

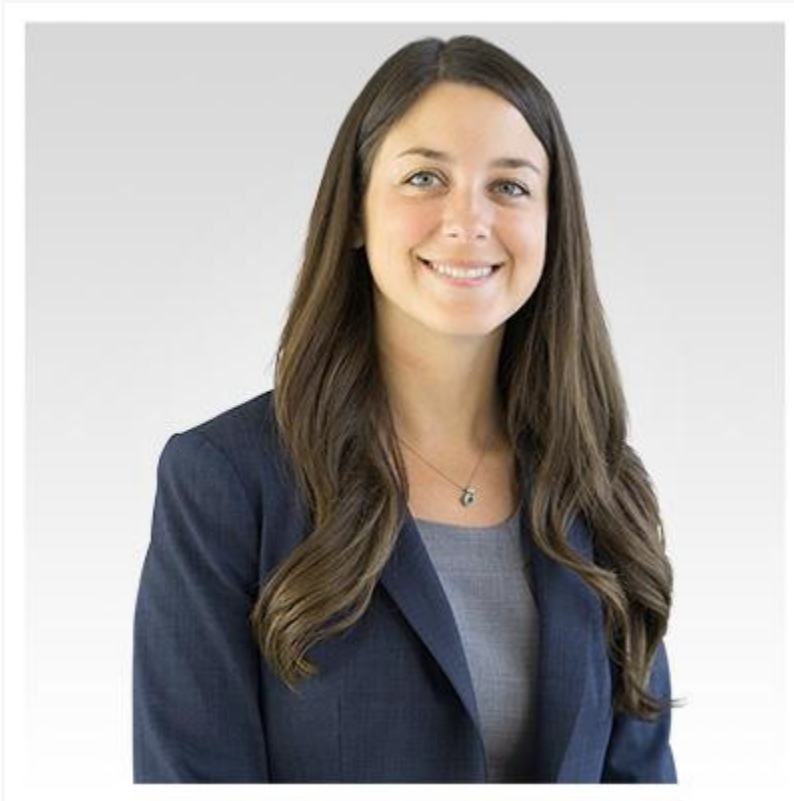
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Mediation Is The Best Divorce Option During The Coronavirus Crisis

April 15, 2020 | By Nicole K. Levy

Categories: [Mediation](#) | [Nicole K. Levy](#) | [Coronavirus](#)

Mediator Nicole K. Levy discusses how the Covid-19 crisis is pushing litigating parties towards mediation to resolve divorce and family law issues.



As the Covid-19 crisis rumbles forward, rapid changes are impacting how individuals relate to each other, pursue goals and resolve disputes in an increasingly “remote” world. The speed of these changes has been particularly pronounced within the court system, where many elements of the traditional litigation process have ground to a halt. For parties in divorce and family law litigation, the sudden disappearance

of the traditional litigation process has come as a shock. As a result of the crisis, many divorce and family law litigants are turning to [mediation](#) as a way to resolve their legal issues [during the Covid-19 pandemic](#).

Coronavirus Breaks the Cycle of Litigation

Before [Covid-19](#), parties in divorce and family law matters often got so caught up in litigation that they forget that 98% of litigated cases end in an agreement. Litigating parties would get stuck in the vortex of trying to “one up” the other in the courtroom and either are unaware, or uninterested, in trying to resolve matters otherwise. As the crisis has unfolded, however, many participants have realized that the courtroom is simply unavailable for the cycle of litigation. The pandemic has resulted in a nearly complete shutdown of the courthouses to all non-emergency litigation, robbing parties of the ability to “run to court” for anything but a true emergency. This has left parties scrambling to resolve issues that were present prior to COVID-19, as well as new issues that have arisen as a result of the global pandemic. Parenting schedules, asset division, child support, medical decisions, and a slew of other custody and divorce-related issues are all being tested at the moment, and without the ability to litigate, some parties feel helpless. For those feeling stuck, mediation offers a way forward during the pandemic.

Mediation Gets Things Done During the Pandemic

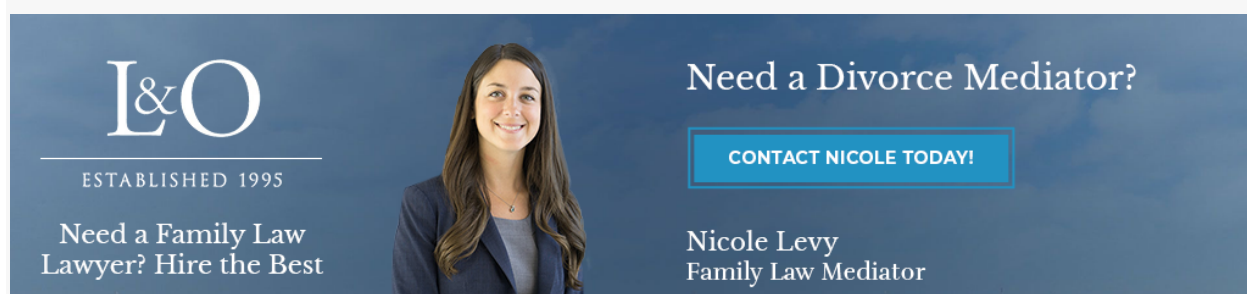
At the [South Shore Divorce Mediation Blog](#), we have published more than 65 blogs on the mediation process. (Interested in litigation? Check out our 300+ blogs on divorce and family law litigation at the [Lynch & Owens Blog](#), including [extensive coronavirus coverage](#).) Our mediation blogs cover everything from how participants [do not need to get along](#) for mediation to succeed, to the [facilitative vs. evaluative styles of mediation](#), to managing [power imbalances](#) between participants during the mediation process. As mediators, we tend to compare mediation and litigation in the context of [minimizing conflict](#), [negative](#)

emotions and costs. What sometimes gets lost in these comparisons, however, is how the “final product” of mediation is nearly identical to that in litigation – other than the 2% of litigation cases that go to trial. In both mediation and nearly every litigated case, the final product is the same: a signed, written agreement that resolves all outstanding issues between the parties. If your starting point is that mediation and litigation produce the same final product, an important question during the coronavirus pandemic boils down to this: Which process is better adapted to producing a final agreement during the Covid-19 crisis, litigation or mediation? The answer, without question, is mediation.

