

divorce

the not-so simple process

Your marriage has come to an end. After several years of unhappiness and marital discord, you found the courage to make that first appointment with an attorney OR you were served with divorce papers by a complete stranger at your home or place of employment and sought legal help. After several meetings, you hire a family law attorney that has gained your trust and confidence. So, what happens now? What's the next step? That's simple... it's the not-so simple process of DIVORCE.

The next step, in this often complicated situation, is **Drafting** the documents. Your attorney will begin the process by initiating or responding to the petition for the dissolution of marriage and completing other related documents. This is your opportunity to inform the court of what you are asking for, as well as provide a quick summary of your marital assets and family situation. If you are the petitioner, once the documents are notarized and filed with the court, they are served upon the other party through a certified process server.

You may need **Immediate relief**. Your attorney can set a temporary relief hearing to petition the court for temporary financial support, if you've been a stay at home parent throughout the marriage, or make substantially less than your soon to be ex-spouse. Past domestic violence can be an indicator of future domestic violence. If you are in fear for your physical safety, or that of

your children, the court may impose a temporary injunction against your former spouse to prevent any future potential domestic violence. An injunction may also be granted by the court to keep him/her from leaving the state with the children, and hiding or disposing of the marital assets.

Next, your attorney will **Verify assets**. Each party is required to produce all documents related to finances, such as a financial affidavit, recent bank statements, pay stubs, investment, insurance, retirement account statements and other relevant documents showing one's financial position. Financial assets provide the basis for establishing child support and/or alimony.

All cases are subject to **Open disclosure**. Both spouses have an ongoing obligation to share information related to personal and real property. All property obtained during the marriage is considered an asset of the marriage, whether or not the person's name is on the title. Additionally, separate property can become marital property if it was comingled during the marriage. Keep your attorney informed. If you think something might be an issue, tell your attorney and let your attorney decide. Be honest with your counsel. Potential problems are easier to resolve before trial than in the trial.

Each case has **Required mediation**. The court will not set a final hearing until the parties have



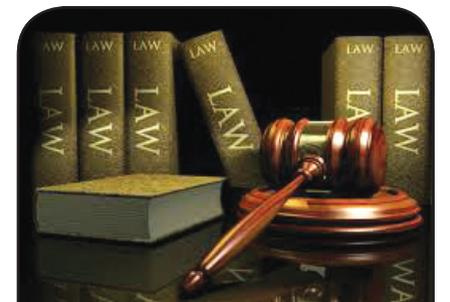
participated in mediation. Mediation is the opportunity for the parties to reach a mutual agreement or settle at least some of the issues. Mediation is often conducted with the husband and wife in separate rooms with their attorneys and the neutral mediator meeting individually with each party until an agreement or an impasse is reached. At mediation, husband and wife have the opportunity to settle who gets what and who lives where without the court deciding the final outcome. Matters that cannot be resolved in mediation are settled in trial by the judge, often a complete stranger to the parties.

All parents are mandated by law to enroll and complete a **Co-parenting class** before the case is closed. This is a four-hour class that prepares you and your spouse for parenting effectively separately, but together. It can be completed online or in person. The cost ranges anywhere from \$20 to \$60. The course must be court approved to meet the requirement. Upon completion, the certificate of completion is filed with the court.

If you and your spouse were unable to reach a complete settlement agreement in mediation, you and your lawyer will develop an **Exit strategy** and prepare for the final trial. Depending on the complexity of the issues, the trial can last from a few hours to several days. Any matters that could not be agreed upon will be presented to the judge for final determination. There are no juries to win over or persuade, just the judge. Each party has the opportunity to present their case as to why they deserve what. Each party

may testify, witnesses may be called, exhibits and other evidence presented. Depending on the issues to be decided by the judge, past and current misconduct will be heard. After all evidence is presented, the judge will make decisions that will impact the rest of your life.

DIVORCE is not a simple process, but a rather complex and often life changing event that will affect not only you, but your children. This is simply a roadmap. You don't have to do it alone, find competent counsel to guide you through.



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Amanda Salcido is an attorney practicing in family, juvenile, dependency, military and criminal law. She takes a personal, hands-on approach in the representation of her clients. Call for a free consultation or to find out more information on this issue or any other legal matter visit her at her website.

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