

Divorce In The Age Of Corona

By Don Schuck

There is much in the news about married couples sheltering together and counting the days until the lockdown ends so they can divorce. It is not uncommon for divorce rates to rise after families spend time together during holidays or even making divorce a New Year's resolution. However, if you are quarantined at home and thinking about a divorce, try to avoid going from a COVID-19 crisis to a bigger family crisis.



When the lockdown eases, social distancing and remote working will remain the new norm. Children who have spent the spring adjusting to online learning face the prospect of summer camp at home – and more online learning in the fall. Without being able to stay late at the office, go to the gym or meet up with friends in the evening, it will be more difficult to manage the stress level at home while going through a divorce.

Simply because you decide to divorce does not mean you have to end up in court. Most often, when each party is represented by experienced counsel, the financial and custody issues in a divorce can be resolved without ever seeing the inside of a court room. However, if negotiations break down, having the court as an available option can be useful in getting negotiations back on track or, if settlement is not possible, moving the divorce forward to conclusion.

When the lockdown began, the courts were open only to adjudicate emergency matters. In recent weeks, court operations have expanded so that conferences and other proceedings in pending divorce cases are being conducted virtually through the use of audio or Skype video conferencing. Starting May 25, new divorce actions can be filed and the courts will be adjudicating all issues in both pending and new divorce cases.

In New York City, it is possible that divorce proceedings will continue to be conducted virtually for much of the year. For certain of these virtual proceedings, the parties and their counsel may appear remotely before the judge to address the divorce issues in dispute.

These court appearances, virtual or in person, provide the parties with an opportunity to hear the judge's view on their divorce and, most important, often lead to a settlement of some or all of the issues in dispute.

If you are considering mediation as an option for resolving your divorce, understand that for this process to work, both parties (not just one) are ready to divorce, each party is knowledgeable about the family's finances and each party has the ability to negotiate how to divide family assets, including whether or when to sell the family home, how the children will spend time with each parent and what support to pay. The role of the mediator is to help you make your own decisions about these issues, not make them for you. Since these issues are often complicated and difficult to decide, an experienced mediator will recommend each party retain a separate attorney to work with throughout the mediation. For the time being, mediations will also need to be conducted virtually.

When deciding on how best to proceed with your divorce, find counsel who understands your objectives and has a plan to implement them. Interview more than one attorney and look for counsel who is a good listener and negotiator, and one who understands if and when going to court is the best way to resolve issues that cannot be settled through negotiation. Divorce is seldom easy, so while adjusting to the new and changing norms we are facing, take a little time and try to get it right.
