



LEHNHARDT PRICE | FAMILY LAW

**Going Your Separate Ways: What
Every North Carolina Couple
Needs to Know About Divorce**

First Steps: Find Your Attorney

If either you or your spouse are contemplating separating or if you have recently separated, the most important first step that you can take to protect your legal rights is to find the right attorney to handle your case. You should consider talking to family and friends that have gone through divorce for their recommendations. Also, the internet can be a valuable resource to find the attorney or attorneys that you want to consult with about your situation. Once you find the attorney that you want to meet with, then you should immediately schedule a consultation and prepare yourself for the consultation by writing down any questions that you have. It may take several consultations with different attorneys before you find the right fit, but once you do and once you have retained their services, you and the attorney will be able to come up with a plan of action depending on what issues are involved and your goals.

Divorce

It is important to know that in North Carolina, you and your spouse have to be separated for a period of one year before either of you can file for an absolute divorce. The one year separation period does not begin until one spouse physically leaves the marital home. During that one year period, you can start to address the potential issues arising out of your marriage, including child custody, child support, property distribution, and spousal support. Once the year of separation is up, your attorney can file your divorce for you. Often on the divorce issue, neither party has to appear in court.

Separation Agreements

If you have claims that need to be resolved with your spouse, often your family law attorney will advise you to attempt to negotiate a separation agreement with your former spouse in order to resolve everything out of court. A separation agreement is a contract between you and your ex that addresses your claims and can include resolution of child custody, child support, property division and alimony. Typically, a separation agreement is less expensive, quicker, and a more amicable process than going to court. However, a separation agreement is not required to start the one year period for divorce and this is often a misconception of many clients that we initially consult with in our office. Many people think that a separation agreement is necessary to start the one year period for the divorce and that is simply not the case. A separation agreement

does require agreement of the parties. So if you think that your ex will never negotiate with you, separation agreements can be a waste of time and money and you will need to litigate your claims.

Litigation

Often parties who are going their separate ways do not agree on much. In those cases, a separation agreement is not an option and one of the parties will have to file a lawsuit to get the process started to resolve marital claims. Once a lawsuit is filed and served on the non-filing party, the non-filing party then gets to respond with claims of their own. It is important to rely on your attorney and their advice when preparing lawsuits and any responses. If you are the party being served with a lawsuit, make sure you go through the steps of consulting an attorney of your own to protect your legal interests.

Litigation is a complicated process and each marital claim is handled a bit differently, so making sure you communicate on a regular basis with your attorney is key to understanding what is happening. Your attorney will need your help and guidance throughout the process to prepare and file necessary pleadings, affidavits, and motions. One of the most frustrating situations that arises for attorneys is when our clients do not respond to our calls and emails. Be sure to keep in contact with your lawyer at every stage until your case is resolved.

Mediation

Whether your attorney is trying to resolve your case out of court with a separation agreement or if a decision has been made to litigate your case, often mediation is involved. Parties may decide to mediation when negotiating the terms of their separation agreement. This usually involves the parties, their attorneys, and a neutral mediator who will split the cost of the mediation between the parties. These mediations are an attempt to settle certain matters.

If litigation has been initiated, mediation is required by the courts in certain situations, particularly with child custody issues and property division issues. Your attorney will advise you throughout the mediation process and will have you prepared to attempt to settle each claim.

Do's and Dont's: No Matter the Process

- DO communicate often with your attorney.
- DO ask questions of your attorney if you do not understand what is happening in your case.
- DON'T put children in the middle of your disagreements with your ex.
- DON'T take actions just to be spiteful (examples that we have seen have included destroying photographs, hiding family heirlooms, damaging real property).
- DO lean on your support system. Ending a marriage is difficult, so look to your closest friends and family for their support.
- DO be honest and fair.
- DO consider the support of third party professionals. As attorneys, we do the best that we can to give good sound legal advice, but sometimes other professionals are just as important to get you through the end of a marriage whether it be counselors, clergy, medical doctors, addiction experts, etc.
- DON'T air your dirty laundry on social media. Avoid discussing the facts of your case, the other party, the judge, or the other attorney.

If you have any questions about any step in the divorce process, or you would like to get legal help with your divorce, please don't hesitate to contact Lehnhardt Price Family Law.