You Don't Need to be a “Mediation True Believer” to Understand its Value During the Pandemic

There are a hundred ways to compare mediation and litigation, and a hundred answers to questions about which process is superior for specific cases. During the coronavirus crisis, however, many of these comparisons simply break down. With court houses largely closed due to the crisis, many discovery deadlines suspended and litigation tools such as motion practice and depositions simply unavailable, the simple fact is that the litigation process itself has become largely unavailable during the coronavirus crisis. It simply isn't there. In contrast, the mediation process is unusually well adapted to the post-Covid world we are all living in right now. [Video mediation sessions](#) using platforms like Zoom work so well that many mediation participants already preferred video sessions before the pandemic hit. Unburdened by the formal rules of docketing and filing of pleadings, mediation is well suited to the electronic exchange of documents. And unlike litigation, participants can access their mediator to resolve non-emergency issues at any time. Since the coronavirus crisis began, litigation clients have often asked us: can two attorneys negotiate an agreement outside of court, without a judge's oversight? The answer is: of course they can. Litigation attorneys routinely negotiate out of court settlement for clients. Context matters, however. Negotiations between litigating attorneys are often built on the foundation of knowing the

judge is in the background, ready to rule if negotiations break down. In many ways, negotiation between litigating attorneys depends on a functioning court system to serve as a backstop when parties get stuck. With the coronavirus crisis, many attorney-based negotiations have been placed on “pause”. Mediation – which is built on a foundation of avoiding the court system – avoids these problems. You don’t have to be a mediation true believer to understand that mediation is structured to operate without court intervention, while litigation is dependent on the availability of the court to function. In a crisis that has effectively closed the courts, it is not hard to see why mediation moves cases forward while litigation has stalled.



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Nicole Levy
Family Law Mediator

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All of our mediators at South Shore Divorce Mediation are practicing family law attorneys. This helps us stay on the cutting edge when assisting our mediation clients with filing joint petitions, stipulations and agreements to ensure they are processed and approved by courts with as little red tape as possible. If you have already reached agreement and are seeking assistance with [filing your agreement with the Court](#), we can help with that.

More Coronavirus Coverage from Our Blogging Team

We have been blogging about the impact of the coronavirus on divorce and family law issue since the earliest days of the crisis on the [Lynch & Owens Blog](#) and [South Shore Divorce Mediation Blog](#). Our coverage has been featured in the [New York Times](#), [Boston Globe](#) and

ABA Journal (coming soon). Check out the links below for more Covid-19 coverage from us at: Coronavirus Impacts on Family Law:

- *Coronavirus News: Enforcing Child Support and Alimony Orders During the Crisis (4/7/20)*
- *Massive Coronavirus Layoffs Trigger Child Support and Alimony Reductions Across MA and US (3/19/20 with updates)*
- *Coronavirus Court Closures: How Covid-19 is Shutting Courts in Divorce and Family Law Cases (3/14/20 with updates)*
- *Can Coronavirus Fears Allow Parents to Cancel Court-Ordered Visitation? (3/2/20 with multiple updates)*

Massachusetts Probate & Family Court Updates:

- *Coronavirus News: Mass. Probate & Family Courts Release Tidal Wave of New Rules (4/9/20 with multiple updates)*
- *Coronavirus News: County-by-County Info for Massachusetts Probate & Family Courts (3/26/20 with multiple updates)*
- *Massachusetts Trial Court Announces Comprehensive Response to Coronavirus for MA Courts (3/15/20 with updates)*

Mediation and Coronavirus:

- *Mediation is the Best Divorce Option During the Coronavirus Crisis (4/15/20)*
- *Court Filings and Covid-19: How to File Agreements in MA Probate & Family Courts During Crisis (4/9/20)*
- *Surviving Coronavirus: Video Mediation for Divorce and Family Law Issues (3/19/20)*

Other media featuring Lynch & Owens and coronavirus:

- [NY Times: For Divorced Parents, Navigating Coronavirus Is a Balancing Act \(3/27/20\)](#)
- [Boston Globe: For divorced couples with children, coronavirus creates added challenges \(4/10/20\)](#)
- [ABA Journal \(coming soon\)](#)

Coronavirus Mediation Services

We are continuing to serve our clients during the coronavirus pandemic with specialized services including video mediation, filling assistance with pleadings and agreements, and mediation of temporary orders and other non-emergency issues that are not presently being heard by Massachusetts Probate & Family Court. For more information, please visit our [Coronavirus Mediation Services Page](#). **Schedule a mediation with Nicole K. Levy today at (781) 253-2049 or send her an email.**

Nicole 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 collaborative law attorney Senior Associate Attorney for Lynch & Owens, P.C., where she specializes in divorce and family law issues. Nicole 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 Nicole, check out her [content on the Lynch & Owens blog](#).

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