

Navigating a difficult divorce

Tools for tough situations

BY STEPHANIE I. BLUM



While we've seen many celebrity divorces that include restraining orders, they are not only for the rich and famous. Restraining orders are appropriate for anyone who needs them, and such orders can prevent a soon-to-be-former partner from continuing abusive conduct.

On the flip side, if a spouse is the target of such an order, it can create a presumption against obtaining custody of the children. It may also be used to throw a spouse out of the home. Because even the most amicable of splits can suddenly turn acrimonious, it's helpful to know how restraining orders work.

When should I seek help?

When a client of mine suspected child abuse, and determined that the father was involved, she immediately sought legal counsel and obtained a restraining order. A different client, however, hoped to avoid this seemingly drastic measure. She hoped that some holistic approach might make her abusive alcoholic husband "get better". But the bad conduct continued — even increased.

While people often hope the situation will improve, things often get worse. There's nothing wrong with being an optimist, but when the well-being of self and children are on the line, it's in everyone's best interest to break the cycle.

If you're at a point where you're even thinking about whether a restraining order might be necessary, you should call a divorce attorney right away. If you're already in the midst of a divorce, and you or your children have experienced abuse, you should ask whether a restraining order might be appropriate.

What if I'm accused?

If you are accused, then you need a lawyer who is able to defend you. Frequently, all someone needs to do to get a domestic violence order is to check the right boxes on a form and claim abuse. If you committed no domestic violence but still get an order against you, the result can

be severe. Even if overturned later, there's nothing in the way of compensation that could be granted to a person who's lost valuable time with their young children due to such an order.

A client of mine told his wife he was considering divorce. Less than a day later, he was jailed on a domestic violence charge. Upon release, he was served with a restraining order requiring that he vacate his home and stay away from his child, pending a hearing on the matter. After hiring me, we were ultimately able to show the court — through photos and text messages — that the wife's claims were false.

Thereafter, my client bent over backwards to appease his soon-to-be ex-wife in custody negotiations, going so far as to agree to a limited and monitored visitation schedule. But she remained firm in her unreasonable demands for sole custody. Left with no good choices, my client proceeded with his own request for a restraining order against his wife, which the court granted — along with granting our request for an order that the couple share equal custody of their 16-month-old, a result that his wife obviously had not believed possible.

Hopefully, you never have to confront these issues. But if you do, it's important to understand your rights and protect your and your children's interests — and critical to make well-informed decisions about how best to move forward.

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