

No-Fault vs. Grounds-Based Divorce in New York

In October 2010, New York adopted a *no-fault* divorce clause. The [revised law](#)^[H1] dictates one partner must state under oath the marriage relationship has irretrievably broken down for at least six months.

From that sworn oath flows settlement of issues like child custody, payment of support, and equitable distribution of marital property.

The intent of **no-fault divorce** is to provide an easier route to divorce and reduce the financial drain of divorce trials. Has the new law lessened acrimony associated with divorce, or did it simply widen the battlefield for unhappy spouses?

The jury is out on both questions.

After an initial lull, divorce filings have again increased. Court dockets are backlogged, and challenges to the no-fault law continue. In addressing the subjective nature of irrevocable breakdown, a Supreme Court Nassau County judge opined in April that *the Legislature did not intend nor is there a defense to Domestic Relations Law § 170(7)*.

While the no-fault ground has come under fire, our family law practice has successfully addressed confused formulas for fixing temporary maintenance and pressed cases where the greater wage earner does not end up being the *monied spouse*.

These challenges continue the tradition of protracted divorce. And while a no-fault filing sets aside blame, a judge may consider *any other factor* relevant to each action—including marital fault.

If misconduct precipitated your marriage breakup, tell your attorney. Fault or no-fault, by applying our legal prowess and strategic methods, we can work to achieve the result you need.

^[H1][http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=\\$\\$DOM170\\$\\$@TXDOM0170+&LIST=SEA32+&BROWSER=BROWSER+&TOKEN=33723938+&TARGET=VIEW](http://public.leginfo.state.ny.us/LAWSSEAF.cgi?QUERYTYPE=LAWS+&QUERYDATA=$$DOM170$$@TXDOM0170+&LIST=SEA32+&BROWSER=BROWSER+&TOKEN=33723938+&TARGET=VIEW)

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