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## Quarantine presents new complications for family lawyers

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Attorneys at McManis Faulkner say they're taking on more clients seeking divorce since the Governor's shelter in place order took effect.

Partner James McManis said he believes there will be a further influx of married couples looking to break up before the coronavirus pandemic comes to an end, and he pointed to the end-of-the-winter holiday season as anecdotal evidence.

"We've always seen, in January, a real upswing in the number of new family law cases because a lot of people, they get into it with each other over the holidays, or they've decided they've had enough of their spouse," McManis said. "So I'm going to be very interested to see what happens."

In addition to more clients, many aspects of day-to-day family law work have changed for the firm. Partner Brandon Rose said he has spoken with a number of divorced parents who were afraid to drop their children off at an ex's home over concerns about becoming infected with the virus.

"We would hear parents accusing the other of not following shelter-in-place and withholding visitation because they didn't feel it would be safe for that parent to have visitation," he said.

Shortly after, however, the Santa Clara County Superior Court issued guidelines with a provision that travel for custodial exchanges is essential and parents must also abide by social distancing rules.

"That has really helped clarify things to give some stability," Rose said.

Most family law clients shouldn't expect to hear much more from the courts for a while, according to Rose, who was scheduled to begin a week-long divorce hearing on the court's final day after the statewide shelter-in-place orders were issued. Rose said it would likely be a few months before his client will see any finality to the end of the marriage.



**MCMANIS**

"This is very challenging for all people who are trying to get divorced," he said. "It's usually going to be one of the most difficult parts of your life, and people want to get through it efficiently and quickly. They want to get it behind them and move on with their life."

Many other facets of family law, such as establishing child visitation schedules and requests to modify child support, are also on hold.

"It's probably easier to answer ... by telling you what the courts are doing," Rose said.

Concerning family law, only domestic violence restraining orders with minor and emergency custody issues are being heard, he said.

Rose said most of his work today focuses on informal negotiations between his clients and their ex-spouses on visitation schedules.

"A lot of parents had questions," he said. "What does this mean for custody orders? Now that schools are closed, does that mean summer vacation or is this the normal schedule?"

Rose has been advising parents that courts have ordered school closures should not be considered summer break or holidays.

Remote or telephonic mediation is also available through in-house mediators provided by the court, Rose noted, and he is encouraging clients



**ROSE**

to put any arrangement they brokered together into writing and to confirm those deals through e-mail or texts.

People can also still file motions electronically to amend monthly child or spousal support payments, Rose said.

"If you need to modify the support, ... the order [can be] retroactive to April ... if you weren't getting support during that time, or if your support was too low because you lost your job and your financial circumstances changed," Rose explained.

If in several months a judge then grants the modification, Rose said, a refund could be ordered.

McManis said he believes when the courts reopen for business, civil judges, including family law, will be asked to help address a backlog of criminal cases, so trials will be pushed back.

"Another way of putting it: Our family clients are not necessarily going to see the inside of a courtroom for the rest of the year," he said. Constitutional protections for criminal defendants, such as the right to a speedy trial, could preempt family law cases.

Acknowledging the tension between some parents at the start of the pandemic, Rose said there have, however, been a few positives.

"Because it's a crisis, it has made the parents look at the problem more

collaboratively, rather than being adversaries," Rose said. "They're trying to solve a common problem, which is 'How do we get through this? How do we maintain stability for our kids?'"

For example, a parent who has an essential job like a nurse may be working more hours while the other is perhaps a tech employee who, despite long hours at the office, now can work all day remotely from home.

"Now that you have shelter in place, the tech parent might be working from home on a laptop, and the other parent might have to go out," Rose explained. "So there have been some positives where they've been able to work those things out in the best interest of the children."

For now, Rose said he'll keep touching base with his clients over the phone as they cannot meet in person, but he noted those conversations aren't strictly limited to legal advice.

"A lot of people, they just want to talk to somebody, ... so I do feel like I've been giving out more advice, like you would advise a friend," he said. "You know, just checking in with them and saying, 'How are you doing? How are your kids doing? How's the family? Is anyone sick?' Just talking with people."

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