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Letters
To the Editor

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Although attorney's fees may be higher to process annulment papers, a marriage which is rescinded extinguishes forever the parties' rights and obligations toward one another and cannot be revived again by a motion for an upward modification.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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