



## WHAT YOU NEED TO KNOW BEFORE YOU FILE FOR DIVORCE



**Weinberger Divorce  
& Family Law Group**

The Bright Answer™

[www.WeinbergerLawGroup.com](http://www.WeinbergerLawGroup.com)  
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### **STARTING THE PROCESS**

Filing for divorce is obviously an action of last resort, and many people understandably put it off as long as possible. Once you decide to proceed with a divorce, you will naturally be dealing with many emotions and have a lot of questions. We believe that if you are given key information early in the divorce process—whether you're still deciding or whether you are definitely moving forward—you will feel better prepared and more at ease.

In this pamphlet, we have included tips for finding and meeting with an attorney, funding the divorce process, and initiating proceedings. Armed with this information you will be better able to protect your family and your assets. We hope this will help ease your mind and answer some of the questions you may have.

### **FINDING THE RIGHT DIVORCE ATTORNEY**

Hiring the right attorney is one of the most important decisions you will make. It is critical that you carefully weigh your options. Here are some things to consider when choosing a lawyer.

#### **A LAW FIRM DEDICATED SOLELY TO THE PRACTICE OF FAMILY LAW**

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Hiring the right family law attorney is no different than seeking out the right medical specialist to treat a health condition. A law firm dedicated to family law is the ideal choice, because they will understand your circumstance and have a comprehensive knowledge of the proceedings specific to family court—its unique rules and protocols, and how they will affect your case.

During the course of your matter, you will need to make various decisions—the consequences of which will impact your life for years to come. You can take comfort in knowing that an exclusive family law firm focuses each day on matters such as yours and has extensive knowledge in the area of law that most directly impacts you and your family.

Ideally, the firm you retain should have at least one lawyer who is a Certified Matrimonial Attorney—a designation earned by only 2% of family law attorneys in New Jersey—to ensure a superior level of knowledge and experience in family law.

#### **GENERAL PRACTICE ATTORNEY**

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Some people are tempted to work with a friend or acquaintance who is a general practice attorney or who primarily practices in an entirely different area of the law. If you are considering hiring someone who practices something other than family law, make sure to evaluate the lawyer's experience.

#### **SOLO PRACTITIONERS**

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You might like the idea of a solo practitioner, who you believe will focus primarily on your case. However, since solo practitioners work alone, you should carefully evaluate whether they have sufficient time and resources to manage your case, along with all of their other clients. Most solo practitioners juggle many cases at once and can find themselves stretched very thin when several different matters need attention at the same time. If you are



considering hiring a solo practitioner, ask them who will handle your case if they are in court, on vacation, or otherwise not available.

### “SHARK” ATTORNEY

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A highly aggressive attorney may make you feel more powerful, but don't mistake an overly combative lawyer for a strong one. There is a time to fight and a time to be reasonable. An attorney who thinks of litigation as your first or only option may have a bad reputation with the judge and may very well increase the tension between you and the other party. This will drive up your costs and can often result in a worse outcome.

### LOWEST RETAINER AND/OR THE “YES” LAWYER

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Some lawyers may appeal to you because they offer lower upfront costs, while promising to get you everything you want. However, you are better served by a lawyer who is candid when discussing possible outcomes—and costs. Also, keep in mind that a smaller quoted retainer fee has no bearing on the total cost and expense of handling the entire matter. The retainer is merely a deposit towards future legal work.

### WHO IS RIGHT FOR YOU?

**Do not feel rushed into hiring a lawyer.** Find someone you feel has the right experience and approach, and who listens to what you really want. This person is going to be helping you with very private and emotional issues. Make sure you feel comfortable with the lawyer/firm you select. You need to trust them to guide you selflessly and advocate for the best interests of you and your family.

### PREPARING TO MEET WITH YOUR ATTORNEY

Divorce proceedings can be confusing and overwhelming. You probably have a lot of questions and may not know where to start. At your first meeting, your attorney will be able to address many of your concerns and provide information about what to expect throughout the proceedings.

### DIVORCE ISSUES TO THINK ABOUT

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Prior to meeting with your lawyer, you should think about the specific issues you want addressed. Writing down your thoughts, questions, and all concerns related to your divorce will help ensure that you communicate these issues clearly to your attorney. A few items to think about include:

- **Child custody:** Which parent will the child[ren] live with? Will custody be shared?
- **Visitation plan:** Bring a blank calendar with initial ideas about scheduling.
- **Spousal support (alimony):** Is spousal support relevant? If so, what does that mean for you in terms of paying or receiving alimony?
- **Asset and debt division:** Can you envision a reasonable division?
- **Marital home:** Will you live in the home, sell it, or have the other party buy-out your interest?



