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Court Filings And Covid-19: How To File Agreements In MA Probate & Family Courts During Crisis

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Mediator Kimberley Keyes discusses how parties can successfully file divorce and separation agreements, stipulations and other written agreements during the coronavirus crisis.



In this blog, I review how individuals in Massachusetts can electronically file written agreements in Massachusetts Probate & Family Courts during the coronavirus crisis, including Separation Agreements and Joint Petition for Divorce, mediated divorce agreements, stipulations for temporary orders, and agreements in modification and contempt actions. Many of these

agreements will be approved administratively by a judge, without the need for a hearing, although important exceptions exist. If you are interested in scheduling a [video mediation](#) to resolve your legal concern during the crisis, check out [this blog](#). Many of our clients want to know how to address disputes that arise in their family-law matter amid the Covid-19 pandemic, since Massachusetts Probate and Family Courts are [closed until at least May 4](#) for anything except emergencies. But what if you and your spouse or co-parent already agree on the terms of a resolution to your issues? How do you submit your agreement to a Probate & Family Court so that the agreement can be entered as an enforceable order or judgment? As is the case with so many legal questions, the answer is: It depends. Below, I explore what we know right now about filing agreements during the coronavirus crisis in Massachusetts. Please note that Massachusetts courts are constantly tweaking their procedures, and new methods for filing are sure to arise after this blog is published.

Mail, Email or E-File Your Agreement with a Massachusetts Probate & Family Court

Courts continue to accept all filings sent by mail. Good old-fashioned mail remains a reliable way to get your agreement to the court. However, [with some courts closed temporarily due to quarantine rules](#), emailing or e-filing your pleadings may increase the speed with which your agreement is processed. [Under recently announced emergency rules](#), all Massachusetts Probate & Family Courts are now allowing filings by email in all cases. E-filing through the [Tyler Host program](#) was previously only available to attorneys; it can now be used by self-represented (pro se) individuals. However, e-filing can only be used for filing pleadings in “contested” 1B divorces. It is not available for filing Joint Petitions for Divorce, or Complaints for Modification, Contempt, or Custody-Support-Parenting Time under G.L. c. 209C (for unmarried parents). When available (i.e. for pleadings in contested 1B divorce cases), e-filing is widely regarded as the fastest and most reliable way to file during the coronavirus crisis. Read below about how these filing methods apply to different agreements and stipulations.

Agreements Reached Through Mediation – Mail, E-Filing, Email

At South Shore Divorce Mediation, we are assisting our clients with filing procedures to ensure all mediated agreements are properly filed with the appropriate court using best practices to ensure that the agreement is properly docketed and approved in through the most efficient means available. In addition, we are assisting individuals who have reached agreement on their own (e.g. whether through mediation or through some other method) with filing on an ongoing basis. If you have a family law-related matter that is impacted by Covid-19 that requires the assistance of an attorney, consider visiting checking out the [Coronavirus Legal Service page](#) at our sister website for Lynch & Owens, P.C.

Separation Agreement for Contested Divorce (1B) – Mail, E-Filing, Email

*As noted above, self-represented individuals can now use the [court's e-filing system](#) for contested (1B) divorce cases. Once filed by e-file, all pleadings (complaint, marriage certificate, financial statement, agreement, etc.) can be uploaded and filed by e-file. Parties can also file 1B paperwork via postal mail and email. It is critical that a party filing by email include correct (and easy to find) contact information, including phone number and email address. Unlike most of the other stipulations and agreements referenced below, **a final Separation Agreement in a divorce still must be reviewed by a judge in a separate hearing in order to be approved (see below)**. Courts in some Massachusetts counties are scheduling telephone hearings to approve Separation Agreements, while other courts have postponed these hearings. Either way, courts have made clear that Separation Agreements will be approved on a first filed, first heard basis. Note that parents must still complete the parent education class online or by DVD per the [recently announced amended rule](#).*

Separation Agreement for Joint Petition for Divorce (1A) – Mail, Email

Unfortunately, parties filing joint petitions for divorce cannot currently access the e-file system, but parties can file their joint petition and

accompanying documents by mail or email. Individuals filing by email must provide correct contact information for each party (phone number and email address) to enable the court to collect the filing fee and schedule a telephone hearing, if and when a hearing to approve the agreement can be scheduled. Courts are allowing parties to file copies of documents by email, such as marriage certificates, although originals should still be filed by mail when possible. Note that parents must still complete the parent education class online or by DVD per the [recently announced amended rule](#).

Hearings on Separation (Divorce) Agreements – Only Available in Some MA Counties (UPDATED 4/10/2020)

Some courts have taken steps to scheduling telephone hearings to approve Separation Agreements, subject to conditions and caveats. For example, in its [written protocol for Covid-19 operations](#), Norfolk Probate & Family Court states:

Although we are presently considering holding uncontested Divorce Hearings by phone for cases in which all paperwork has been submitted and has been approved, once we reopen, all day uncontested Divorce Hearing Sessions will be scheduled, where one Judge will hold at least 15-20 hearings per day once per month.

