

Family Law Newsletter

Autumn 2020 SEASON'S GREETINGS

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Co-Ho!-Ho!-Vid-19 and Holiday Co-Parenting

By Matthew Rinear

As if co-parenting during the holiday season wasn't stressful enough, the rapid increases in COVID-19 infections and hospitalizations are sure to throw your already uncomfortable co-parenting holiday routine into a tizzy. Complicating matters even further, there is little-to-no guidance on the subject. If you have parenting orders from the Court, they almost certainly do not contain COVID-related holiday parenting protocols, and because this is the first (and let's hope the *only*) holiday season with COVID, even we attorneys don't have definitive answers for you on exactly how your court will view these issues. However, a combination of proactive safety precautions and open communication with your ex-partner can help ensure a stress-reduced holiday season for both you and your children.

In order to ensure safety and enjoyment during the holiday season, we suggest that you reach out to your ex to discuss the following:

-Who you will be seeing/celebrating with during the holiday season: Both you and your ex should prepare a list of who you both plan on seeing (and who you *may* be seeing) during the holiday season. While many families have remained hunkered down for the past eight-plus



What is a QDRO in the Divorce or Dissolution Process?

By Joanne Beasy

Let's talk retirement accounts. Even if your spouse never set foot in your workplace, or you never set foot in your spouse's workplace, in the Court's view, any retirement account that was created or grew during the marriage is *marital* property built by you and your spouse together. That means the marital portion of your retirement account is subject to an equal division at the time your marriage ends unless

you can negotiate a different deal with your spouse. The division of retirement accounts leads to many questions, including when will they be divided, how are they divided, how do I get my money or how does my spouse get his/her money from my retirement account?

Enter the QDRO. QDRO stands for Qualified Domestic Relations Order. I pronounce it Que-drow, but to each his own if you prefer to say Qua-drow. Simply put, a QDRO is a way to divide a retirement account, such as a pension or a 401K, without the IRS or other governmental entities viewing the division as a taxable event. It is what it stands for – a court order signed by a Judge that directs the retirement plan administrator to divide the retirement account according to the terms in the QDRO. For a pension, it usually tells the plan administrator what percentage of the pension your spouse will share in (or in some instances you can specify a dollar amount). For a 401K, it specifies a percentage or dollar amount your spouse will receive as of a date and then specifies whether gains and losses will be included on that amount once the division is made. If the QDRO is followed and so long as the funds are not “cashed in” by the spouse that receives the funds, there is no tax or penalty owed to any taxing authority.

How long does the QDRO process take? It depends. Once drafted, the QDRO has to be signed by your judge, then a copy of it has to be served on the plan administrator, then the administrator has to review and approve it as a qualified order, then the division happens, and then the person receiving the funds has to let the administrator know what s/he wants to do with the funds, etc. (note, however, that pension funds are usually not paid out until your ex retires). General rule of thumb: you should expect it to take 30-90 days from the time the QDRO is sent to the plan administrator until you receive funds (or the funds are withdrawn from your account to be given to your ex-spouse).

Keep in mind these few paragraphs are providing you with a generic overview of a QDRO and the QDRO

months, the list of people we are all about to spend time with may be expanding rapidly in the next couple months.

-Specific plans, if they involve out-of-household events or long-distance

travel: Identify what forms of transportation (car, bus, plane) are involved in holiday travel and potential risks as they pertain to COVID-19 safety guidance (social distancing, mask wearing, hand sanitizing). Do the same for out-of-household events.

-Identifying high risk family members: While, statistically, your children may not be classified as “high-risk” to suffer serious harm from the virus, what about the other people on your “list” from the first bullet point? If either of you have elderly or other high-risk individuals in your lives, who they are are, will need to be communicated and discussed with your ex to make sure the appropriate safety precautions are taken, which may potentially impact your out-of-household activities or travel plans.

-Remember who the season is about: It’s not your holiday time. It’s not your ex-partner’s holiday time. It’s your children’s holiday time. When you are discussing complicated holiday logistics with your ex, remember that your children’s best interests should rule the day. If one of your children starts exhibiting symptoms, or if you or your ex needs to drastically alter holiday plans/timing, be flexible. Your children have already been through a lot this year and have been deprived of many of the joys of childhood in a difficult 2020, don’t make it more difficult on them by fighting with your ex over the holidays.

From a legal perspective, court orders (or lack thereof) typically supersede all. However, the Court’s directive is to do what is in the best interests of the children, and occasionally a strict adherence to a parenting order may not be sound, logical, or even safe. Reckless conduct in the face of a global pandemic may be the unsafest of all.

No one wants an attorney’s invoice wrapped with a bow under the Christmas tree. But if you think your ex’s actions are putting you, your children, or your family members’ health in jeopardy, and he or she won’t cooperate in communicating with you openly about the holidays, it is important that you contact your attorney in the very near future to see what can be done. If you wait until December 23rd to take action, it will be too late.

process. The “devil is in the details.” Each QDRO is unique and presents its own set of issues. Here at Isaac Wiles, we often employ a specialist to prepare the QDRO because, as you can imagine, each plan administrator has its own requirements and the specialists are better able to track what those are. Even so, we are with you every step of the way through the QDRO process and always available to answer your specific questions.

In a later edition of this newsletter, I'll touch on how IRAs and government pensions are handled in divorce. Stay Tuned!



Danielle Skestos

November is National Adoption Month

At Isaac Wiles, we are honored to help families grow through legal adoption. We represent both prospective adoptive parents and birth parents in private attorney adoptions, step-parent/relative adoptions, foster parent adoptions, and private agency adoptions. Through each family's adoption journey, we prioritize the best interest of the child and use our knowledge and resources to meet the necessary legal requirements for adoption.

Adoption is more than the process of establishing a new home for a child and creating a legal parent-child relationship, it's the creation of family. While every adoption varies in procedure and complexity, the most important factors to consider at all times are the best interests and well-being of the child.

Danielle Skestos concentrates her practice in adoption law, representing prospective adoptive parents and birth parents in private attorney adoptions, stepparent/relative adoptions and private agency adoptions. Danielle also focuses on domestic relations law, representing clients in divorces, dissolutions, child custody and support matters.

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