### DOCUMENTS TO PROVIDE YOUR ATTORNEY

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Before meeting with your lawyer, you will want to gather as much information and as many documents as possible. The more details you can provide your lawyer, the more specific and thorough advice you are likely to receive. In addition, collecting and organizing all of your financial documents early on will help maximize the time (and minimize the cost) spent in your lawyer's office. The following is a list of documents you should be prepared to provide your attorney.

### BASIC FINANCIAL INFORMATION

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- Individual and business tax returns with W2s and 1099s for the past 3-5 years
- Recent employment pay stubs for both parties
- Monthly bank statements from the past 1-3 years (joint & individual)
- Other accounts such as stocks, bonds, annuities, etc. for the past 1-3 years
- Recent Social Security statement for both parties
- Retirement savings such as 401(k), IRA, SEP, pension statements, etc.

### PROPERTY INFORMATION

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- Homes and Investment property (primary, rental, vacation, with mortgage balance, ownership interest, market value, recent tax assessment, etc.)
- Business property (your percentage ownership along with mortgage balance, ownership interest, market value, recent tax assessment, etc.)
- Cars, boats, recreational vehicles (with balance owed, market value, etc.)
- Personal property value (antiques, collectables, art, jewelry, etc.)
- List of property each party owned prior to the marriage
- Inheritance (past, current, expected)

### OTHER DOCUMENTS

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- **Bills and Outstanding Debt:** Credit card statements, loan documents, recent bills
- **Legal Agreements:** Pre-nuptial agreements, prior divorce decrees, trusts, wills, etc.
- **Insurance Documents:** Health, life, auto, homeowner's insurance information

### ***COSTS, FEES AND FUNDING***

Some of the most common questions people have about divorce are related to the costs associated with the process. It will be helpful for you to understand what determines your legal costs, the retainer, ways you can secure the money to retain your attorney and payment options that are available to you.



### LEGAL COSTS

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It is impossible to quote a definitive price for a divorce or family law matter, as every case is different. There are, however, some factors that affect the final cost. The cost of your matter will be predominantly determined by the ability of the attorneys to communicate quickly and efficiently with each other, the number of issues that need to be addressed, and both you and your spouse's willingness to reach a reasonable agreement.

### INITIAL RETAINER

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Law firms require an initial retainer fee up front when they are hired. This is an advance against future work that will be performed on your behalf. Costs will include not only attorney and paralegal time but also court filing fees and other costs related to your matter such as postage, copying, delivery costs, phone charges, etc. If the initial retainer fee is depleted, you will be asked to make a refresher payment. Additionally, any unused portions of your retainer will be returned to you at the conclusion of your case. It should be pointed out that the retainer amount has no relation to the actual total cost of your matter.

### FUNDING THE DIVORCE PROCESS

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For some, the thought of funding the divorce process can be intimidating. It needn't be.

There are a number of payment options from which to choose. Common funding methods include: assets you can access quickly, such as savings accounts, stocks, bonds, or other investments. Some couples agree to divide a portion of one or more of their assets at the beginning of the divorce process. Others obtain a home equity loan or borrow against a 401K account. You may even choose the simplicity and convenience of using a credit card.

If your spouse has access to funds but your access is limited, you can ask the court to order the release of monies in order to establish a litigation fund, or provide for an advance on your legal fees.

Whatever your financial situation, your family law attorney can help you to find a funding method that works.

### ***STEPS IN THE NEW JERSEY DIVORCE PROCESS***

Most people do not have much experience dealing with the legal system and find it to be confusing and overwhelming. If you find yourself entering into the divorce process, it is natural to be anxious and feel wary of the system. In our experience, knowing what to expect eases some of the stress and uncertainty.

It is important to note that not all divorces follow the litigation route detailed below. Many couples are able to resolve their divorce through mediation or via an uncontested route.

### CONSIDER MEDIATION INSTEAD OF LITIGATION

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There are many reasons that mediation can be preferable to litigation. Mediation may allow you to negotiate some or all of your asset division and custody decisions, including formulating a parenting plan. Mediation often reduces conflict in a divorce and can help you sort out your issues in an amicable fashion, without a lengthy legal dispute.



