

Divorce vs 'Divorce From Bed And Board': Could Nancy O'Dell Obtain A Legal Separation In New Jersey?

December 13, 2016 | by Bonnie Frost

Clients frequently come into my office and tell me that they want a legal separation, not a divorce. Divorce is a huge step and maybe they believe that a legal separation will be less emotionally draining.

Nancy O'Dell of *Entertainment Tonight* has recently filed for a legal separation. A legal separation is when the parties are separated but do not want to divorce. They abide by the terms of an order of the court, but cannot remarry. Some states which permit legal separation permit the filing of an agreement with the court.

Because divorce is a legal action which is governed by state law, each individual state can decide how to regulate marriage and divorce. While some states may offer the opportunity for a legal separation, New Jersey does not. Nancy O'Dell would be out of luck here.

The closest legal vehicle available in New Jersey for clients who want to separate, divide their assets and agree on custody, parenting time, and support is to obtain a *divorce from bed and board*. It is a divorce, but the parties are unable to remarry. They are separated and they live by the terms of their agreement which is incorporated into a legal document signed by a judge.

When is divorce from bed and board considered?

Couples who have religious beliefs which preclude them from divorcing are able to separate their assets, determine custody, parenting time and support by pursuing a divorce from bed and board.

Other couples may consider a divorce from bed and board because they wish to retain tax benefits or insurance coverage. For example, an ill spouse may need medical insurance provided by the other

spouse's medical insurance plan and therefore, because the parties are not divorced in the eyes of the law, the ill spouse can continue to receive lower cost health insurance through the covered spouse.

Sometimes, if one spouse does not want the divorce, he or she may be able to negotiate with the other spouse to obtain a divorce from bed and board for a period of time to give him or herself the chance to reach the emotional place to be ready to divorce. In New Jersey, both parties have to agree to go this route. If one party wants to be divorced and the other wants to be divorced from bed and board, a divorce will be granted.

It is important to note that pursuing a divorce from bed and board will not necessarily be "easier" than obtaining a divorce. The most difficult aspect of getting divorced is negotiating the terms of the settlement, including decisions about who will have custody of the children, how parenting time will be determined, the amount of support that will be paid and how the assets will be divided. These decisions will have to be addressed whether a couple opts to seek a divorce from bed and board or a divorce.