

Day #2: The Uncontested Divorce

Hi,

Thanks again for Subscribing.

Yesterday you learned the basic overview about a contested divorce in New Jersey. Today, let's slow it down a bit, take a step back, and focus on the uncontested divorce.

The Uncontested Divorce

Most people do not wish to be involved in long, expensive, and drawn-out litigation if there is an amicable path forward.

To that end, an uncontested divorce may make more sense for you than protracted divorce litigation.

Of course, negotiating a settlement will not always be easy, but the goal of both parties should generally include being open to favorable settlement terms. At the same time, cases often settle favorably based

upon leverage and thus even when the goal is to quickly settle a case it may sometimes be appropriate to consider aggressive discovery techniques, motion practice, and other actions to create additional leverage for such a favorable settlement.

Unlike other types of cases that may present a “snapshot” of a moment in time (such as a car accident), divorces are ongoing and more like a moving picture, life goes on before, during, and after the divorce process. Thus many issues crop up prior to finalizing the divorce.

New Jersey Uncontested Divorce Hearings

A New Jersey uncontested divorce hearing will be scheduled when the parties reach a Settlement and advise the Court of their settlement and a readiness to finalize their divorce. This stage can come early in the process or on the steps of court on the last day of the divorce trial.

The actual uncontested divorce hearing is, perhaps somewhat ironically, actually one of the least complex parts of the entire divorce process.

Along with counsel, if you are represented, you will attend the uncontested hearing at court. Your spouse and his counsel will often choose to attend as well, although this is not required provided they did not file a counterclaim. The court will make sure the basic procedural grounds for divorce are met (often irreconcilable differences) and that both parties have capacity and desire to enter into the divorce agreement.

You will therefore be asked certain questions to establish a “cause of action” and that the settlement agreement is valid and willingly entered into. The “cause of action” is the divorce grounds, such as irreconcilable differences or extreme cruelty.

New Jersey is a “no fault” divorce state meaning a divorce will proceed as long as one of the married partners wishes to pursue same.

The Judge may then follow up with a few additional questions, although the Judge will not make a determination as to whether the Agreement itself is fair and equitable.

Uncontested Divorce Hearing in New Jersey: After the Hearing

After the divorce hearing, the parties will be given gold-sealed copies of their Judgment of Divorce. It is important to keep this copy and the Marital Settlement Agreement (“MSA,” sometimes also referred to as a Property Settlement Agreement or “PSA”) in a safe place, should future issues arise.

It is also important to remember that there will often be certain unresolved issues or other post-divorce loose-ends/business to take care of. Your attorney should offer guidance regarding these issues. One thing to consider is immediately changing your will, so that your ex-spouse will be removed as a beneficiary. You may then have to pursue division of assets processes such as obtaining your share of your partner’s retirement accounts/pension(s).

Uncontested Divorce Hearing in New Jersey: Conclusion

The uncontested divorce hearing is a day of closure. It will likely be a bitter-sweet day for both parties. It’s both the end of something and also a new beginning. Your attorney should notify you of what to

expect the day of the hearing, review the uncontested divorce questions with you in advance (so you are prepared for the day of the hearing), and later advise you of how to tie up post-divorce loose ends and determine whether you wish for continued representation relating to such issues as dividing marital assets or implementing other clauses contained within the Agreement.

If litigation is inevitable, however, then you will begin the steps toward a contested divorce, which I outlined yesterday and will further discuss in the coming days. But first, let's review some of the major divorce issues such as child support and custody.

All the best,

Carl

Carl Taylor, Esq.
Carl Taylor Law, LLC
171 Main Street
Flemington, NJ 08822
908-237-3096
www.carltaylorlaw.com

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