

## Day #15: The Eleven Step Divorce Litigation Process, #7: The Divorce Agreement

Hi,

Thanks again for Subscribing. Well, we're nearing the end of our journey but still have a bit less than a week left. If you have not already done so, please feel free to reach out to me for a consult so we can discuss your specific case.

Today we continue through our "eleven steps" for a contested New Jersey Divorce. Today we review in greater detail the Divorce Agreement (a/k/a the "Marital Settlement Agreement" or the "Property Settlement Agreement." Today's a longer email so buckle in for the ride or open when you have 5-10 free minutes.

Sometimes, the divorce process can become so bogged down in minutia and emotional baggage that the final destination becomes obscured.

The final destination is (almost always) a formal divorce. But divorce attorneys understand that it's

much more than that. A divorce—if properly resolved—should also provide a sense of closure.

There will always be a few loose ends, but an effective divorce agreement must attempt to crystallize the parties' intent and provide a road map for how to handle future issues.

This is the role of **New Jersey Marital Settlement Agreements.**

For better or worse, most parties to a divorce will continue to maintain some sort of relationship with their former spouse. You will likely be bound together by shared children, friends, or other issues.

A divorce is the ultimate goal, but what are the “rules” post-divorce? There will always be applicable law, but **the Marital Settlement Agreement will in many ways become the law of the divorce.**

I often compare the divorce agreement to the rules found in a board-game in that they provide an overarching structure that each party can rely upon.

For instance, what if following the divorce you and your ex-spouse debate which of you will spend Thanksgiving with the children?

The Marital Settlement Agreement will generally incorporate language addressing this issue. It will say something to the effect of: “Husband shall have parenting time with the children each Thanksgiving from 8:00 a.m., until 3:00 p.m., and the Wife shall have parenting time with the children each Thanksgiving after 3:00 p.m., or “Wife shall have Thanksgiving parenting time in odd years and the Husband in even years.”

A Marital Settlement Agreement that does not provide such guidance may lead to the need for further court intervention. I’ve had a few clients question whether this level of detail is necessary, because the parties will “work it out between themselves.”

That might be the case for you, but it doesn’t leave a fallback position should relationships sour. Such terms may be relaxed between the parties like the rules to a board game may be relaxed, but should matters turn contested the framework will be

important for providing a path forward towards resolution absent additional court intervention.

The Marital Settlement Agreement encapsulates the disposition of issues in the divorce. It should address the items described above, including but not limited to matters of child support and equitable distribution of assets and alimony or the waiver of alimony (and much more). Such issues can be simple or quite complex.

Employability issues, salary, whether someone is a W-2 wage earner or a business owner (or both), whether assets are marital or exempt as gifted, inherited or premarital, and many other complex issues involving potential tax ramifications, pension distribution/QDRO's, stock options and the like may all be considered within a Marital Settlement Agreement.

It is important that all relevant issues be agreed, within reason, prior to entry of the divorce and executed in a formal written agreement. In sum no Agreement can include a contingency for every issue, but it's important to cover every conceivable important issue as part of the divorce resolution. You do not want to get stuck with a "bad

deal” because you got worn out by the process or simply gave up. This Agreement will be something you are bound to for years, maybe even decades. A qualified New Jersey divorce lawyer can assist you in determining a fair and reasonable outcome, let you know if you’re being unreasonable, and let you know if you’re leaving assets on the table.

## **Conclusion**

New Jersey Marital Settlement Agreements are probably the most important document overall in the divorce process.

They, along with the Case Information Statement, will be used as evidence should the need for future court appearances be required (example – to modify child support).

It’s important that the Marital Settlement Agreement is detail oriented and that your attorney has crafted the terms to incorporate the full Agreement, and to also insure that the Agreement is fair. It’s not unusual for Agreements to be modified/negotiated ten or more times prior to the parties executing the Agreement prior to the entry of an uncontested divorce.

In my opinion, it's better to have these arguments worked out now rather than finalize your divorce only to return to Court to address something the Agreement does not cover or that is unclear.

Tomorrow we move on to step eight: the Early Settlement Panel ("ESP").

All the best,

Carl

Carl Taylor, Esq.  
Carl Taylor Law, LLC  
171 Main Street  
Flemington, NJ 08822  
908-237-3096  
[www.carltaylorlaw.com](http://www.carltaylorlaw.com)

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