

DIVORCE BASICS FOR CLIENTS

File Petition

Petitioner = you

Respondent= spouse



Service by Sheriff	Service by Special Process Server	Respondent signs Affidavit of Service
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** The Special Process Server is an individual who will deliver the papers to your spouse. Many times it takes awhile for the Sheriff to serve the papers and there may be a reason we are either in a hurry or it will be difficult for the Sheriff to get your spouse served. This is not expensive and I often recommend it.

**Affidavit of Service: Your spouse can sign a document which says they have received a copy of the documents which are filed with the Court and that they do not need to be served by the Sheriff or a Special Process Server. Often this is a compassionate way to start the process to save your spouse from either the embarrassment of being served at work or to avoid the papers being served in front of your children.



Answer is due 30 days after service

** An Answer is a document filed by your spouse with the Court that states whether he or she party agrees or disagrees with the statements you made in the Petition paragraph by paragraph.

YOUR JOB IN THE NEXT 30 DAYS:

You need to download the following documents from the website (www.lawinkc.com) and bring them into the office completed. They can be found in the forms section of the website. DO NOT FORGET TO SIGN THEM!

1. Statement of Marital and Non-Marital Debts
 - a. Values should be present value and not replacement
 - b. Non-Marital property is property you had before you were married (some exceptions) or possibly an inheritance. If you think it is non-marital, place in this spot and the attorney will discuss it with you.
2. Statement of Income and Expenses

3. "Documents to provide to Attorney"
4. Take your parenting class. See the information concerning parenting classes on the website.

Past the 30 days



NO ANSWER FILED	ANSWER FILED
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NEXT STEPS FOR ATTORNEY	NEXT STEPS FOR ATTORNEY
File Statement of Marital and Non-Marital Property and Debts with Court	Notice up request for trial date (client does not attend)
File Statement of Income and Expenses with the Court	File for Temporary Maintenance, Custody (done if necessary. Client will attend)
File Form 14 (child support)	File Statement of Marital and Non-Marital Property and Debts
Provide Judge with proposed Order	File Statement of Income and Expenses
Send Respondent Pro Se Litigant Letter "Pro Se" is a person representing themselves without an attorney	File Form 14 (child support)
	Negotiate Settlement



Once Judge has approved the proposed Order	Discovery Process Begins
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Default Hearing. Judge Signs Order.
Case Completed!!!!

(client must attend. Spouse invited to attend but not necessary)

Discovery = Information Requested by one party from the other party



Production of Documents: Written request sent from one party to another for copies of documents such as bank statements, tax returns, etc.

Interrogatories: written questions from one party to another that must be answered in writing within 30 days



Continuation of contested case diagram



** If your spouse sends out discovery requests, the attorney will mail them to you. You need to write your answers directly on the document and send back to the attorney. The Interrogatories are often confusing to clients. It is also likely that you will become angry that you have to answer these questions. Please be aware that for the most part attorneys send out the same document in EVERY case to save money and time. Therefore, try not to take it personally. Answer them to your best ability and then schedule an appointment with Crystal to go over the Answers.

** In some counties there are standard sets of discovery. There are limitations on the number of questions that can be asked but often times this is not enforced strictly.

Provide Answers to Discovery within **twenty days** to allow the attorney time to go over them and for them to be typed. **Make an appointment with Crystal to go over the answers in the office.** YOU MUST HAVE PROVIDED YOUR COMPLETED ANSWERES USING YOUR BEST EFFORT BEFORE AN APPOINTMENT WILL BE SET. Do not just leave the answers blank if you are unsure about the answer. If you leave too many things blank, we will send them back to you to complete before your Discovery appointment.



Negotiate a settlement if possible

** If the parties can settle the case they will sign a Marital Settlement Agreement which takes care of the division of property and a Joint Parenting Plan to take care of the child support, custody and visitation issues.

** The Court may Order the parties to go to a Mediator. This is an attorney which does not represent any of the parties but tries to help facilitate a settlement of the case. The parties normally divide the cost of the mediator and pay these fees directly.



Pre-Trial Conference with the Judge

** Whether you need to attend this conference or not will depend on many factors including whether the Judge wants you to attend. Please ask your attorney if you should be there.

** This is an opportunity for the attorneys to talk to the Judge and give an overview of the case. The Judge will give opinions on some issues based on the facts presented. Many times this will help settle some or all of the issues.



Case Settles

Case Not Settled



Trial will be held but more like a default hearing. Case Completed!!!



All cases are different. Attorney may have appointment with client to prepare for trial. Subpoenas may be sent to witnesses to compel their attendance at the hearing. If your case is not "first out" then it may be continued.

** "First Out": The court sets more than one case for trial on any given day. The case that is first gets to choose to be heard that day or be continued. If the case has settled, the Court may likely hear the next case in line as well. Therefore it is possible that even though you have a trial date your case may not be heard on your trial date.



Trial with Judge

** The Judge will hear the testimony of the parties. It is possible that the trial will be continued to another date and time if all the evidence is not heard.

**When all the evidence is heard the Judge will either



Announce the Order of the Court

Take the Case under advisement

**The attorneys will submit an Order to the Court as soon as the Judge announces their decision. Either way, the case will be “taken under advisement” in that the Judge will keep the case UNTIL the decision is announced AND an Order is submitted and signed.

**If you are in family court in front of the commissioner and not in front of a Circuit Court Judge there is one final step where a Circuit Court Judge must sign off on the Order signed by the Commissioner.



Signed Judgment
Case Completed!

**If you are unhappy with the Order of the Court, you may appeal the case. The time limits will be explained by your attorney.