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Consider Annulment As Strategic Option

In reading the May 23 "Law and the Family" article, I thought of the numerous uncontested divorces that remain susceptible to an upward modification pursuant to Domestic Relations Law Section 236(B)(9)(b), despite being short-lived in duration. Clearly, since most divorces are punctuated by the parties' mutual dislike for one another, a former spouse's decision to seek an upward modification of an expired maintenance award, rather than pursue welfare benefits, is not so remote.

Ostensibly, when a party obtains a divorce after a short-term marriage, she envisions that her future contact with her former spouse will be coincidental at best. However, until one's former spouse remarries, he can rear his ugly head again by seeking relief under DRL§236(B)(9)(b). To avoid this most disturbing scenario, it would behoove even the occasional matrimonial practitioner to inquire into and determine whether a particular case is ripe for an annulment, rather than a divorce.

Although attorney's fees may be higher to process annulment papers, a marriage which is rescinded extinguishes forever the parties' rights and obligations toward one another and cannot be revived again by a motion for an upward modification. This alternative, although available only under certain defined circumstances, will not only shield a client from possible exposure to future liability stemming from a DRL §236(B)(9)(b) motion, but also an attorney from the repercussions associated with his failure to adequately investigate this option.

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Children Left in Cold At Family Court

As a follow-up to George Statfield's letter of January 7, wherein he complained about certain ill-conceived court procedures, his cynical vision has found its logical extension at Family Court, Queens County. After having first waited a stressful two hours in the hallway prior to getting an audience before the court, we soon found ourselves being escorted from the building with the balance of the public for the lunch recess. Little did we know that the public excluded from the Family Court between the hours of 1 and 2 pm despite the sub-freezing weather. With no cozy restaurant in sight, I reluctantly huddled together with a group of shivering parents and their toddlers in an attempt to cope with the barbaric weather that has governed January. For the Family Court to dismiss litigants and their children to the barren streets of Queens during this one hour lunch break is nothing short of unconscionable.

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