

Can I stop the divorce?

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Dear Ask the Attorney:

My husband and I have been in the process of getting a divorce for a while. We both have attorneys and have been relatively amicable about dividing assets, children, etc. However, over the holidays, I invited him over to spend time with the kids at our house and we realized that we still really love each other and want to try to make our marriage work. Can we stop the divorce?

K.P.

Our guest blogger today is Ivette R. Alvarez, Esq, who is Counsel to Einhorn Barbarito. She concentrates her in civil litigation with an emphasis in family and matrimonial law. She is fluent in Spanish.

Dear K.P.

Having second thoughts about whether to proceed with a divorce action is not unusual, especially during the holidays when most of us are nostalgic about our families and remember good times spent together. If both you and your spouse are in agreement, and do not want to proceed with the divorce, the process can be stopped at any time.

It is unclear from your question if both you and your spouse have filed cross divorce Complaints. In New Jersey each side can file for divorce. If you both have filed for divorce that is one of you has filed a Complaint and the other one has filed a Counterclaim, all you need to do is notify your attorneys that you want to dismiss your case and that your spouse is in agreement and consents to the dismissal. The attorneys will take care of confirming with each other that this is in fact so. Then, either attorney can notify the Court of your mutual desire to dismiss the case and that the other party consents. The crucial

point here is that consent by both sides is needed before an action for divorce can be dismissed once the Complaint for Divorce has been filed and the other side has counterclaimed.

Dismissal with consent can happen at any time, so do not feel pressured to do it right away. If, while you are giving consideration to dismissing your divorce case by consent, your spouse changes his/her mind, remember there was a reason why you were thinking of divorcing in the first place.

A word of caution, divorce is process fraught with uncertainty. You are in the process of beginning a new chapter of your life. You will have second thoughts throughout the process and at many times feel uncertain about your decisions. It is good therefore when you are going to take any significant steps, such as dismissing the case, you take some time to ponder your decision and seek advice from your attorney and other professionals.

Please, know that once you dismiss the case, if you change your mind and want to proceed with the divorce, you will have to start the process all over again. Depending where you are in the process this may mean a significant expense and with court calendars being what they are, it may be a year or more before you are divorced. Each case is different so please consult with a qualified family and matrimonial attorney.

“Ask the Attorney” is a blog in which answers to your legal questions submitted to asktheattorney@einhornlawyers.com may be answered. The answers to the questions are for informational purposes only and are not to be construed as legal advice or the creation of an attorney-client relationship. The facts of each case is different, therefore you should seek competent legal representation.