

A ROUNDTABLE DISCUSSION

**FAMILY LAW:**

EXECUTIVE DIVORCE

>>Divorces involving executives, celebrities and other high-profile individuals are frequently complicated, and may entail sensitive information that could be damaging if made public.

**FRANCES H. KRASNOW**

Partner  
Harrison & Held, LLP  
fkrasnow@harrisonheld.com  
312-621-5229

**FRANCES H. KRASNOW** is a principal at **Harrison & Held, LLP**, a full-service firm with offices in Chicago and Springfield, as well as Naples, Fla., and Boulder, Colo. She is experienced in all aspects of complex family law, representing CEOs and other high-profile individuals in various industries. She is also a fellow of the American Bar Foundation. Her peer-rated honors include selection to Best Lawyers in America and Leading Lawyers Network, and for more than 30 consecutive years she has received the AV Preeminent rating, indicating the highest level of professional excellence, from Martindale-Hubbell.

### What changes have you seen over the last few years in how executive divorces are handled?

**Frances H. Krasnow:**

Alternative dispute resolution is now frequently the preferred route in high-net-worth matters. There are highly talented mediators/arbitrators, many of whom are former judges. And unlike court proceedings, which consist of a few minutes to a few hours spread over a period of months—often years—the mediator/arbitrator affords the parties concentrated time blocks which often facilitate a settlement in a matter of days. These proceedings are confidential and even when they fail to resolve the entire matter, they're useful in narrowing issues, thus minimizing time spent in court.

### What makes high-profile divorces different?

**Krasnow:** We've all seen CEOs suffer through the disclosure of embarrassing personal details as a result of divorces that are litigated in the media. Regardless of the size of the company, its leader's personal life can have a very direct impact on the livelihood of the corporation. This is particularly problematic when it's a public company CEO. Under those circumstances, the CEO's personal life can very well influence everything from stock value to potentially ending his or her career. Our goal as attorneys should be to do all we can to maintain confidentiality and take all available measures to protect our client's privacy interests.

### How do you promote privacy and confidentiality throughout a high-profile divorce?

**Krasnow:** Our approach is always to begin as amicably as possible, using "four-way" meetings in the attorneys' conference rooms—rather than the courtroom—as our first venue. Mediation and arbitration are also excellent alternatives as they're closed, confidential proceedings. And for those times when amicable is not an option, there are several "in-court" strategies to preserve privacy. We retreat to the judge's chambers to conduct sensitive aspects of the case whenever possible. We also use a less public version of our client's name in our pleadings and refrain from referencing the party's name while in open court. For matters that settle, Cook County allows the judgment dissolving the marriage to be filed alone, incorporating by reference only the more detailed settlement agreement. Other counties have similar practices. Our clients' privacy is paramount and we never comment publicly on any matters.

### How do you prepare a CEO to testify at trial or depositions?

**Krasnow:** There's no substitute for preparation. One of our biggest challenges in preparing any witness is to create a comfort level in answering only the question asked, or responding "I don't know." Everyone wants to appear knowledgeable, even in an adversarial situation. This issue is amplified when representing the CEO, an individual to whom people look for answers and guidance. We impart upon our client that this is not the time to elaborate or otherwise expand on a response, no matter how benign the information may seem. It's also not

necessary to try to "win" the entire case with the specific testimony being offered. All testimony is part of a complex mosaic and less is often more when testifying.

### How can a busy CEO parent maximize his or her parenting rights?

**Krasnow:** The challenge here is both in being creative with your busy CEO client's schedule while also rebutting inherent biases against the busy parent who's presumed to either not have time for—or prioritize—parenting time. The fact is CEOs are more likely to be in control of their schedules than less autonomous employees. They can therefore prioritize and schedule their parenting time, school events and other child-related activities just as they prioritize and schedule business meetings and work-related matters. It's our job as attorneys to persuade the court—and the court-appointed experts—of this fact. Parenting schedules can also be creative. The parent-CEO often attempts to restrict traveling to certain days of the week to ensure the availability of time blocks for consistent parenting time. The parenting agreement should allow for flexibility, however, and arrange for "make-up" time whenever possible.

### What other types of professionals does the legal team frequently consult with, and when do they typically get involved?

**Krasnow:** We routinely use business valuation experts, forensic and tracing experts, lifestyle analysts and personal and real estate property appraisers. It's also not uncommon

to rely on psychological professionals in custody matters or vocational experts when assessing an individual's employability. In formulating our legal theories, we may consult an expert early on to confirm the best way to approach a matter. On a tracing issue, for example, we may consult a forensic expert long before any formal report would be due. Complex matters also raise issues on which outside attorneys may be needed. These could include tax issues, estate planning concerns or corporate and securities matters.

### What steps can happily married CEOs take to protect themselves in the event of a future divorce?

**Krasnow:** Hopefully a happily married CEO has a prenuptial agreement. If not, the best protection would be a postnuptial agreement, which can memorialize an entire financial settlement, providing security and certainty during a marriage while circumventing much of the acrimony and expense in the event of a divorce. Another alternative is thoughtful estate planning. You should anticipate your long-term goals and your personal succession plan and take control during happy times. While nothing is immune to being challenged, the more stable the marriage when any planning occurs, the less likely any attack is to succeed.