How Long Does An Uncontested Divorce Take?

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Dear Ask the Attorney:

How long does an uncontested divorce take? My wife and I sat down this weekend and decided that we were better friends than husband and wife. We have been married for less than 7 years, there are no kids, and the assets are pretty much decided upon without any fighting. We know we want to have it in a written agreement just in case, but I cannot see this being anything but incredibly civil.

H. M.

Our guest blogger today is James M. DeStefano, Esq. Mr. DeStefano is an associate in the matrimonial and family law department of Einhorn, Barbarito, Frost & Botwinick, PC.

Dear H.M.

Thank you for your question. Going through a divorce is never an easy endeavor; however, the fact that you and your wife are civil will make this process much easier and much more cost effective.

Generally, there is no black or white answer as to how long an uncontested divorce takes. That is because each case varies in complexity. While you may think that you and your wife have resolved all issues which are raised in your marriage, when you meet with a lawyer to draft an agreement you may be advised of problems and issues that you had not contemplated.

With all of that said, if you and your wife truly have resolved all issues related to your marriage and only need a Marital Settlement Agreement drafted, an uncontested divorce should take between three (3) and four (4) months to complete. This is because it takes some time to negotiate and execute an

agreement that both parties find acceptable. Once a Marital Settlement Agreement is executed, one of the parties would have to file a Complaint for Divorce. A Complaint for Divorce is the only way to open the door to the Court. Once a Complaint is filed, it must be served upon your spouse's attorney or your spouse if she decides to represent herself so that she can file a responsive pleading and participate in the uncontested court proceeding. The responding party has up to thirty five (35) days to respond to the complaint.

Once both parties have filed their respective pleadings(Complaint and Answer), the court typically schedules an uncontested divorce hearing quickly. Both parties would attend this proceeding with their respective counsel. At the hearing, each party would be required to answer a series of questions so that the Judge can ensure that he has jurisdiction to grant the divorce and that the parties entered into their agreement freely and voluntarily. This proceeding typically takes approximately thirty (30) to forty (40) minutes. The proceeding ends with each party receiving their Judgment of Divorce.

Even if you believe that all of the issues in your case are settled, I would urge you to speak to a matrimonial attorney. That attorney may help shed light on issues that you had not contemplated and will help you resolve those issues. Moreover, you are smart for wanting your agreement to be in writing. Entering into a written settlement agreement is the best way to detail each party's responsibilities and rights post-divorce.

I wish you and your wife luck.

James M. DeStefano, Esq.

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