

## Divorce Appeals

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

A divorce appeal is the act of a higher Court reviewing the decision of a lower Court. There are a few reasons for an appeal from a decision by the Family Part:

- The Court failed to make adequate findings of fact.
- The Court failed to follow the law (Court rules, case law, or controlling statute).
- The Court failed to conduct a plenary hearing to resolve material issues in dispute.
- The Court abused its discretion.

Divorce appeals in New Jersey are both costly and time-consuming because they involve the following:

- Preparation
- Writing
- Research
- Analysis of the transcript of the proceedings
- Settlement conferences
- Filing fees
- Transcript costs
- Occasional motion practice

The disposition of a divorce appeal may be delayed by obtaining transcripts, failure to meet filing deadlines, and the complexities of the presented issue. The appeal process may take approximately a year and sometimes longer, depending on the case. Additionally, in some cases, the appellant may also be required to pay the expenses of the former spouse.

Well-versed in all facets of the appellate process, we have clerked in both the Appellate Division and the New Jersey Supreme Court. In addition, the Wilentz Appellate Practice Group has consisted of retired judges from the New Jersey Superior Court, the Appellate Division, and the New Jersey Supreme Court.

To discuss a divorce appeal with one of our experienced attorneys, please contact our office.

### **How Does a Divorce Appeal Work?**

Divorce is a civil court procedure. Appeals can be taken from a final order of judgment, which is only final where it disposes of all issues as to all parties. In New Jersey, a party has 45 days from a final order to take an appeal. If an order is not “final,” a motion must be filed requesting to leave an appeal from the interlocutory order. Only a small percentage of interlocutory appeals are granted. The filing of a motion for leave to appeal does not automatically stay the order or proceedings in the trial Court. A motion must be filed to stay an appeal.

When a divorce appeal is filed, the appellant needs to file a brief explaining the reasons for the appeal and obtain a trial transcript, all of the paperwork from the trial (evidence, pleadings and documents) and the documents must be filed in groups to the appellate Court, each adversary, the trial Court and each attorney. An

emergent application may be filed where irreparable damage would result if the party were to proceed with the timetable of a regular appeal or motion. Any applicant that is seeking emergent relief must establish:

- That the issue is truly emergent and cannot proceed as a regular appeal or motion.
- A reasonable likelihood of success on the merits of the case.

**To speak with an attorney about your legal options, please call: 732-352-9871.**