

How long does a contested divorce take?

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Dear Ask the Attorney:

A few months ago, you wrote an answer to a question about how long an uncontested divorce takes. I don't think my divorce is going to be that easy and I heard from a friend of mine that it could take years from start to finish. Is that true?

L.S.

Our guest blogger today is Cimmerian A. Morgan, Esq. Mr. Morgan is an associate with Einhorn, Barbarito, Frost and Botwinick, PC in the family law and matrimonial department and has litigated many contested divorce cases.

Dear L.S.

The amount of time it will take to navigate through the divorce process in a contested case is impossible to predict with any precision due to the extent of the variables which cannot be known at the beginning of the process. The best that any attorney can do to answer your question is to give you a sense of the types of variables which will determine the length of your case.

For example, each case has its own unique facts, and those facts produce certain issues which must be addressed and resolved before the divorce can be completed. Some issues are far more complex and time consuming than others.

Generally speaking, the two substantive issues that tend to require the most amount of time to resolve are

- custody of children born of the marriage and
- equitable distribution of an ownership interest in a business.

Both of these issues generally require the involvement of experts, who require time to conduct evaluations and generate reports. Even after one expert renders a report outlining his or her recommendations, one or both parties may disagree with the recommendations and then retain a separate expert to rebut the recommendations of the first expert. This process can consume significant amounts of time.

Other issues which often cause a divorce case to endure for a significant amount of time include requests for alimony, equitable distribution of assets which may or may not be subject to equitable distribution and equitable distribution of marital debt.

Above and beyond the substantive issues which may cause a divorce case to last a long time, there are also psychological components to the equation. For example, the extent to which the client or the spouse is able to focus on the substantive issues, rather than the emotional issues, will likely have a significant bearing on the length of the case. Additionally, the overall capacity of the client or the spouse to be reasonable is also a consideration that can affect the length of the case. For Instance, even if the client takes the most reasonable positions and has realistic expectations in the case, there is nothing to guarantee that the spouse will take reasonable positions or have reasonable expectations. Unfortunately, it only takes one unreasonable spouse to prevent a settlement and to cause a case to take tremendous amounts of time to conclude.

Another consideration which is entirely beyond the control of both parties is the existing backlog of cases in the county where the case is “venued” (which means the county exercising jurisdiction over the divorce). Due to budgetary and other problems affecting the New Jersey Judiciary, there is a shortage of judges in several counties. Consequently, in those counties, there are not enough judges to handle to volume of divorce cases, which results in a backlog. This means, for example, that even if a case is ready for trial, the court may not be able to accommodate a trial for quite a long time. Even if a trial does begin, there may be tremendous lapses in time between trial dates.

All of these considerations are among the many topics that should be carefully discussed with a family law attorney who is experienced in divorce litigation

Cimmerian A. Morgan, Esq.

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