

What Happens After I File for Divorce?

Many people who have just filed for divorce are not aware of the divorce process. All divorces filed in Massachusetts are assigned a scheduling track. A scheduling track is a general time table upon which the Court pushes the divorce through the litigation process. All contested divorces in Massachusetts are assigned a 14 month track after filing for divorce.

Once you have filed for divorce, the next step would be your first court appearance. This will either be a motion hearing (usually a Motion for Temporary Orders) or a Case Management Conference. At a motion hearing, the court establishes temporary orders, which are orders that stay in place until your divorce is finalized. These orders can be modified at any time during the divorce.

If you do not have a motion hearing, but a Case Management Conference instead, the court will schedule this hearing to track the progress of your case. At the Case Management Conference, the Court will decide whether to recommend some sort of alternative dispute resolution (i.e. mediation or conciliation), establish discovery deadlines, discuss any settlement negotiations that have taken place, and assign a Pre-Trial Conference date.

After your motion hearing or Case Management Conference, the next phase of your case is discovery. During this phase you can send formal written questions to be answered under oath by your spouse, also known as Interrogatories. You can also send document requests to be submitted by your spouse, also known as Request for Production of Documents. During this time, you can also conduct depositions and serve subpoenas for information and records.

Once the discovery phase is completed, the court will schedule a Pre-Trial Conference. This, like a Case Management Conference, is a chance for the court to ascertain the status of your case. However, unlike the Case Management Conference, the Pre-Trial Conference attempts to resolve as many outstanding issues as possible, including address settlement of the entire case. At the Pre-Trial Conference you or your lawyer will have to submit a Pre-Trial Memorandum summarizing the facts and issues in the case. It is not uncommon at this time for the judge to suggest settling your case or narrowing the issues.

After the Pre-Trial Conference, it is common for the parties to continue with settlement negotiations. Often times divorces are able to settle at this phase, and the parties enter into a Separation Agreement, which addresses and finalizes all issues in the divorce. If a case settles at this phase, then the parties sign the Separation Agreement and go to court for one last hearing to get divorced. Approximately 95% of all divorces settle at this phase and never go to trial.

If the parties are not able to settle after the Pre-Trial Conference, a trial date is often assigned. A trial can address the entire divorce, or just one or several issues outstanding in the divorce. At a trial, each party can offer evidence and witnesses to be reviewed by the court. After a trial, the judge issues his or her Judgment, and the divorce is finalized.