or you could stick with the prenup terms. Either is honorable. But screwing Lucy—I won't help you do that." Reginald flusters, "But screwing is exactly what we did to Mrs. Cocyxes one through four." Hannibal nods, "Reginald, do you want to be loved for something more than your damnable assets?" Reginald's eyebrows leap, "You are disparaging my inestimable personality and cheery persona." Hannibal smiles, "No, Reginald. We are both scoundrels, sometimes wicked, frequently besotted." Reginald slurps, "Your proposal sounds suspiciously much like good faith, Hannibal." The war-worn attorney nods. Reginald continues, "Good faith is what poor people give to one another. Hannibal, I am not poor. The legal system is entirely constructed to insure people like me do not suffer the nibbles of our servants." Hannibal shrugs, "You know where to go for the services you seek. Half block south, penthouse suite." Reginald stops. He drains his whiskey. Reginald sniffs, "Me and my checkbook hither. I will miss you, my old friend." Hannibal walks Reginald to the door. When the latch clicks shut, Mamie says, "Wow..."

Hannibal asks Mamie to get Lancaster on the phone. "Brad," Hannibal says, "tell me when I can get some of that collaborative training."

I smile.