



The Divorce Process In New Jersey



By MARLA MARINUCCI, ESQ.

The world of divorce in New Jersey is extremely complicated and is replete with myths, mistruths, and malarkey.

If you are considering filing for divorce and think that you can handle your own case, do not be fooled into thinking that you will be doing yourself, or your children, any justice. If you cannot afford a retainer for a lawyer, borrow from friends and family. Be sure in selecting your attorney that this individual specializes in family law and is not one of those lawyers who will take any client that walks through their door. As the old saying goes, "It's a jungle out there." This holds true when choosing an attorney that has the necessary knowledge to assist you and guide you through this very difficult and emotional time.

There are two parts to every divorce case: procedural and substantive. The procedural aspect of your case involves the scheduling of discovery and court dates while the substantive part focuses on the main issues: custody, child support, alimony, division of property, as well as the legal standards that apply to make the appropriate determinations. This article will focus on the procedural aspects.

Q What are the procedural aspects?

1 The Complaint For Divorce. First, one party files a complaint for divorce in the appropriate county. For purposes of this article, it is assumed that New Jersey has jurisdiction over the divorce because one or both of the parties has resided here for at least one year. There is also a filing fee of \$250.00, and an additional \$25.00 is required if the parties have children because they have to attend the mandatory court-sponsored Parents Education Class.

2 The Answer. Next comes the Answer, which is the defendant's written response to plaintiff's complaint. Defendant has thirty-five days in which to file a response and can also include in the Answer, a counter-claim for divorce. Alternatively, the defendant may simply file an appearance if defendant is not disputing claims in the complaint. I would estimate that ninety-nine percent of the time, if I represent a defendant, I pretty much always file a counterclaim for divorce. I ask my clients the following question when deciding whether to file a counterclaim: *If your spouse dismisses their complaint for divorce tomorrow, do you still want to get divorced?* Invariably, the response is "YES!", however, on rare occasions, the receiving spouse does not want to get divorced or does not believe in divorce so the filing of just an

Answer or Appearance is the best way to proceed for that particular client. Keep in mind, there is filing fee regardless of what you decide to file.

3 Case Information Statement (CIS). The CIS is the most critical document in your divorce case. Both parties are required to file a CIS in all contested family actions where there is any issue as to custody, support, alimony or equitable distribution. The purpose of the CIS is to identify all assets and liabilities and provide the Court with a financial picture as to you and your spouse's income and how you spend your money. Specifically, it requires you to itemize your total monthly budget, including but not limited to your expenditures for the following: utilities; transportation; food; shelter; dry cleaning; hair care; and even what you spend on your pet bird. The parties should also attach to the CIS their most recent tax returns, three paystubs, and any other financial documents, *i.e.*, pension statement, stock statements, etc., that would assist in painting the clearest financial picture.

4 Case Management Conference (CMC). Within thirty days after the filing of the last pleading, the court will schedule a Case Management Conference. The purpose of the CMC is to address discovery issues and how long the case is projected

to last. Obviously, the more complex the case, the more time it may require to reach a resolution. Generally speaking, in Cape May and Atlantic County, when each side has an attorney, the attorneys will themselves agree and submit a proposed Case Management Order to the court for the judge's signature.

5 Discovery. In many cases, the discovery component is the most important part of your case. The purpose of discovery is to ascertain what assets and liabilities each party has and what is part of the marital estate and therefore, subject to equitable distribution. Discovery includes written questions, requests for certain documents, depositions, and requests for admissions. Discovery is usually the most expensive part of the divorce case because it is extremely tedious and time consuming. Your attorney will probably bill you the most during discovery. For this reason alone, it is highly recommended that the parties attempt to reach some type of agreement to avoid the expense of conducting discovery. However, understandably, that is not always possible.

6 Matrimonial Early Settlement Panel (MESP).

The MESP is a court sponsored program that attempts to resolve all financial issues involved in your divorce. Seasoned family law attorneys take turns as Panelists and review your case. Your attorney prepares an MESP Memo that addresses all financial issues and makes a proposal as to how each issue should be resolved. The Panelists review each party's proposals and make a recommendation as to what they feel is a fair and equitable settlement. If the parties can reach a settlement, they can be divorced that day. If no agreement is reached the matter will be put on the court's trial calendar.

As you can see, there are many procedural aspects to a divorce, even if you think yours is "simple." I can't tell you how many clients come to me after they are divorced because they did it without the assistance of a lawyer, or without the assistance of a competent family lawyer. Do yourself a favor, call my firm for a consultation. I'll even waive the consultation fee if you mention this article.

Marla Marinucci is a member of the law firm of April & Maudsley, P.A., Marmora, NJ, which has been in business for over 26 years. Her sole area of practice is family law. She received a B.A. in French from Rutgers Camden, and received her law degree from Rutgers Camden School of Law. Her professional associations include Cape May County Bar Association; Co-Coordinator for the Cape May County Mock Trial Competition; Shore Memorial Leaders Alliance; MESP Panelist; Special Civil Part Panelist; Greater Atlantic City Jaycees; the Family Law Section of the NJSBA; and member of the Executive Committee of the Family Law Section. Call 609-390-9078 to schedule a consultation.

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Contact the New Jersey offices of April & Maudsley, P.A., to schedule a consultation about your legal needs.

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