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## **Mediating Child Custody Disputes During The Coronavirus June 09, 2020 | By Carmela M. Miraglia**

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*Mediator Carmela M. Miraglia explores mediation options for parents during the coronavirus pandemic.*



Life for parents during the [coronavirus](#) has often involved a bizarre mix of boredom and inactivity for children, coupled with rapidly changing “rules” for parents to follow during the pandemic. In the early days of the pandemic – approximately 2.5 months ago – many parents felt the need to take strong social distancing measures. Today, with “re-opening” impacting small businesses and even summer camps, the rules of the road for what constitutes good parenting during the pandemic are more ambiguous than ever. Should children be socializing with their peers or staying home? Are outdoor activities safe, while indoor socializing remains off-limits? What about summer camps? Traveling on a plane? Among single, divorced, and separated parents, harmonizing rules for children between two households has never been harder. Often, a children’s friends and peers may be concentrated near one parent’s household, making the temptation for kids to play with neighborhood kids greater. Meanwhile, the other parent may have favorite activities with the children that have been placed on hold during the lockdown, but increasingly seem to be “reopening”. Reaching consensus amidst this rapidly changing environment – in which a resurgence of the virus always seems to be around the corner – has created co-parenting challenges, particularly with many courts still closed to non-emergency matters.

## Many Parents Face Challenges Over Child Custody

With many [Massachusetts courts closed](#) to slow the spread of the virus, [mediation](#) has become an effective way to [enforce or adjust custody arrangements](#). Parents are finding that mediation can assist them in reaching an agreement even if they are not able to meet face to face to discuss their parenting arrangements. Many single and separated parents have genuine concerns about their child’s health during the coronavirus. Some of these concerns stem from the child’s transition from one parent’s home to the other. This may include concerns about who has the other parent been exposed to and if they have taken the same level of precaution to remain virus-free. Meanwhile, other concerns arise out of the degree to which one parent may be embracing “reopening” – in the form of haircuts, camps, and dining out – while the other parent takes a more conservative approach to distancing. In many areas, the unknowns about constitutes safe behavior remain beyond our grasp, such as [when the](#)

other parent lives out of state and the child must fly to reach the parent's destination. In other cases, concerns may be questionable, such as when a parent refuses to permit parenting time due to concerns about the child contracting the virus in situations that are not supported by the facts. Disagreements over withholding parenting time due to coronavirus concerns have become common, both in Massachusetts and throughout the rest of the country. To add to the confusion, many parents find themselves facing disproportionate risks. One parent may have an elderly family member in the home who is particularly vulnerable to the virus. Another parent may be returning to work full-time, necessitating the risks involved with childcare and summer camp for children. At the same time, information and guidance from government is inconsistent at best. On the one hand, public health officials continue to strongly recommend quarantine and social distancing, but at the same time, businesses and activities that seem antithetical to social distancing – such as haircuts, dining out, and summer camps – are opening. Should parents be following public health officials' recommendations or patronizing the businesses that have re-opened? How much risk is too much risk for children? The answers are neither clear nor obvious.

## Many Courts Still Only Hearing Emergency Matters

Due to the Coronavirus, courthouses in Massachusetts are still closed to regular business, and the majority of hearings are being held on matters deemed to be an "emergency." As of the date this blog published, Massachusetts courts remain closed to most in person hearings through July 1, 2020. However, many expect in person hearings to be delayed until August or September; and when courts do re-open, they are likely to be subject to severe restrictions on the number of people – and hearings – scheduled to be in the building each day. In the meantime, parents hoping to hear from a judge are largely limited to filing emergency motions. In many cases, disputes over parenting time do not rise to the level of a true emergency necessary to get before a judge. Unfortunately, this means that the court is effectively closed to parents who are being denied their parenting time by the custodial parent, or who have serious concerns about their child's well-being while they are with the other parent. Given the massive backlog of cases that has built up since the shutdown began,

obtaining relief through the courts is likely to remain slow well into the fall and winter.



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## Divorce Mediation is an Effective Remedy

Many custody disputes are grounded in legitimate concerns about the child's well-being shared by both parents. When parents both recognize a risk, filing an emergency motion is not always necessary. Instead, parents can resolve their differences by mutual agreement without the need for an adversarial court hearing and judge's ruling. Even for parents who disagree, alternatives to litigation exist. Mediators have quickly become familiar with the concerns of parents struggling with the stress and uncertainty of Covid-19 and have developed a range of best practices for managing social distancing concerns and parenting issues during the pandemic. Mediation can help parents quickly resolve their parenting disputes with out-of-court agreements that protect both parents and children and serve as a temporary custody arrangement for the duration of the crisis. Mediators can then help parents prepare and [file those agreements with the court](#) to ensure the order is quickly allowed and enforceable, all without a hearing. Perhaps best of all, [this can all be done through video mediation](#), using common platforms like Zoom or Skype. This gives parents flexibility – both in time and location – minimizing the in-person contact that can spread the virus while providing the face-to-face communication which is necessary when dealing with the best interests of the children. Mediation is a far better resource for parents to utilize in this uncertain time rather than trying to file an emergency motion which may not be deemed a true emergency and therefore not be heard by the judge causing further stress and discord between parents.

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***Carmela is a divorce mediator and mediation coach for South Shore Divorce Mediation, with offices in Hingham, Massachusetts and East Sandwich, Massachusetts. She is also a Senior Associate Attorney for Lynch & Owens, P.C., where she specializes in divorce and family law issues. Carmela is a statutory mediator under M.G.L. Ch. 233, s. 23C and a proud member of the Massachusetts Council on Family Mediation. To read more from Carmela Miraglia, check out [her content on the Lynch & Owens Blog](#). Disclaimer: The information you obtain at this site is not, nor is it intended to be, legal advice. You should meet with an attorney for advice regarding your individual situation. You are invited to contact our office. Contacting the office does not create an attorney-client or mediator-client relationship. Please do not send any confidential information to the office until such time as an attorney-client or mediator-client relationship has been established. This blog is considered an advertisement for the Law Office of Lynch & Owens, P.C. d/b/a South Shore Divorce Mediation. The Massachusetts Rules of Professional Conduct broadly govern all advertisements and communications made by attorneys and law firms in the Commonwealth. Generally, legal websites and any other content published on the internet by lawyers are considered a type of communication and an advertisement, according to the Comments to Rule 7.2.***

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