Other counties appear to be holding off on scheduling hearings on Separation Agreements indefinitely. For those courts willing to consider scheduling telephone hearings for the approval of Separation Agreements, judges and staff have made clear that hearings will only be scheduled for parties who respond promptly to email/phone contacts from the court, and who file clearly written agreements with all the necessary accompanying documents. Depending on the county, necessary accompanying documents may include a separate motion and affidavits from both parties requesting that the agreement be approved by telephone conference. (For questions and this process, individuals should contact their court by phone or email.) Hopefully, more counties will schedule telephone hearings for the

approval of Separation Agreements as time passes. **4/10/20 Update:** Barnstable Probate & Family Court has announced that it will begin scheduling hearings to approve Joint Petition (1A) divorce agreements that are filed **after** April 13, 2020. The new policy in Barnstable **requires joint petitions to MAIL their documents** and filing fee to the Court and does not appear to be available to individuals who email joint petitions to the Court at this time.

Stipulations for Temporary Orders – Mail, Email

For individuals with an active divorce, modification, contempt or 209C (unmarried parents) case, most stipulations for temporary orders can be filed by mail or email at your Court, where the agreement will be incorporated in a temporary order without the need for a hearing. Stipulations for temporary orders in open divorce cases can also be e-filed. Note that specific filing methods may vary from court to court, including some courts requesting an accompanying motion and affidavits from the parties for the stipulation to be approved. Call or email your court's registry in advance to ask if a motion and/or affidavit is required.

Joint Petition to Change Judgment, or Agreement for Judgment of Modification – Mail, Email

With massive layoffs affecting workers across Massachusetts, courts are encouraging individuals who lose their jobs to file Complaints for Modification requesting a reduction in child support or alimony. Similarly, with the coronavirus disrupting parenting time schedules, many parents have been forced to adjust parenting time during the crisis. If parties agree to a stipulation for temporary orders on a modification, this can typically be filed by mail or email and will be allowed without a hearing, subject to county-specific rules. Courts will also allow a Petition to Change Judgment to be filed electronically. However, it is important to remember that if you do not have an open modification, you must file either a Joint Petition to Change Judgment or a Complaint for Modification along with your agreement. Many

courts are allowing petitions/complaints to be filed initially by email, with court staff calling back one or both parties to obtain credit card information for the filing fee.

Stipulation for Judgment in Contempt Action – Mail, Email

As with Complaints for Modification, parties can file stipulations and agreements in contempt actions by mail or email without the need for a hearing. Note that a party must have first filed a Complaint for Contempt in order for the court to enter a stipulation or agreement for contempt judgment; if no complaint for contempt has been filed and parties reach an agreement, a Joint Petition for Modification is generally the preferred method. For contempt actions, it is important to remember that the court can enter agreements even if one party is not found “guilty” of contempt. Parties can also stipulate to dismiss one party’s complaint for contempt or enter a stipulation for temporary orders through a contempt action. As in the above cases, different counties may have different filing requirements for a stipulation in contempt actions. **Agreements/Stipulations in 209C Custody and Support Cases (Unmarried Parents) – Mail, Email** Like modification and contempt cases, courts are allowing parents with pending 209C cases to enter agreements for judgment or stipulations for temporary orders via mail and email, following similar methods to those described above. New 209C actions can be filed by email, with courts temporarily accepting scanned copies of birth certificates for email filings. As with contempt and modification actions, courts will likely call back individual who file complaints by email to obtain credit card numbers for any filing fees. >

Tips for Properly Filing Your Stipulation or Agreement

Here are some important things to keep in mind when filing your stipulation for temporary orders or an agreement for judgment:

- **Provide Email/Phone Contact for Both Parties in Email Filings**
 - If you are filing your agreement by email, be sure to include

correct contact information for both parties, including email addresses and phone numbers. This will ensure that the Court has a reliable way of contacting either party in the event of questions.

- **Only Use One Filing Method.** Since allowing emailing filing, courts have expressed concern about individuals using multiple filing methods for the same pleadings. If you mail your pleadings, do not email or e-file the same pleadings. If you email your pleadings, do not mail or e-file the same pleadings. If you e-file your pleadings, do not email or mail the same pleadings.

Need Assistance with Filing? Contact South Shore Divorce Mediation

South Shore Divorce Mediation assists individuals with filing and obtaining approval of your agreement in an efficient cost-effective manner. In addition to mediating agreements, we assist clients with preparing supporting documents and properly following filing methods to ensure that clients' agreements are processed and entered as orders/judgments by the court, using best practices in a cost-effective manner. Depending on your case, it may make sense for us to assist as mediators, or as attorneys through our parent law firm, Lynch & Owens. Either way, we are committed to providing efficient, cost-effective service to clients in need.

More Coronavirus Coverage from Our Blogging Team

We have been blogging about the impact of the coronavirus on divorce and family law issues 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 \(coming soon\)*](#)

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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](#).

Kim is a divorce mediator for South Shore Divorce Mediation, located 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. Kim 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 Kim Keyes, 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**

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