What's In A Name?

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Part of the healing process of divorce is coming to the understanding that once the divorce is finalized, you have an opportunity to begin a new and different life. For many, leaving behind a spouse's surname would go a long way toward renewing oneself. While of course, this a personal decision, it is one that needs to be addressed by every divorcing spouse and many personal considerations must be weighed in making the decision whether or not to retain your former spouse's surname (this also applies to Civil Unions, as well).

When preparing the Complaint or Counterclaim for Divorce, your attorney should ask whether or not you would like to change your name to resume your maiden name, former name or whether you would like to retain your spouse or civil partner's surname. Many retain their former spouse's name for personal reasons such as so that it remains the same as that of their children or to maintain recognition in professional and/or social circle. Many simply choose to retain their spouse's surname because they have used it for a considerable period of time and identify with the name and others are concerned about the administrative hassle of changing their name on official documents, etc.

Whatever the personal choice is, it is important to understand that it is your choice. Except upon a showing of extraordinary circumstances, the Court cannot compel you to relinquish a spouse's surname nor can it compel you to retain it.

Upon marriage, as most are aware, there is no obligation on the part of a wife to take her husband's surname. However, if she does and determines that upon divorce she wishes to relinquish her spouse's surname, she may do so and resume her maiden, prior surname or any name she wishes to now assume. Doing so through the Divorce proceeding provides an expedited process, eliminating the need to make a separate formal application to the Court.

The separate formal application includes the following steps:

1. The filing of a Name Change Complaint in the Superior Court Law Division.
2. After the Judgment of Name change is entered (allowed), there is a requirement that the Judgment be published in a newspaper in the County of the applicant's residence and an Affidavit (proof) of Publication
3. The Judgment and Affidavit of Publication of the Judgment must be filed with the Deputy Clerk of the Superior Court in the home county, and
4. A certified copy of the Judgment also must be filed with the appropriate office within the Department of Treasury.

These formal name change procedures, which can be lengthy, are eliminated by including the name change during a divorce (or a civil union dissolution action). If for some reason you forget to request a name change during your initial filing for divorce, or it was overlooked by your attorney, the New Jersey courts are relatively liberal in allowing you to add it after the divorce proceedings start or post judgment (when the divorce is over).

During you divorce hearing, you will be required to testify under oath, as to the fact that you want to change your name and the reason you would like to do so. The court wants to make sure that the request is being made for personal reasons only and not to avoid judgments, bankruptcy or insolvency proceedings, that there are no suits pending in neither present or desired names, there are no criminal convictions or criminal actions pending at the time of the application for the name change, and there is no intent to avoid creditors or criminal prosecution or other fraudulent purposes.

You must understand that whether you change your name during the divorce proceedings or via a Formal Application of Name, you should make sure that all of the records reflect your new name including filing it with the records of the State Registrar of Vital Statistics, New Jersey Department of Motor Vehicles, your creditors, credit card issuers, taxing authorities, etc..

Whether you have chosen to resume your maiden or former name or not, consider entry of the Judgment of Divorce as a portal to a new life.