

## **The Stages of Divorce**

By: Barbara Nunneley

Divorce is a means of terminating a marriage contract between two individuals. From a legal standpoint, it gives each person the legal right to marry someone else. It also legally divides the couple's assets and determines the custody of their children.

### **Petition for Divorce**

The first step is to file a petition for divorce in the county of you or your spouse's residence. It can be filed and then mailed or handed to your spouse, or it can be served by a sheriff, constable or private process server.

This stage of divorce may take the form of temporary relief or extraordinary relief. Temporary relief consists of asking the Court to make temporary decisions regarding property, insurance, custody and any other matters that might come up over the next several months, such as the use of the home, car or furniture.

The court is also empowered to grant extraordinary relief due to some extraordinary circumstance requiring immediate action to protect a spouse, child or any property. Examples of such cases include drug or alcohol abuse and domestic violence.

### **Temporary Orders**

After the petition is filed, the parties enter into temporary orders, either by mutual agreement or by court order, which govern property, debts and custody pending the granting of a divorce.

Temporary orders may provide for an injunction to prevent the hiding or damaging property or the incurrence of any unusual debts. They may also contain orders for temporary custody and support of children. The court may also order one spouse to pay temporary spousal support to the other spouse.

To avoid the expense of a temporary hearing, the parties may elect to resolve all such issues by agreement. If arrangements on all matters cannot be made with the consent of both parents, a temporary hearing may be held in court within 14 days of the filing of the petition.

## **Discovery**

The next stage is the discovery of evidence including any and all facts regarding property, debts, the parties and children. This information is the foundation of any divorce case. The goal is to find out what issues exist between the parties, what the parties are in agreement on and any disagreements. It is important for you to be as involved as possible during this stage to ensure that we gain as much knowledge as possible about your spouse's situation and that correct information about you is revealed.

## **Mediation**

During mediation, the parties attempt to work out an agreement by working with a professional mediator skilled in family law cases and selected by the lawyers of both parties. The mediator reviews all that facts and usually meets the parties before the mediation date.

At mediation, each side tells the mediator in confidence their strengths and weaknesses. Often, a portion of time with the mediator is also spent venting grievances against the other spouse. Each side is then asked for suggestions on settlement. Next, the mediator discusses possible compromises to the differences in private with each side. When successful, this process eventually results in a settlement that avoids the stress and expense of a trial.

While decisions cannot be forced on either party, both you and your spouse need to understand that a spirit of give and take is needed to achieve a reasonable chance of a meaningful settlement. It is nearly impossible for either party to get everything they want. Compromise and open minds are vital to the success of mediation.

## **Trial**

If mediation is unsuccessful, the case must go to trial. We will fully prepare you for any roles you may have at trial and make sure that you understand the proceeding. We will also do everything necessary to prepare your case so that the court has all the facts to make a fair division of property and do what is in your children's best interest.

In some cases, only the involved parties testify. While in other trials, expert and fact witnesses may be called to testify. The vast majority of divorce cases are tried before a judge, not a jury, since jury trials are much more expensive and time-consuming.

At the conclusion of trial, the judge will enter his or her rulings and orders concerning custody and support of the children as well as those necessary to divide the community property, assets and debts. These court orders are usually read immediately in the courtroom, but can be delivered days later by letter to the attorneys.

## **After Settlement or Trial**

After a settlement has been reached or the trial court has entered its orders, the divorce decree and other documents must be drafted. The enforceability of any agreed or litigated judgment for divorce depends in large part on how carefully it is drafted.

## **Appeal**

If a ruling is completely unacceptable, appeals are available but often have a limited chance of changing any decisions made by the court. We will discuss any opinions for appeals in the event that the need arises.

*The above does not constitute specific legal advice.  
Please call to schedule an appointment with one of our lawyers.*