

“I Want My Day in Court! – But Are You Sure About That?”

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It's become part of our vocabulary...a phrase said by those demanding justice, vindication and validation: *“I want my day in court!”* However, when it comes to divorce, should that really be the case? Is having your day in court really worth the time, the money, the risk, and the emotional rollercoaster it could send you and your loved ones on?

While there's no “one fits all” answer, there are a few things you should consider before you find yourself raising your right hand while you're being asked, “Do you swear to tell the truth, the whole truth, and nothing but the truth?”

Right off, it's important to know that most divorce cases never even make it into a courtroom. The most recent figures state just 5% to 10% of divorces ever get that far. Knowing that, the odds are in your favor that with sound legal advice and often a good mediator, a fair settlement can be achieved without an often long and expensive court battle.

That said, what could potentially make you part of that exclusive “5% to 10% crowd?”

Well first are there any issues that you just can't compromise on with your former spouse no matter how many back and forth rounds of negotiations have gone on with your attorneys? Is your spouse so obstinate and difficult that for every one step forward you take, they take ten steps back?

Are there extenuating circumstances regarding the custody of your children that you strongly believe will cause dire harm to them or your relationship with them?

Are you fairly certain that your spouse is hiding certain finances from you that you haven't been able to get to and don't feel you can unless they are forced to reveal them under oath?

These are all valid reasons, but that doesn't mean there aren't as many reasons not to go to court. There are the costs involved. Court fees add up very quickly, lawyers have to often put in countless hours and trials can go on much longer than anticipated. In the end even if the court does rule in your favor, once these costs are figured in, will you even be in the black? You don't want to end up financially worse than where you started had you settled and that doesn't even figure in the “emotional costs” associated with an often nasty trial that you and your family will have to endure.

Also the vast majority of judges and juries remain impartial. Their decisions are based on the facts, not on emotion. So while you may be confident that you are much more sympathetic than your spouse, that may hold weight in “the court of public opinion” but not in an actual courtroom when the verdict is read.

Getting married shouldn't be a snap decision and getting divorced shouldn't be an instantaneous one either. But once you are headed down this path carefully weigh the options of a fair settlement versus the risk/reward of going to court. Sandy and Chery at Offit Kurman know each case is unique and present their own sets of challenges. They will be by your side the entire time, making sure whatever decision is eventually made, will be done so together and only after very careful consideration.