

Divorce Paths in New York

UNCONTESTED DIVORCE

Court intervention is not necessary.

CONTESTED DIVORCE

Court intervention desired.

Plaintiff files **Summons & Verified Complaint** (or Summons with Notice – Complaint later required) (\$210)

Summons, Verified Complaint, Notice of Automatic Orders, Notice Concerning Continuation of Health Care Coverage & Child Support Standards Act Provisions (if unemancipated children) must be **personally served**

Affidavit of Service Filed

Verified Answer & Notice of Appearance filed within 20 days if personal service

Settlement Stage: Parties resolve all issues for the divorce action in one of three ways:

- By themselves
- With attorneys
- With a neutral third party mediator

Settled Case?

Yes

No

Commence Court Action:

- 1) Request for Judicial Intervention (\$95)
- 2) Request for Preliminary Conference (within 45 days)
- 3) Demand for Statement of Net Worth

Statement of Net Worth *should* be exchanged 10 days before the court date along with tax return, paystubs, financial statements, and other supporting documentation.

Preliminary Conference

Discovery Deadlines Set
Preliminary Motions heard
- Common Motion is for *pendente lite* relief (temporary child support, temporary custody and visitation, temporary spousal maintenance, exclusive occupancy for marital home, life insurance)

Discovery Stage (at least 3 yrs; date of marriage to present)

Interrogatories
Document Production
Depositions (if necessary)
Bill of Particulars (rare)

Compliance Conference

Court checks the status of discovery
Motions (e.g., Motion to Compel Discovery)

**Preparation for Trial/
Additional Discovery**

Pre-Trial Conference

Trial

Settlement Negotiations

- 4-way settlement conference
- Settlement conferences with court attorney
- Mediation

If settle case, then Uncontested divorce Packet filed and/or Court will hear Inquest

Uncontested Divorce Packet:

- 1) Request for Judicial Intervention (\$95) (and addendum if children)
- 2) Sworn Statement of Removal of Barriers to Remarriage
- 3) Attorney Affirmation or Plaintiff's Affidavit of Regularity
- 4) Affidavit of Plaintiff
- 5) Affidavit of Defendant
- 6) Child Support Worksheet & Child Support Summary Form
- 7) Support Collection Unit Information Sheet and Income Withholding Order
- 8) Qualified Medical Child Support Order
- 9) Finding of Fact and Conclusions of Law
- 10) Judgment of Divorce
- 11) Certificate of Dissolution
- 12) Part 130 Certification (if filed by an attorney)
- 13) DRL 255 Addendum (health insurance)
- 14) Notice of Settlement
- 15) Stipulation of Settlement (\$35 filing fee)
- 16) Note of Issue (\$30)
- 17) Postcard

After filing **uncontested divorce packet**, wait 3-6 months for the judge to sign and approve papers, depending on county and judge's caseload. Court attorney will contact parties/attorneys if court needs additional information.

Notified that Court Signed Papers – wait 2-3 weeks for papers to be scanned. Plaintiff picks up copies of the orders and serves them on Defendant along with **Notice of Entry**

-RINCKERLAW.COM-