

Divorce Process

Monday, April 4, 2011

This blog will explain the steps in a divorce, and what you will need to provide an attorney. As you navigate through the process, the first document you will need to bring is your original marriage certificate. Sometimes clients want to keep this for their records or just simply to remember a time in their life. The court however needs the original document. The divorce will not be able to proceed unless the original is filed with the court. The second set of documents you will need are three years of your tax returns. These forms can include 1099s 1098s and W-2's. You also need three most current pay stubs from your employer. It should be noted there are no gotcha moments in family law. Everything is about disclosure and the best interest of the child.

When you get to my office (www.bmjrlaw.com), I will have the necessary forms for you to fill out. These forms include the Complaint for Divorce, Affidavit Disclosing Care and Custody, Statistical Report, and finally the Military Affidavit. If applicable, you may fill out an Affidavit of Indigency which waives the court costs of \$215. The above-mentioned forms tell the court information about you, such as whether a spouse is in the military or if there are any care and custody proceedings already pending within the court system.

Once the divorce paperwork is filed, you should attend the parent education class, which is a requirement under Massachusetts law, if the parties have a minor child. It is important that you attend this class. Otherwise, the divorce will not proceed. The parent education class seeks to provide guidance for children as their family structures are changing.

Once you've completed the parent education class you should begin working on the financial statement. The financial statement breaks down your expenses in your life to determine how much child support and/or alimony you should receive. I heard a judge recently say at a conference that both child support and/or alimony should not exceed 1/3 of the defendant's income. Typically the longer the marriage, the more likely you will receive alimony.

The opposing party has 20 days to respond to the complaint for divorce. Once the 20 days have passed I can file for a pretrial conference where the judge will attempt to settle the case or determine whether the case should go to trial. Prior to the pretrial conference a four-way meeting must occur. The four-way meeting is to allow all parties to discuss the issues in the case to determine which issues they agree or disagree on. It is important to approach the pretrial conference with an open mind and a willingness to compromise. This may be very difficult in some cases I realize. At the pretrial conference the judge will determine the status of discovery and set a trial date. If needed, he may also direct the parties to a probation officer to see if an agreement can be reached if the case is appropriate. The vast majority of divorce cases settle during the pretrial phase. Trials usually are over custody issues and can be painful for all sides. It is important to remember that the best interest of the child is what's most important. I hope you found this blog to be helpful in outlining the basic process of divorce.