

# Don't Trust Your Divorce To A 'Robot'

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## Going “uncontested” can skirt crucial child support, asset-sharing issues

Can robots save you money when you divorce?

Recently, in *The Wall Street Journal* section titled, “The Future of Everything,” I read about a “chatbot” being developed for divorce that will “generate all the paperwork necessary to file for divorce and all you need to do is get your partner to sign.” Now, in addition to robot-driven cars, are we going to have robot-driven divorces, too?

This statement by the “chatbot” designer is a very simplistic characterization of what parties need to do when divorcing—just sign some generic papers! You see these types of statements all the time, on billboards when entering the Garden State Parkway at the Raritan Bridge or in the sports section of your newspaper, where you see ads for law firms that charge \$199 for an uncontested divorce.

Uncontested divorces are more common than people realize. In New Jersey, fewer than 1% of all divorce cases are tried by a judge; the other 99% are uncontested.

### But not so fast ....

First of all, in New Jersey, an uncontested divorce means that you and your spouse have resolved all issues between the two of you. When you hear someone say, “Oh, we are going to have an uncontested divorce,” it does **not** mean that the couple is in disagreement about whether a divorce should occur. Whether to divorce is not the issue that causes contention, it is everything else.

When parties divorce, it is rare that there are no custody or parenting time issues, no child support needs, no support needed by one spouse, and no assets to divide. All those issues must be addressed and resolved before a court in New Jersey will grant a divorce.

New Jersey requires that all issues be resolved, or at least that a process is set out to resolve all issues, before a divorce is granted. For example, you might agree to sell the marital home but not want to list it until spring and when you do sell it, the proceeds would be divided equally between the two of you. That agreement would constitute a resolution of that issue in the eyes of a court, even though it is yet to occur.

Other states might grant you a divorce without resolving any related issues. So, although you can remarry right away, you might have to litigate such issues as alimony and asset distribution for years after your divorce.

What happens if you use robot-generated generic documents to get divorced and you and your spouse have only an oral agreement for custody, parenting time, support, or other major issues? Your time to get divorced rolls around, you appear before the judge, and you tell him you have everything resolved. If a judge does not question you further, you may get a judgment of divorce, but then you would have to rely on the good intentions of your former spouse for future support, to obtain your assets, and to share custody of and parenting time for your children. Usually, however, a judge will ask you a) if you can support yourself and your children and b) how much child support is being paid.

In every divorce where a child is involved, a court will require an agreement for child support to be paid consistent with the New Jersey Child Support Guidelines. A judge will not permit a judgment to be entered without a provision for child support, and a judge will not permit a deviation from the amount of support that should be paid pursuant to the guidelines without a significantly good reason. For example, if you “just want the divorce to be over” and “move on,” you might agree informally that your spouse can pay you only \$25/week in child support for one child, even though you may not work and your spouse earns \$100,000/year. The Child Support Guidelines amount in that instance might be as much as \$332/week. A court would not grant the divorce until an appropriate amount of child support was agreed upon; this would then be a written term in your divorce decree.

Likewise, not securing a written alimony agreement during an uncontested divorce can cause heartache later on. Let's say you don't request a set alimony payment and then, 6 months after your divorce is final, you change your mind and decide that you cannot "make it" without alimony. At that point, you cannot go back and ask for it. A court will have deemed that you waived your right to alimony when you told the judge that you and your ex-spouse had resolved all issues.

What if you had agreed that you would get the big-screen TV when the apartment lease was up but when that time came, while you were at work, your spouse came in and took the TV? A court will not assist you in enforcing your oral agreement. Rather, with no written agreement in place, a judge would say that you waived your rights to the TV.

Custody and parenting time can always be revisited if either parent can show changed circumstances that affect the children's best interests. But, in cases where there is no written agreement on custody and parenting time, the court may require that such an agreement be written and inserted into the judgment of divorce.

The point is that, although there are claims on the Internet, on billboards, and in newspapers that you will save money with an "uncontested" divorce, these ads are lures for a quick "service" that usually does not apply to divorcing spouses.

Lawyers help people understand not only the rights spouses have under New Jersey divorce law, but also the nuances of agreements of which they may not be aware, such as a requirement to have a child support amount in a written agreement. Here's another little-known fact: Alimony is taxable, and money that is paid to another spouse, even if it not called alimony, may be deemed by the Internal Revenue Service as alimony and, thus, taxable income.

Although robots may help us to drive more safely, they will not save the costs of a divorce, especially when children, disparate earnings and assets are involved. Going that economy route can cost you dearly down the road.