**“No Justice, No Peace: Walking the Talk in Collaborative Cases”**

**Four Scenarios**

1. **Divorce**

Sarah and Charlie are getting a divorce. They are comfortably upper middle-class, living in a leafy suburb. It has been a second marriage for each of them. Sarah brought into the marriage a child from her first marriage – a biracial daughter named Alexis, who is 8 years old. Charlie brought into the marriage twin sons from his first marriage; they are 11 years old. Sarah and Charlie are both white, and Charlie’s twins are white. Sarah’s first husband was Black.

Sarah and Charlie are both well educated – she has an EdD degree, and he has an MBA. Charlie manages a portfolio at a money management firm – Dewey, Growet & Howe – and earns approximately $300,000/year plus annual bonuses that average another $100,000. Sarah, after taking several years off to raise Alexis, has reentered the workforce, and now earns $55,000/year in a part-time job as a counselor at an inner-city public elementary school, in which most of the students are Black. Alexis is a student there, while Charlie’s twins attend a mostly white public school near their home in the suburbs.

Money has been one of the sources of friction in their marriage. Sarah is a saver; Charlie is a spender. Also, Charlie thinks that Sarah is squandering her education by working in a public school, when she could earn three times more as a consultant.

Sarah mostly keeps her anger to herself, but she is seething about how Charlie fails to appreciate her commitment to racial justice and serving the needs of the Black community. Sarah was raised with a younger brother in a home where her father openly demeaned Sarah’s mother, doted on Sarah’s brother, and lacked interest in Sarah’s accomplishments as a gifted child. Now, Sarah is feeling angry about finding herself in a marriage where his career is demeaned by a husband who lavishes attention on his twin boys (whom she loves, by the way) but mostly ignores Alexis. In dinner table conversations, Charlie frequently ignores Sarah’s and Alexis’s comments, and focuses attention instead on the twins and his own challenges at work. Sarah and Charlie have tried couples counseling, but Charlie ended it after two sessions, claiming that the therapist was siding with Sarah, and that it was pointless anyway because Sarah is simply “hypersensitive” and seems to think every difficult interaction in their marriage is about gender or race. “Why can’t we just treat each other as human beings,” he complained. “Why do we have to put each other in ‘identity’ boxes?”

Charlie has asked his CP attorney to please get the divorce done quickly, without histrionics or wallowing in emotions. Sarah has asked her CP attorney to make sure that Charlie doesn’t bully and demean her and the professionals, which she describes as his *modus operandi* for getting his way.

1. **Trans Parent**

Maura (formerly Morton) and Shelley have three adult children – all of them a pain in the neck. But Maura and Shelley have an even bigger problem now that Maura has become aware of her trans identity and is transitioning. When the two of them got married thirty years ago, Maura (then Morton) explained to Shelley that Maura had what Maura’s psychologist had called a “cross-dressing compulsion.” The psychologist tried various techniques to help Maura suppress the urge to wear women’s clothing, and they seemed to be working. Shelley accepted this explanation of Maura’s situation. During the course of the marriage, Maura would sometimes secretly dress in Shelley’s clothing when no one else was in the house. Sometimes Maura wore women’s clothing from a secret stash that she kept well hidden in a corner of their attic. Maura felt enormous shame about her actions and the secrecy, and Maura’s psychologist didn’t help much – simply urging Maura to redouble her efforts to manage this “unfortunate compulsion.” Shelley was not aware of Maura’s actions or feelings of shame, until one night, a few years ago, when Shelley came home from an evening out with her women friends and found Maura asleep in front of the television wearing her clothes. She woke him up and berated him. She said she was shocked and disgusted. He apologized profusely and promised to go back to the psychologist for more therapy. Within a few months, however, Maura reported to Shelley that the psychologist described Maura’s “compulsion” as incurable and referred Maura to another psychologist who specializes in working with the trans community. Shelley insisted on Maura sleeping in the guest room until Maura and the new psychologist figured out what was going on – or they were going to get a divorce. Maura felt that Shelley was completely lacking in empathy and wanted to be loved and welcomed back into the marriage with what she now was beginning to see was her actual identity as a transwoman. Shelley felt that Maura had destroyed their marriage and feared the economic impact of dividing all their assets. Maura and Shelley have hired CP lawyers and a neutral coach to help them manage their divorce.

**3. Sibling Struggle**

Chris and Pat are siblings whose elderly mother died three months ago. (Their father died more than 10 years ago.)  Their mother was in her 80s, but in reasonably good health. Her sudden passing – she died unexpectedly in her sleep – was shocking to both Chris and Pat, despite their mother’s age, because it deprived them of the chance to say final goodbyes to her.

Chris and Pat are the only beneficiaries of their mother’s will, and the only significant asset is the family’s summer cottage on Cape Cod, where Chris and Pat spent every summer when they were growing up.  The modest cottage cost very little in the 1970s when their parents bought it, but it sits on the edge of Cape Cod Bay and is now worth about $1 million because of its amazing location and excellent view.

