

NAVIGATING A FRACTURED MARRIAGE DURING COVID:

OPTIONS FOR MOVING FORWARD NOW

May 27, 2020

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DISCLAIMER

We are not providing legal advice.

An attorney-client relationship is not formed by participating in this webinar.

INTRODUCTION

- Since the onset of COVID-19, courts in DC, MD and VA have been essentially closed except for true emergencies.
- You and your spouse are ready to move forward with getting divorced.
- There are several alternatives to litigation that can allow you to move forward not only more quickly, but in a satisfying and cost-effective way.

ALTERNATIVE DISPUTE RESOLUTION

What is it?

- Any method of resolving a dispute without litigation.
- Different types of ADR include:
 - Settlement Negotiations
 - Mediation
 - Collaborative

ALTERNATIVE DISPUTE RESOLUTION

Who is it for?

- ADR is a viable option for most couples.
- There are exceptions where one party's safety is compromised.
- Speak with an attorney to weigh the risks and benefits.

ALTERNATIVE DISPUTE RESOLUTION

What are the benefits of ADR?

- Retain control of the process and the solution
- Protect your family's privacy
- Move forward at a quicker pace
- Save money
- Establish a new kind of co-parenting relationship
- Feel proud and satisfied of the resolution
- Create a long-lasting resolution

ALTERNATIVE DISPUTE RESOLUTION

Why should I consider ADR right now?

- You can begin the process now.
- ADR can be conducted entirely on remote platforms.
- You can save precious money.

SETTLEMENT NEGOTIATIONS

What are settlement negotiations?

- You and your attorney negotiate directly with your spouse to identify areas of concern, explore options for reaching a resolution, and search for a mutually acceptable settlement agreement.
- Once you've reached agreement, an attorney drafts the settlement agreement.
- You and your spouse sign the agreement.
- All that's left is filing for an uncontested divorce.

SETTLEMENT NEGOTIATIONS

What are the benefits of settlement negotiation?

- Control of the process and the outcome
- Cost-efficient
- It can be conducted entirely remotely
- Confidential and private setting; no public record
- Don't have to talk directly to your spouse if you don't want to

MEDIATION

What is Mediation?

- A private process where a neutral third party facilitates a negotiation between you and your spouse with the goal of reaching a settlement agreement.
- You and your spouse can work with a mediator on your own, or with your attorneys present.

MEDIATION

Who will my mediator be?

- Experienced family law practitioner
- Retired judge
- Mental health professional
- Experienced family law mediator

MEDIATION

What is the mediation process like?

- A mediation typically begins with a joint session.
- The mediator walks the parties through the process, explains their role and establishes ground rules and an agenda.
- Mediators may continue the mediation with joint sessions or in separate sessions, with the mediator shuttling back and forth.

MEDIATION

What is the mediation process like (continued)?

- Once the parties reach agreement, either their mediator or one of their attorneys can reduce their settlement into a term sheet or written agreement.
- Once both parties sign the agreement, it becomes a binding and enforceable contract.

MEDIATION

What are the benefits of mediation?

- A skilled mediator can help facilitate a dialogue between you and your spouse.
- Begin the healing process and learn how to better communicate with each other.
- You and your spouse have greater control over the outcome.
- Because you are both responsible for coming up with the solution, you are more likely to keep your agreement.

MEDIATION

What are the benefits of mediation (continued)?

- There is more flexibility to develop creative solutions.
- Mediation typically leads to a swifter and more cost-efficient resolution.
- It can be conducted entirely remotely.
- Confidential and private setting.

COLLABORATIVE LAW

What is the collaborative divorce practice?

- A team-based approach to resolving conflict and a written agreement by both parties:
 1. To negotiate a mutually acceptable solution without going to court
 2. To maintain respectful communication and open information sharing
 3. To work towards resolution that focuses on the needs of the entire family

COLLABORATIVE LAW

Who is involved in the collaborative process?

- Your lawyer
 - Your spouse's lawyer
 - Neutral mental health professional
 - Neutral financial specialist
- The exact type of professionals you hire will depend on the needs of your particular situation.

COLLABORATIVE LAW

How does a collaborative attorney differ from an attorney representing me in litigation?

