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Filing an Answer to a Petition for Divorce

Being served with divorce papers is extremely stressful and emotional. Often times, the person served has no idea what to do once served. Though the divorce process can be confusing, the initial steps are pretty straight-forward.

The first legal step in a divorce action in New Mexico is the filing of a Petition for Dissolution of Marriage, which must be personally served to the opposing party. Once you have been served with the Petition, you have 30 days to file your response, which is called an Answer. At the Second Judicial District Court in Albuquerque, all responsive pleadings, including the Answer, must be filed with the clerk on the first floor of the Bernalillo County Courthouse. Likewise in the Thirteenth Judicial District in Rio Rancho, the Answer must be filed on the first floor with Sandoval County District Court Clerk.

If you are served with a Petition, it is a good idea to meet with a lawyer as soon as possible in order to discuss your rights and responsibilities during the divorce process. Even if you are unable to meet with a lawyer, it is imperative that you file an Answer to the Petition. If you don't, you run the risk that a default judgment will be entered against you. A default judgment means that the Court grants the divorce, including dividing property and debt and deciding child custody and child support, without your input.

The Petition itself is a pretty basic document that simply notifies the Court that the parties are incompatible and that at least the filing party wants a divorce. It will include information about when the parties were married, whether or not they have any children, whether or not one party is entitled to spousal support or alimony and will ask the Court to divide all community and separate property and debt.

Thus, your Answer can be pretty simple too. The Answer should include a line responding to every line in the Petition that states whether or not you agree with each and every statement in the Petition. The Answer does not need to include the details of why you agree or disagree or details about what you want in terms of property or custody. The final details of the divorce will be spelled out in the Marital Settlement Agreement and the Parenting Plan, both of which are filed later on. Keep in mind that your Answer is binding and may be used against you later. As such, you need to be very careful about what you admit or deny.

On the other hand, it is far better to leave details out of the Answer. The details are addressed later through litigation, discovery, mediation, settlement and so. These details are then set forth either by the parties through the Marital Settlement Agreement or Parenting Plan if they are able to work together, or the court if they are not. Even if you

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have to file the Answer without an attorney, you should definitely discuss the details of the Marital Settlement Agreement and Parenting Plan with an attorney because these documents will affect your rights long into the future.

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