



## Massachusetts Contested Divorce

### Lawyers Serving Medway & Boston

Before assuming you have no choice other than a traditional court-based divorce, it makes sense to consider a less adversarial method of resolving your case outside of the courtroom, such as [divorce mediation](#) or [collaborative divorce](#).

If you cannot resolve your issues or one spouse refuses to consider other methods of dispute resolution, then your case will be a litigated or court-based divorce.

Here are some of the main steps in a **Contested Divorce in Massachusetts**:

1. This process officially begins when one person files a *Complaint for Divorce* with the appropriate Probate and Family Court. The person filing the complaint is the Plaintiff. The complaint is then delivered or served upon the other spouse, who is the Defendant, along with a summons and some other initial paperwork, including a track assignment notice which also specifies what judge has been assigned to the case and a copy of Rule 411, a financial restraining order that

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automatically goes into effect.

2. The Defendant (person who did not initiate the divorce complaint) or more likely their lawyer, then answers the complaint within 20 days and forwards a copy of the answer to the Court and to the opposing counsel. It does not really matter if you are the Plaintiff or the Defendant.

3. This portion of the case is known as the pre-trial phase, and is the longest phase of a typical case. This time is also referred to as the discovery period because each side collects the pertinent data required to prepare for trial. Discovery can be time-consuming and expensive. Discovery methods include exchanging documents, depositions (in person questioning outside of court), interrogatories (questions that must be answered in writing), and Requests for Admissions. Some other discovery techniques are available, although less common. During this period, a number of cases will settle before having a trial.

4. Temporary Orders & Motions – Attorneys will frequently file motions with the Court. Motions are requests that are filed with the court, and then a hearing takes place to see if the Judge will allow them. There are many types of motions available, but a motion for temporary orders is the most common. Temporary orders set forth certain things while the cases is in the pre-trial phase, but not yet finalized. In temporary orders, attorneys may request that a certain amount of child support be paid, or that one party vacate the marital home for example.

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5. If child custody is being disputed, the Court may appoint a Guardian Ad Litem, or GAL, to conduct an investigation regarding children's issues, with a goal of completing a report regarding custody and visitation. The GAL will likely interview parents, teachers, other caregivers, and sometimes the children.

6. Pre-trial Conference – If a case remains unsettled, a Pre-trial conference is held at the Court. Attorneys will submit a Pre-trial Memorandum before the conference, outlining what issues are in dispute and what has been tentatively agreed to, if anything. The Pre-trial conference is also a chance for each side to get some feedback on their positions and meet with a court family service officer. It is common that many cases settle at this time, or shortly thereafter.

7. Trial – Less than 10% of filed divorce cases reach this stage in the process. For those cases that cannot be settled, a trial will take place before a Judge (no jury). There will be testimony from witnesses and maybe experts, and then the Judge will issue a decision. The Judge frequently issues their decision a number of days after the trial date.

After the Judge issues an order, there is a waiting period of 90 days before the divorce becomes final.

Contact [our collaborative divorce lawyer](#) serving Medway and Boston, Massachusetts.

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