Chris (the younger sibling – age 42) would like to sell the cottage as soon as possible and divide the proceeds equally.  Chris lives in Oakland, California, where Chris works in a vegan restaurant, and, in recent years, spent time at the cottage only once a year to visit their parents.  Chris lives alone, is struggling financially, and is fearful about the future.  Chris has multiple sclerosis (“MS”) and cannot work full time.  Chris has been counting on this inheritance as a safety net. Chris wants to sell the cottage now because real estate values are quite high, and there’s no telling when a recession might come along and dramatically reduce the value of the cottage.

Pat (age 45) is married, lives in Cambridge, and is deeply attached to the cottage.  Pat married Jordan 15 years ago, and they have three children, ages 9, 11, and 14.  All five of them have been going to the cottage on weekends regularly (even when the parents were using it), and, because of the kids’ deep attachment to the place, Pat finds the idea of selling the place abhorrent – indeed, unthinkable.  As Chris and Pat's parents got older, Pat was the one who made repairs on the cottage, and even re-shingled it once.  However, Pat and Jordan are both writers and lack the means to pay Chris for half of the value of the property.  They need to save every nickel for their children’s college costs.  Even renting the cottage would not generate enough cash to pay Chris a significant amount, unless it was rented out for *all* of the warm-weather months (an idea that would be especially unwelcome for Pat and Jordan’s kids).

            Sadness over their mother’s passing has added to the misery that each feels about the deadlock over the cottage.  For years, there has been intense sibling rivalry between Chris and Pat.  Chris, a loner who has never been adept socially and worries about the future, is irritated by Pat’s bubbly personality and envious of the wide network of friends that Pat and Jordan have cultivated.  Chris resents Pat’s older-sibling take-charge approach to family matters. Pat feels that Chris’s MS, which Chris has had since entering adulthood, is no justification for self-pity or resentment, and doesn’t understand why Chris can’t shift from a glass-half-empty attitude to a more positive outlook. There is a part of each of them that longs for a better sibling relationship with each other, but another part that feels perennially irritated, and sometimes angry, with the other.

Chris and Pat also have very strong feelings about fairness. From Chris’s vantage point, Pat has a family, a job, and good health – and therefore Pat should be bending over backwards to accommodate Chris’s need for economic security. From Pat’s vantage point, it seems like their parents would have wanted their grandchildren to enjoy the same tradition of summers at the cottage that Chris and Pat had, and it feels unfair for Chris to put Chris’s needs ahead of everyone else’s.

Chris is especially resentful about what Chris sees as a lack of sensitivity about the challenges of living with MS, a lack of understanding of how MS limits Chris’s life options, and how vulnerable Chris feels. And, Chris feels like it should not be necessary to point out these obvious challenges.

Chris has been issuing ultimatums that if Pat doesn’t come up with a plan to buy Chris out, Chris will simply hire a litigator to force a sale. In the meantime, however, they are both willing to try CP and have each hired a CP attorney – and a neutral coach – to help them resolve the conflict.

**4. Family Business**

Martha is in her early 70s and lost her husband to cancer a few years ago after a 40-year marriage. Her husband had been a very successful entrepreneur, who had developed more than two dozen highly successful retail strip malls that were now in crisis because of Covid. Customers who previously patronized these brick and mortar stores had shifted their purchasing to Amazon and other online retailers.

These challenges were compounded by the fact that ownership of the business is divided. Martha and her adult children, Theresa and Tom, each own a third, and they have not been able to agree on a solution to the urgent problem of how to stem the tide of red ink, which is depleting their financial resources. Tom, who had worked in his father’s business, had inherited the mantle of CEO when his father died, and Martha was, like her daughter Theresa, simply a passive investor. Theresa suffers from depression and has lived off the now-absent dividend income from the businesses. Martha has a drinking problem. Tom runs every aspect of the business without consulting his sister and mother.

Martha persuaded Theresa and Tom that each of the three of them should hire CP lawyers to help them negotiate a future direction for the stores – regardless of whether it was a full or partial liquidation of their holdings or a decision to keep operating but with a massive restructuring to cut their losses. At the first meeting of the three clients and the three lawyers, the tension in the room was evident. Family feeling and connection were hard to find in the conversation, which was focused solely on business, with Tom feeling unfairly blamed for the business’s financial crisis. Then, at the second meeting, Theresa said “I think it’s time we talked about the elephant in the room.” When the lawyers asked what the elephant was, Theresa explained. She had been sexually assaulted repeatedly by a gardener who worked at their home when she was a young girl, and she was too scared of the gardener to ask for help. When her parents discovered what was going on, they fired the gardener but chose not to prosecute because they feared that testifying would further traumatize Theresa and it would be embarrassing for the entire family. They encouraged Theresa to forget about the incidents and never brought her to therapy. She grew up feeling that she was somehow to blame for what happened to her, and she sensed that she was not allowed to talk about it with anyone. Theresa looked around the room at her brother and mother and said, “Does either of you dispute a single word of what I just said?” Martha and Tom were silent, and then each said, almost in unison, “this has nothing to do with why we are here in this meeting.” Theresa replied, “it has everything to do with why we are so dysfunctional as a family and need lawyers to work with us.”

The CP lawyers expressed their sadness about what Theresa had experienced and told the family members that they (the lawyers) would confer privately for a few minutes. In that private meeting, the lawyers quickly agreed that a coach needed to be added to the team.

How should the professional team address what Theresa shared in light of urgent business crisis?