

## A Divorce Roadmap



By: Nancy Larkin Taylor  
Attorney at Law

Although all paintings are different, they do have one characteristic in common. They are contained in some type of frame. The art inside may be as valuable as a Picasso, as nightmarish as a Dali or as sentimental as a kindergartner's drawing, but it is still surrounded by a frame. Likewise, the content of a divorce varies from couple to couple, but the procedure, like the picture frame, stays static and all the art fits inside.

Regardless of its length, its passion, its poignancy or the number of tears shed, all marriages are dissolved by a set procedure. The divorce process in Pennsylvania begins with the filing of a Complaint, Notice to Defend, Affidavit of Non Military Service, Notice of Counseling, Vital Statistics form, copy of the marriage license and plaintiff's verification. Filing fees, depending upon how many counts are included, approximate \$350. The Complaint must be served within 30 days of filing to avoid reinstatement. Service in PA can be accomplished by certified mail, hand delivery or acceptance by counsel.

The non filing spouse need not file a responsive pleading, answer or counterclaim, since there is no default in divorce. After service, the filing spouse must wait the requisite 90 days cooling off period before filing and serving their Affidavit of Consent which states that, in their opinion, the marriage is over. Should their spouse file an Affidavit of Consent, the court will issue a written order, stating the "Grounds

for Divorce Are Granted and the Matter can proceed to Equitable Distribution." If there is no property to distribute or alimony claimed, a Divorce Decree is entered. End of story, a line drawing.

However, if one spouse fails or refuses to file their Consent Affidavit, the filing spouse has little choice but to wait until the 2nd year anniversary of the last date of co habitation before filing and serving an Affidavit of 2 Year Separation. Filing the Separation Affidavit triggers a 20 day deadline within which the other spouse must file a Counter Affidavit disputing the 2 year separation claim.

If the separation date is challenged, upon written request, the court will schedule a hearing to resolve the date of separation dispute, either by appointing the Divorce Master employed by the court (Bucks County) or by appointing a private attorney (Montgomery County).

The majority of Pennsylvania divorces fall into the above two no fault categories of mutual consent or 2 year separation. However, the traditional fault grounds (desertion, adultery, cruel and barbarous treatment, bigamy, incarceration, indignities and mental illness) remain available. When fault grounds are alleged and pursued, a hearing can be held on the alleged marital misconduct. I can count on one hand the number of times I have participated in a fault ground hearing. They are expensive, heart wrenching and serve no legitimate purpose. Fooling around may be fun, but it has no bearing on asset distribution or alimony.

Regardless of how grounds are established, in the absence of an agreement, the case will eventually land before a local Divorce Master, if the marital estate contains property, debt, or if alimony is sought. Before listing however, both parties must file comprehensive Pre Conference Memos containing current financial information, tax returns, pay stubs, W2s, house appraisals, mortgage pay offs, pension evaluations, IRA statements (date of marriage and current value.) If the Memo is incomplete, the case will not be scheduled.

Both spouses, not just counsel, fully participate in the Equitable Distribution conference, which can last all day. At the conference, the Master carefully reviews each asset and liability, marital and non and decides whether joint funds were unilaterally dissipated by one spouse, whether the asset acquisition (usually real estate) was funded with pre marital funds contributed by one party or, in many cases, one party's parents and all other issues in dispute. In short term (under 20 year) marriages, the contributing spouse may receive a credit back if they can prove a higher contribution via paper trail.

After inventorying and valuing the pertinent property, the Master verbally recommends a percentage division of the estate. The suggested distributive scheme largely turns upon whether one spouse keeps the house. Both duration and amount of alimony, if appropriate, is addressed. Child support and custody are not.

After the Master shares his or her recommendation, each party meets privately with their counsel to digest the Master's plan. Continued negotiations and adjustments may result in an overall agreement, which is immediately put on the record by a court reporter. If the parties do not agree, the conference is concluded. Within 30 days the Master will submit a written recommendation, which rarely varies from the verbal one.

Twenty days after counsel receives the written recommendation, either party can request a De Novo (from scratch) Hearing with a Common Pleas Court judge, which will be held 3 to 6 weeks later. Judges routinely incorporate the Master's fact findings and often uphold their conclusions. If neither side files a timely De Novo request, the Master's recommendation becomes final and the Divorce Decree is entered.

At that point, the picture is complete. So in case you are wondering why the Mona Lisa is smiling, perhaps it's because her divorce just came through.

*Nancy Larkin Taylor is a familiar figure in Bucks and Montgomery County where she has been practicing family law for many years.*

*Mrs. Taylor firmly believes that if our divorce, support and custody systems are ever going to improve, it will occur when parties and parents work together to achieve joint goals.*

*Those goals include striving for custodial arrangements that meet their childrens' best interests & full financial disclosure which leads to a fair and quick resolution of economic issue so that fissures created in divorce do not last a lifetime.*

*Contact Nancy Larkin Taylor, phone: 215-340-5039, E-mail: [ntaylor@ntaylorlaw.com](mailto:ntaylor@ntaylorlaw.com) or visit her website at: [www.ntaylorlaw.com](http://www.ntaylorlaw.com)*

## Nancy Larkin Taylor Attorney at Law



43 East Oakland Avenue  
Doylestown, PA 18901  
Phone: (215) 340 - 5039  
Fax: (215) 489 - 1182  
E-mail: [ntaylor@ntaylorlaw.com](mailto:ntaylor@ntaylorlaw.com)  
[www.ntaylorlaw.com](http://www.ntaylorlaw.com)

*Licensed in: Pennsylvania,  
New Jersey, and Florida*