

Day #11: The Eleven Step Divorce Litigation
Process, #3: Pleadings and the Case
Information Statement

Hi,

Thanks again for Subscribing. Today we continue through the “eleven steps” for a contested New Jersey Divorce.

Pleadings

Although this has not always been the case, today, New Jersey Divorce pleadings are fairly straightforward. The point of divorce pleadings isn't to prove your whole case, but rather to lay out all of the relevant causes of action. Absent claims of marital tort, extreme cruelty or the like, pleadings will be general in nature compared to most other types of litigation.

New Jersey divorce pleadings are not required to be “technical.” All that is required is that basic facts be set forth demonstrating the underlying claims.

Pleadings must also indicate the type(s) of relief requested. Under the relevant court rules, alternative forms of relief may be requested within the pleadings.

Perhaps the most important concept to remember regarding pleadings is this—New Jersey Court Rules understand that you're at the very beginning of the litigation process. Therefore, the rules are generally lenient provided that a factual basis for the relief requested is provided.

But it's also important to remember to plead every cause of action from the underlying claim. If not, you could later be barred by "*res judicata*."

Remember that all pleadings—and particularly Complaints and Answers—are important, and should be taken seriously.

***Res Judicata* and the Entire Controversy Doctrine**

"*Res Judicata*" is one issue to consider when filing a pleading. *Res Judicata* is essentially the legal systems way of stating the following concept: "You must now bring every cause of action that stems

from the underlying claim with your present pleadings, or you may be barred from retrying or seeking relief for the same issues at a later court appearance.” Or, “use it or lose it.”

In a way, this concept is similar (although only in theory) to the more common term criminal law term of “double jeopardy.”

Accordingly if you wish to bring a marital tort along with your divorce, for instance, it’s important to bring that claim along with your original divorce pleadings. Although you can often amend pleadings, it is a waste of time and money and it’s best to proceed with a well-thought out pleading from the start.

Three Major Types of Pleadings in a New Jersey Divorce

The Complaint (And Summons)

The Answer/Counter-Claim

The Answer to the Answer/Counterclaim

There are filing fees required by the Court in connection with the filing of a Complaint or an Answer to a Complaint. There are also specific time requirements. For instance, some manner of Answer

or Appearance is required within 35 days of the date the Defendant receives the summons/complaint.

Otherwise, the Court may commence the Default Judgment process against the Defendant.

The pleadings also set forth the cause of action. Some of the more popular divorce “causes of action” include irreconcilable differences, adultery, and extreme cruelty, amongst others, with irreconcilable differences being utilized a vast majority of the time as New Jersey is a “no-fault” state.

New Jersey Divorce Pleadings formally initiate the divorce litigation process. It is important that all of the valid court rules are followed, so that the case begins properly.

Case Information Statement (CIS)

Case Information Statements are often referred to as the “Most Important” financial document in a New Jersey Family Law. This document is where each party will list assets, liabilities, personal information, and living expenses. If the case ever comes back in post-judgment matters, it will be (along with the

Agreement) the most important document for purposes of proving changed circumstances.

By Court Rule, a “Case Information Statement” must be filed within twenty (20) days after the filing of an answer/counterclaim. After you retain our firm, we will provide you with specific Case Information Instructions and walk you through the Case Information process.

The purpose of the Case Information Statement is to notify the opposing counsel of your finances and other documentation, so that both parties are aware of where they stand. Both parties are required to fill out and file an accurate Case Information Statement as part of every contested New Jersey Divorce.

Tomorrow we will move on to Step 4 of the contested divorce process: Case Management Conferences.

All the best,

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