

*By: Jeralyn L. Lawrence, Esq.*



Statistically speaking, 97%-98% of all divorce cases settle. Of the remaining 2%-3%, half of those cases settle at or during trial. If you are going through a divorce, chances are your case will settle. I often tell my clients that generally it is not a matter of "if" their case will settle, but a matter of "when" their divorce case will settle. As such, most cases are concluded by way of a mutually acceptable agreement reached by and between the parties.

There are, however, impediments to settlement. In some cases, the parties are just not emotionally ready to settle their case, and the case may linger while the parties take some time to accept the end of their marriage and gain the clarity and strength needed to participate in their divorce.

In other situations, a case may not be ready substantively to settle. If values of assets are unknown and experts are needed to provide a valuation or if custody is an issue and a custody

and parenting time evaluation is underway, a case may not settle until the experts conclude their evaluations and render their reports. These processes take time and may delay the ultimate settlement of the case.

But once all issues are known and the case is ready to be settled, the main goal of each and every divorce case is to reach a settlement and to memorialize the terms of that settlement into a contract between the spouses. This contract is known as a Property Settlement Agreement ("PSA").

A PSA is a written agreement between a husband and wife. The PSA addresses all issues arising out of a marriage. It should cover all relevant and germane issues of a particular marriage. Custody, parenting time, child support, alimony, and equitable distribution are the general areas for consideration, but the subcategories of these areas are often quite numerous. The PSA should be tailored to the individual marriage and to the facts of the case.

Once the parties have settled their issues and a PSA has been prepared, reviewed, approved and signed, the divorce can be finalized. To finalize the divorce, one party has to file a Complaint for Divorce wherein the party has to assert a legally recognized cause of action for divorce. For example, if the parties have been living separate and apart for 18 consecutive months, they can file for divorce under the no-fault ground of 18-months separation. (Irreconcilable differences has not yet been made part of New Jersey State law, but it is being discussed in the Legislature and hopefully soon will be an option as a grounds for divorce.)

Generally, as most parties cannot afford to live separate and apart for 18 consecutive months and then file for divorce, clients often file for divorce under a fault ground. The most utilized fault ground is extreme cruelty. There are other causes of action available such as desertion or adultery and those grounds also give a basis for the filing of a divorce complaint.

Once a complaint is filed, so long as the parties have a fully executed PSA, the other party can simply waive the right to answer the complaint and waive the right to appear at the divorce hearing. In that event, the client can expect to be divorced within 3-4 weeks.

At the divorce hearing, the party who filed the complaint (known as the plaintiff) will appear before a Superior Court Judge and the parties will be divorced on an uncontested basis. At the hearing, the Judge will sign a Final Judgment of Divorce. This Judgment legally dissolves the marriage.

At that point, you are divorced and your post-divorce relationship is now governed by the terms as set forth in the PSA.

Jeralyn Lawrence, a member of the Norris McLaughlin & Marcus Matrimonial Law Group, has been selected by her peers as one of New Jersey's Top 10 matrimonial lawyers under the age of 40. She has also been recognized by the New Jersey Law Journal as one of 40 accomplished and promising attorneys in the State of New Jersey under the age of 40. Jeralyn is a frequent speaker at matrimonial law programs and seminars.