

Do You Want A Private Divorce Like Brad Pitt And Angelina Jolie? Maybe You Can Have One And Maybe You Can't.

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Recently the Pitt Jolie saga has disappeared from the spotlight because the two decided to take their divorce issues to a retired judge for a “private divorce.” Could this happen in New Jersey? The answer is yes and no.

To some, that answer sounds like “lawyer speak” but the truth is just as complicated and dependent on variables outside of a litigant’s control.

Our Supreme Court has decided that all filed legal actions (complaints of any kind, motion papers, orders etc.) will be open for public view. A goal of the Judiciary is that eventually all of that information will be posted online for the sake of transparency.

This realization may strike fear in the hearts of many going through a divorce when they realize that their divorce papers can be read by their family, friends, neighbors and friends of their children. Frequently, in the first consultation, clients ask the question, “Is my divorce private? Who can read about it?” Currently, documents are not available online, and it is unlikely that someone would make the effort to go to the courthouse to read a divorce filing. However, once documents are archived online, it would make accessing them much easier.

The New Jersey Supreme Court has exempted certain family court filings from public view. Sensitive family matters such as Division of Child Protection and Permanency cases (termination of parental rights, abuse and neglect cases, etc.), custody evaluations, drug and alcohol evaluations, and financial information such as that required by the Case Information Statement which everyone must file in every divorce case, are kept in a private part of the court file, not accessible by the public.

Once the court system is involved in your divorce, the only way to attempt to keep the details of your divorce private is to engage in mediation, which is not binding on either of the parties, or to engage in arbitration where a trained arbitrator is hired to make binding decisions rather than a judge. The difficulty with this process, however, is that at the end, the parties must file a motion with the court to confirm the arbitration decision. If one party wishes to challenge the decision, the decision will be included in the motion filed with the court, which will eventually make a decision whether or not to confirm the award. Our court rules provide that lawyers may submit certain papers in a confidential exhibit, but because an arbitration decision is not one of the specifically exempted documents, it is possible that a judge will not keep the arbitration decision confidential. Bear in mind, the philosophy of the judiciary is that court filings are open to the public-remember the many motions in Bridgegate to keep certain documents confidential which were denied?

In addition, when one appears to obtain a final judgment after having negotiated and signed an agreement, while not required under our rules, many judges, although not all, require the attorneys submit for the court's file the signed agreement between the parties, which means the agreement is now public and not private.

This area of potentially exposing private family matters to more people is of concern to many family lawyers as the push to put legal documents online comes closer to fruition. In fact, the Administrative Office of the Courts has asked for public comments in writing by April 7, 2017 on five recommendations made by the Supreme Court Family Practice Committee and the Advisory Committee on Public Access limiting public access to matrimonial documents.