

Divorcing couples in ugly spats as lack of judges causes delays

LINDA SILMALIS, CHIEF REPORTER, The Sunday Telegraph August 27, 2017
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UNPRECEDENTED delays in family law court decisions are driving frustrated couples into vicious score settling and brutal smear campaigns as they await divorce settlement rulings.

Sydney's leading divorce lawyers have warned children are becoming the victims of the increasing tensions caused by Family and Federal Circuit Courts judgments taking as long as five years.

The lengthy delays are effectively placing people's lives on hold, in a legal limbo.

The courts' divorce settlement duties have become dysfunctional because of a severe shortage of judges and lack of funding, according to Sydney's leading divorce lawyers.



Talk of a kidnap plot, mental abuse and breastfeeding “cruelty” befell Jean-David Blanc and Melissa George.

Federal Attorney-General George Brandis admitted for the first time under Senate Estimates questioning two weeks ago the court has problems.

His admission follows the Senate passing a historic motion earlier this year, calling on the government to address the funding crisis, warning the “unacceptably long delays” were having a detrimental impact on children and families.

The federal government is embarking on one of its biggest reviews of the Family Law Act since it was introduced in 1976.

But divorce experts say while the review is being held, warring exes are resorting to death threats, child abuse claims, smearing faeces on car windscreens, alleging drug use on social media or exhausting bank accounts in escalating games of payback as they crack under the long waits for divorce settlement.



Angelina Jolie and Brad Pitt met on the set of Mr and Mrs Smith in 2004.

It is the type of vengeance mostly hidden behind Australia’s family law privacy, but which makes headlines in high-profile celebrity splits like Brad Pitt and Angelina Jolie with accusations of drugs and abuse, and sometimes as bizarre as the breakup of Australian actor Melissa George and French millionaire entrepreneur Jean-David Blanc, where Blanc demanded George stop breastfeeding their 10-month-old son because when he had custody of the infant the boy was distressed he could not be breast fed and the trauma would “destroy” him.

Harris Freidman Lawyers divorce specialist Les Stubbs said it was simply a case of more judges being desperately needed in the Family and Federal Circuit courts.

“It’s not that the judges are lazy — there are barely any of them.”

“I’ve had a husband so distressed at his wife leaving him that he blew half his face off in front of his children,” he said.

“Faeces on the car, emails and texts that put Salim Mehajer to shame, anonymous phone calls, slashed tyres — I’ve had people do very alarming things, and not everyone can pay for private arbitration.

“It’s not that the judges are lazy — there are barely any of them.”

Mr Stubbs said the lives of warring couples — including one client who filed for divorce after a “blazing row” at her wedding reception — were effectively placed on hold until their cases were settled.

Other couples were abusing drug testing provisions, forcing each other to undertake mandatory tests as required if an allegation is made.

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Of the 27 Family Court judges, seven were based in Sydney with another two in Parramatta, with law experts claiming each was juggling between 300 and 600 cases.

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For less complex cases heard in the Federal Circuit Court, 17 of the 65 nationally are based in Sydney with four in Parramatta although many only deal with appeals or other matters such as bankruptcy.

While some parties were able to reach agreement via compulsory mediation, others had no alternative but wait for their case to be heard in court, before often facing years of appeals.

Boyce Family Law specialist William Boyce described it “a war of attrition” as exes sought to wear each other down until one party gave up.

“It has a compounding effect, tensions build, disputes arises that wouldn’t otherwise arise, and it forces people into a situation where they consider offers they wouldn’t otherwise accept,” he said.

“What we need is funds and judges.”

Another family law specialist who has been championing reform is David Barry of Gordon & Barry, who blames the Government for failing to replacing retiring judges.

“Without an urgent injection of funding for the Courts, the suffering of separating parents and their children will only increase,” Mr Barry said.

“There are children in Sydney starting school this year who have spent their whole lives in the shadow of the Family Court,” he said.

“This is a shocking state of affairs for a Court system founded on the principles of quick, cheap and efficient access to justice.”

Law Society of NSW president Pauline Wright said the funding crisis extended to Legal Aid, with the organisation only able to offer representation for the most poverty-stricken and desperate.

“People are appearing for themselves as a result, which is chewing up more court time,” she said.

“We have families in distress and children who are suffering. It is beyond serious.”

A KPMG report commissioned by Attorney-General George Brandis in 2014 warning the Family Circuit Court’s budget would fall short by \$75 million as early as 2017-2018.

The government has so far directed its funding towards “parenting management hearings”, family consultants and a domestic violence unit pilot.

Under questioning by Senator Pauline Hanson last week, Attorney-General George Brandis told an estimates that he was looking at appointing more registrars.

Part of the problem for the court not running at “100 per cent” was that several judges were on sick leave, he said.

However, the government was also keen to adopt “extra-curial” resolutions, such as parenting management conferences, which it is trialling.

At the same time, a review underway of the family law system would identify further improvements.

“The Government continues to monitor the ongoing resourcing and funding of the courts to ensure that families are supported,” a spokesman for Mr Brandis said.

CASE STUDY:

Sydney mother “Mary-Jane” was forced to borrow off her own mum to pay a \$600,000 legal bill in a nasty, drawn-out battle before six separate judges lasting almost six years.

During the battle, the part-time worker was fending off the banks who wanted to foreclose on the family home while waiting more than a year for a court hearing after her ex stopped paying the mortgage.

She said the lengthy time it took to resolve a case sometimes benefited one of the parties, with the other settling for less to end the mental “torture”.

“The emotional toll is enormous, and I will never, ever recover financially,” she said.

Mary-Jane said mediation was only an option for couples willing to conciliate.

“It won’t work in situations like mine, when it’s a really bad situation between two people.

“I was receiving hundreds of abuse texts and emails every day.

“It was mental torture, especially when it started looking like I would lose the house.”

With her case now finalised, Mary-Jane said her only advice to couples wanting to divorce was to try to avoid the courts.

“Your soul gets destroyed,” she said.

“It shouldn’t take five-and-a-half years.

“I worked hard, brought up the kids — it should be simpler.”