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Mediating Modifications Of Child Support And Alimony During The Coronavirus Crisis

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Mediator Carmela M. Miraglia explains how mediation is the best answer for parents and former spouses who have lost jobs during the Covid-19 crisis.



While people stay home and businesses shutter to slow the spread of the coronavirus, millions of American workers are being laid off. Many of these displaced workers have [child support obligations](#) or [alimony](#) to pay. Unless they have significant savings, this sudden loss of income and employment will quickly affect these individuals' ability to meet court-ordered support obligations. Although support payors can (and

arguably should) [file a Complaint for Modification and Motion for Temporary Orders](#) to request a reduction in their support obligation, following a layoff, in this uncertain time, it may take [weeks or months](#) to appear before a judge to obtain a reduced support order. By the same token, support recipients seeking to [enforce an existing support order](#) during the pandemic face similar levels of delay and uncertainty. Individuals are [turning to mediation](#) as a better option during these trying times. Mediating a [temporary reduction](#) of support can help both the person paying the support and the recipient, in the long run. Moreover, mediation offers parties the flexibility to address nuanced questions such as how to apportion temporary unemployment benefits for support while the courts remain closed.

Massachusetts Hit Hard as U.S. Coronavirus Layoffs Approach 40 Million

As people practice social distancing, the restaurants and the brick-and-mortar stores that they used to frequent have significantly cut back hours or closed entirely, laying off their staff. In the course of only 6 weeks, [39 million workers filed new unemployment claims](#), shattering previous records by a factor of 10. Experts predict that the [unemployment rate, nearly 15% in April](#), could approach, or even surpass, 20% in the coming weeks. Massachusetts, with its high infection rate and extended shutdown, has been disproportionately hard by unemployment, [with more than 1 million jobless claimed filed as of mid-May](#). Even in relatively affluent communities like Hingham and Wellesley, the unemployment rate [exceeds 20% and is rising](#). In places like Marshfield and Plymouth, unemployment claims [already top 27%](#). There are increasing concerns that a wave of evictions and foreclosures [will soon hit New England](#), particularly in Massachusetts, where high real estate prices require a strong labor market for sustainability. So far, the federal CARES Act has helped families stay afloat with an additional \$600 per week in unemployment benefits; however, the additional weekly payments [end in July](#), leaving families to make do on far less generous state unemployment benefits. [Massachusetts Probate and Family Courts to do not provide real-time](#)

statistics on the number of modification actions filed in child support and alimony cases, but anecdotally, judges and trial court leaders believe that a tidal wave of court filings are coming from parents and former spouses whose incomes have been hit by the virus.

Loss of Income Impacts Ability to Pay Child Support and Alimony

For individuals who have been laid off, or whose [small businesses](#) have been drastically cut, existing child support or alimony orders can quickly become a threat to their financial well-being as they wait for their anticipated unemployment benefits to arrive. Even after receipt of unemployment benefits, the support orders may consume such a large portion of the individual's available income that little remains. Child support and alimony are calculated using an individual's gross income and does not automatically change if the individual paying the support is laid off or experiences reduced income. Individuals who need to reduce their support obligations must file a [Complaint for Modification](#) in a Massachusetts Probate and Family Court for a reduction. Massachusetts courts, however, are currently closed to non-emergency matters to slow the spread of the coronavirus. Indeed, when courts finally begin hearing requests to reduce support, the backlog of cases is likely to be immense. If 30% of support paying parents and former spouses require a [Complaint for Modification](#), the number of new filings may reach the hundreds of thousands. All of this has put support payors in an impossible position: despite how much they want to comply with their obligation, they cannot continue to pay their support due to the layoffs. Courts are not currently hearing requests to reduce support (although parties are encouraged to file the paperwork), and when such cases are heard again, the backlog of cases is likely to be immense, with physical access to courtrooms likely to be limited for months into the future.

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Mediation Can Help Couples Reach a Temporary Support Agreement

Mediating financial modifications works. For both the payor and the recipient of the court-ordered child support or alimony, mediation can be an effective way to reach a temporary agreement that offers some relief for the laid off payor while ensuring a consistent amount of continuing support for the recipient. It also saves both parties a costly, stressful and time-consuming litigation experience. Creating an interim agreement not only helps the individual struggling to pay the support, but also helps the recipient by providing reliable financial support and keeping the recipient “plugged in” with respect to the payor’s earnings, unemployment income and job search. It allows parties to work cooperatively to form of a plan for getting through the economic crisis on the same page. Mediation is especially helpful because it can assist couples in reaching an agreement in a situation both parties know is out of their control. A mediator can offer support for both parties, helping to explain each party’s position in an impartial manner, setting aside the emotions that most former couples experience when discussing financial issues. Mediation also provides a stable environment for couples to exchange the financial information that is necessary to determine a fair amount of support. Most couples are reluctant to exchange financial information after a divorce or break-up. Mediators can facilitate the exchange of specific information that can be used to calculate the support amount. Finally, mediation may even expedite the process of getting an agreement – including both agreements for temporary orders and permanent agreements for judgment – approved by a court without the need for litigation or even court appearances. A mediator can prepare the appropriate

documents to be filed with the court. Indeed, during the Covid crisis, mediators can prepare specific documents that can be allowed administratively, such as an Agreement to Modify a Judgment, which eliminates the need for the parties to physically appear in court. Perhaps the most practical reason of all is that mediation can be done via videoconference, allowing the participants and the mediator to continue to practice the social distancing necessary to stay safe in these uncertain times.

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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