
Psychology, Family Relationships, and the Law

Marital Russian Roulette

By Mark Baer, Esq.



First, let me introduce myself. I am an attorney in Pasadena whose practice focuses primarily on matters of Family Law—that branch of law which is concerned with family relationships of all kinds. Specifically, family law encompasses such areas as marriage and dissolution of marriage, marital property division, child custody and visitation, children's rights, child support, and spousal support. As you might imagine, in the 17 years I have been in practice, I have become all too familiar with the complexities of human emotion, motivation, behavior and conflict. (In that regard, perhaps I might have more in common with psychologists than you might think!) But since I am not a psychologist, I often refer clients for professional assistance. This is one of the reasons that I recently joined SGVPA.

In the course of my work, I often come across situations that impress me with how intense or confused emotions get played out—sometimes inappropriately—in the legal system. Dr. Suzanne Lake has invited me to share some of these observations with you in the coming months, and I am happy to oblige. This is my first such contribution.

In my office, one unfortunate situation occurs when a potential client seeks my help in filing for divorce. The problem, however, is that covertly this person is *not really ready to end the marriage*. The threat of divorce is, rather, a strategic move. He or she is desperate, and perhaps seeking emotional and legal leverage in the marital deadlock. Usually the person has already unsuccessfully tried to get the partner to marriage counseling, or the couple has tried counseling, with disappointing results.

So, even though the individual seeking my legal counsel is not prepared to actually end of the marriage, he or she hopes that by filing a Petition for Dissolution of Marriage, the spouse will “wake up” and cooperate somehow. Yet that is rarely the course events take.

From my vantage point, what transpires here is nothing more than a game of “Marital Russian Roulette.” Instead of inspiring cooperation, filing for divorce usually raises the emotional ante, and the game can—and often does—spin out of control. Chances are that the spouse who is served will become offended and defensive, and then in turn seek out legal counsel of their own. The new attorney retained will be interested in representing him or her in the divorce proceeding—not in salvaging the marriage.

From that point on, the odds are that the legal proceeding will move forward and that the marriage will end in divorce. Regardless of the individuals' true intentions, in the intensity and confusion, the legal process moves inexorably on. Moreover, since one or both spouses is not really ready to end the marriage, the proceedings will be all the more costly (not to mention heartbreaking and anguishing). One or both spouses will do things or cause things to be done during the course of the divorce that will require them to appear in court more frequently than otherwise would have been necessary. Not surprisingly, I notice that the client who commenced that game of “Marital Russian Roulette” is often the one who is acting out obstructively more during the proceedings.

From my perspective, nothing good comes from my taking on such a case. My potential client is not emotionally ready for the process and should be spending their emotional and financial resources on seeking the assistance of someone in the mental health field and not in the legal field. Unlike most of my colleagues, I will not take on such cases, and always recommend that they seek such counseling. They either need to continue working on their marriage or need to work with someone to get themselves to the point where they are ready to end the marriage. Divorce is not a game, and in general, the court system is not set up to facilitate reconciliation.