

## How to File for Divorce

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### Steps to make the divorce process as painless as possible

1. **Speak with an Attorney First.** Going through a divorce is not simply a legal matter. More often than not, there are complicated legal issues involved which are separate and apart from just the dissolution of the marriage. Divorce is a very emotional and personal process. Just like people, no two divorces are the same. Your financial well-being may be at stake, making equitable distribution of your assets and liabilities--and possibly alimony--key considerations. If you have children, issues such as custody, parenting time and child support are critical and will involve some of the most important decisions you will make. Discussing these issues early and understanding the legal implications will not only help your attorney structure a plan that meets your goals, but will also alleviate some of the stress and worry that comes with not having a plan of action.
2. **Gather Financial Information.** This will include personal and corporate tax returns, W2s, mortgage and utility statements, and bank, investment and retirement account statements. These documents will assist your attorney in analyzing your finances and legal rights in the divorce process.
3. **Decide How to Proceed with Your Attorney.** Speak with your divorce attorney about which options are practical for your situation. These options may include initiating amicable settlement negotiations, agreeing to mediation with a neutral third party, or beginning litigation by filing a Complaint for Divorce with the court. If direct negotiations or mediation are successful and a settlement is reached, the parties, through legal counsel, may proceed with a relatively quick and uncontested divorce action. The papers filed with the court will be limited and the parties only have to appear in court once for a short uncontested divorce hearing which limits the amount of time and cost involved.
4. **The Process and Court Appearances for a Contested Divorce Action in New Jersey.** Either party may initiate the litigation by filing a Complaint. The Complaint, also known as a pleading, is assigned a Docket Number by the court. The Complaint will state the disputed issues, parties to the action and requested relief. The party who files the Complaint becomes the plaintiff and the other party becomes the defendant. If the defendant also wishes to file for divorce with lawyers in NJ, he or she will file a pleading that is referred to as a Counterclaim.  
Each party is also required to prepare and file a Case Information Statement ("CIS") within twenty (20) days of the final pleading. The CIS sets forth the parties' earned and unearned income, expenses, assets and debts. While the parties will obtain additional information about the finances through the discovery process (where both sides exchange documents), the CIS is an important document that attorneys, mediators and the Family Part Judges will rely upon to evaluate settlement, argue motions and/or render a final decision after trial.

The Discovery Process may include interrogatories (questions answered on paper), depositions (questions answered orally while under oath at risk of perjury) and the exchange of relevant documentation such as bank statements, title to real and personal property, retirement account statements, credit card bills, etc., through a Notice to Produce. Parties may find it necessary to work with financial experts, such as real estate or pension appraisers or forensic accountants to determine the value of assets such as property, businesses, retirement plans, cash flow and the marital lifestyle.

If custody is an issue, the parties will be compelled to attend parent education classes and custody/parenting time mediation at the courthouse. If custody remains in dispute, the parties may retain a joint or independent

mental health professional to perform an evaluation and render a report as to the parenting arrangement that is in the best interests of the children. Court appearances may include Case Management Conferences (“CMC”) where the Family Part Judge assigned to your case will establish the issues in dispute, set deadlines for discovery and make certain that the case is moving toward a settlement, and if not, that the case is prepared for a trial.

Family law matters that do end in a settlement will eventually go before an Early Settlement Panel (“ESP”), where depending on the County, one or two neutral attorneys who are well versed in family law will provide the parties with a recommendation for settlement. The recommendation is confidential and non-binding to the parties. The parties may elect or be ordered to attend economic mediation with a retired judge or a licensed attorney. Mediation is also confidential and non-binding to the parties. In the event that a financial or custodial issue arises that requires the trial court’s immediate attention, the parties, through counsel, may file an application for relief to the court pending the outcome of a trial. This application is called a Notice of Motion, or if it is an issue that may pose irreparable harm, the application may be filed on an emergent basis as an Order to Show Cause. Ultimately, if the case is not settled, the Court will eventually schedule pre-trial conferences and trial dates.

Mediation and arbitration are alternative methods to the traditional courtroom process for settling divorce-related issues within the Family Part. Ask your attorney about the pros and cons of these methods and whether they may be appropriate for you and your spouse. Outlined here are some of the [benefits and risks of divorce mediation](#).

Over 98% of family law matters in New Jersey settle. Once the settlement is reached, both parties will briefly appear in court for an uncontested divorce hearing. If both parties cannot agree upon a settlement, a trial is scheduled. Few cases actually go to trial, however, because of the time and expenses involved. There may be a more limited trial or hearing on a specific issue such as child support if some, but not all, of the issues are resolved by agreement.

If you have a question or wish to discuss this topic with one of our family lawyers, please give Joe a call at **(732) 352-9871**.

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