## WHAT YOU NEED TO KNOW BEFORE YOU FILE FOR DIVORCE

You always have the option to participate in mediation either prior to or after having filed for divorce. However, mediation should not be used as a substitute for having an attorney provide you with individualized legal advice.

While resolving your matter outside of the courts will almost always be your best option, it is not a viable option for everyone. Couples who are unable to mediate or amicably resolve their divorce can expect to go through some or all of the following steps:

### STAGE 1 – Complaint for Divorce

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**Complaint:** To start the divorce process, one spouse (or an attorney acting on their behalf) may officially file a Complaint for Divorce. The person who files the complaint will be called the “plaintiff” and the other party the “defendant.” In a typical divorce, being labeled the defendant has no negative connotations (except perhaps in domestic violence actions), and being the plaintiff carries no presumption of correctness or injury.

**Ground:** The complaint must state a reason for the divorce. New Jersey law now provides for two no-fault grounds for divorce (irreconcilable differences and 18 month separation), along with several fault categories. Filing for divorce with no-fault grounds is generally the best option, because it does not place blame on either party for the dissolution of the marriage. Therefore, the person receiving a no-fault ground complaint is less likely to become agitated and may be more agreeable to a settlement. Also, since divorce documents are public records, no fault grounds allow you to exclude personal details of your marital problems in a public document.

**Service:** The plaintiff will serve the complaint on the defendant, and the defendant will have a chance to respond. This can be done by process server or other methods.

### STAGE 2 – Case Management

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The judge may hold a case management conference to review the issues presented and set deadlines for discovery and other related processes. A series of preliminary decisions must be made, including whether certain assets need to be appraised and whether child custody will be a disputed issue.

A case management order will be executed, which will serve as a formal guideline for the lawyers and litigants to rely upon to help manage the case and keep it on track. If the parties remain faithful to the fixed deadlines in the order, then there should be no unnecessary delays in the case. However, there are a large number of cases that include complex issues, such as custody of children, business valuations, etc. The more complex the issues in the case, the greater the likelihood that a future case management conference will be needed to revisit the timelines. In this circumstance, it is probable that new deadlines will be implemented to allow for more time, especially when extensive discovery is required and expert reports are being prepared.

### STAGE 3 – Discovery

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Each party will have a chance to request information from the other side. This can be in the form of document demands, interrogatories (written questions which the opposing party must answer), or depositions (interviews under oath). You may also need to exchange detailed financial statements.



## STAGE 4 – Settlement Attempts/Economic Mediation

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While information is being gathered in discovery, your attorneys should be attempting to settle any differences. New Jersey family law judges encourage couples to come to agreements on their own regarding dividing their assets and liabilities, as well as custody and support issues. If you haven't been able to agree on a financial settlement by a certain date set by the court, both you and your spouse will have to appear before a settlement panel with your attorneys. The panel will suggest possible options for resolution.

Unless you reach a settlement by this stage, you will be required to meet with an economic mediator to help resolve outstanding financial issues. If this doesn't lead to an agreement, you, your spouse, and your respective attorneys will meet for an all-day settlement conference at court.

## STAGE 5 – Trial, if necessary

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A trial will be set if any issues remain unresolved. The judge will hear testimony from each party, as well as any experts and witnesses for each side. The judge will ultimately reach a decision on all issues and grant a judgment of divorce. Barring any appeals, your divorce will then be finalized. Keep in mind that certain issues, particularly those involving children, remain subject to modification after divorce.

### **FREE WEBINAR**

#### **“The 5 Critical Risks of Divorce”**

In this 35-minute video, we detail the 5 biggest risks of divorce and how they can impact your children, finances, and future. We also provide you with an in-depth explanation of the specific steps you can take to minimize these risks and protect your family as you proceed through the divorce process.

Learn “The 5 Critical Risks of Divorce” at:  
[WWW.WLG.COM/COURSE-ON-DIVORCE](http://WWW.WLG.COM/COURSE-ON-DIVORCE)



## Here When You Need Us

No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As New Jersey's largest law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process.

With offices conveniently located throughout New Jersey, we are nearby and ready to be of help.

Please contact us at (888) 888-0919 if you would like to schedule an initial, confidential consultation.

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*Experience the Weinberger Difference.*

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## LEGAL HELP IS RIGHT AROUND THE CORNER

Serving all of New Jersey with offices located in:

**Bergen County**

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