- Collaborative attorneys are specifically trained in the collaborative process.
- Your collaborative attorney's role is restricted to representing you in the collaborative negotiation and in presenting your final agreement to a court as part of an uncontested divorce proceeding.
- If either party terminates the collaborative process, your collaborative attorney cannot represent you in any litigation.

COLLABORATIVE LAW

What are the benefits of collaborative law?

- Skilled team members, through a series of meetings, can help you and your spouse efficiently identify your goals and interests to encourage you to reach a mutually agreeable solution.
- Even in more complex and drawn out cases, the collaborative process can be more cost and time efficient than traditional litigation.

COLLABORATIVE LAW

What are the benefits of collaborative law (continued)?

- The majority of couples who choose the collaborative process are able to reach an agreement without going to court.
- You can consider what outcome would be best for the entire family.
- It can be conducted entirely remotely and there is more flexibility as to the schedule than with traditional litigation.

FILING FOR AN UNCONTESTED DIVORCE

Which jurisdiction will I file in?

D.C.:

- You can file for divorce if either you or your spouse has been a resident for six months before you file divorce papers with the court. D.C. Code § 16-902(a).
- D.C. is a no-fault jurisdiction.
- If you are filing for an uncontested divorce, then you would likely be filing under the grounds of mutual consent, which requires mutual and voluntary separation without cohabitation for at least six months. D.C. Code § 16-904(a)(1).

FILING FOR AN UNCONTESTED DIVORCE

Which jurisdiction will I file in?

Maryland:

- You can file for divorce in the county in which you live or your spouse lives or works.
- If the grounds for divorce occurred outside of MD, you or your spouse must have been a MD resident for at least six months. Md. Code, Fam. Law § 7-101.
- If you and your spouse have a signed separation agreement, you can file for a divorce by mutual consent at any time. Md. Code, Fam. Law § 7-103(a)(8).

FILING FOR AN UNCONTESTED DIVORCE

Which jurisdiction will I file in?

Virginia:

- You can file in Virginia if either you or your spouse has been a resident there for at least six months prior to the divorce proceeding. Va. Code Ann. § 20-97.
- If you and your spouse have no minor children and have a signed separation agreement, you can file for a no-fault divorce after a period of living separate and apart for six months.
- If there are minor children, even with a signed agreement, the waiting period is one year. Va. Code Ann. § 20-91(9)(a).

FILING FOR AN UNCONTESTED DIVORCE

Which jurisdictions are still processing uncontested divorce petitions during the COVID-19 emergency?

D.C.

The DC Superior Court Family Court Division is accepting divorce and custody filings and is holding remote hearings for divorce, custody, and support matters.

Maryland

The Circuit Court for Montgomery County is accepting new uncontested divorce petitions and scheduling uncontested divorce hearings remotely.

Virginia

Fairfax County is conducting remote hearings and, beginning June 1, will be accepting and hearing both contested and uncontested new cases.

THANK YOU!

Please feel free to ask any questions using the chat box.
You may also contact us at anytime.



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Q&A

Can you break down the collaborative process?

First steps:

- Intake, enrollment, and assemble team
- First team meeting: sign collaborative participation agreement, set goals, addressing any pressing needs, and schedule a road map to resolution
- Concurrent meetings among professional team members

Q&A

Can you break down the collaborative process? (cont'd)

Next steps:

- Gather information
- Brainstorm options
- Evaluate options
- Reach resolution
- Sign agreement

Q&A

Can you tell me more about the role of a coach?

- Collaboratively trained mental health professional.
- Typically each party engages their own individual coach, but one coach may be engaged by both parties.
 - A single coach can minimize the overall cost and facilitate communication between team members.
- Their goal is to support you through the collaborative process, to help you address emotions that may be blocking your ability to reach a resolution, to help you strengthen your communication with the team, and to aid you in developing a parenting plan if there are children.

Q&A

Can you tell me more about the child specialist?

- Collaboratively trained mental health professional.
- Engaged by both parties.
- Aids in the collaborative process by advocating for the children by providing direct information from the children to the collaborative team about the children's needs.
- Helps focus the process on the children's best interests

Q&A

Is a neutral financial specialist necessary?

- A collaboratively trained financial expert, such as a CPA or CFP.
- Engaged by both parties.
- Helps the parties address the financial aspect of their divorce.
- After collecting information and documentation, the financial specialist assists the parties in developing and evaluating viable financial options that work for both parties.