

Contested Divorce Process

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The family law courts in Salt Lake City prefer to see couples negotiate out-of-court settlements for divorce whenever possible. This approach is referred to as an uncontested divorce. This approach is faster, less stressful, and usually more affordable for everyone involved, and it also keeps cases off a crowded court docket. It is not, however, always an option. The American Bar Association estimates that approximately 5 percent of divorces are contested in court.

When one party refuses to agree to the terms with the other party, it may be necessary to fight the divorce out in court. Even in a no-fault divorce, the spouses may not reach a mutually acceptable agreement for a settlement out of court. Whatever the cause for the dispute, the court will require the couple to attend divorce mediation as a final attempt to settle the divorce without litigation.

Suppose you expect to face a contested divorce. In that case, you will need an experienced Salt Lake City divorce attorney to ensure that all your legal rights are fully protected throughout the divorce process.

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Contested Divorce in Utah

To have a contested divorce means that some part of the divorce is disputed by one of the parties. Typically, the disputes are due to disagreement about the proposed division of property or debts, child custody, child support, or even an objection to getting a divorce. A contested divorce is naturally more complicated than a straightforward uncontested

divorce in which the parties agree to all the terms. In some contested divorce cases, a full trial becomes necessary for the court to decide how to conclude disputes between divorcing spouses.

These complications, of course, mean that the divorce process takes longer and costs more in court costs and legal fees. It's also more stressful for spouses and families. It is strongly recommended that spouses work together to resolve conflicts and move forward with an uncontested divorce or choose divorce mediation to reach solutions outside court.

Suppose you expect to face a contested divorce. In that case, you will need an experienced Salt Lake City, Utah, divorce attorney to ensure that *all* your legal rights are *fully* protected throughout the divorce process. Further, a top Utah divorce lawyer will make sure that you receive *everything* you are entitled to receive in your divorce.

Generally, uncontested and contested divorces alike start with one spouse filing a divorce petition. The petition must be filed with the correct court, then served along with a Summons to the other spouse through an appropriate means. The Summons explains to the recipient what action they need to take if they disagree with the petition's content. The recipient must file a formal Answer to the petition in the court clerk's office and a copy of the Answer with the other spouse's attorney.

If the divorce is contested, the stages of the process outlined below can be expected. If the spouses can resolve the issues at some point during the process, then the divorce can typically move forward much more smoothly and quickly.

- **Discovery:** Normally, in Utah, the recipient of the divorce petition is required to provide an Answer within 30 days (except in some military divorces and potentially other instances.) After receiving the Answer, the discovery phase of the contested divorce begins. This step involves a substantial amount of documentation. *All* legal documents and the full array of supporting materials must be prepared to meet the Utah court system's stringent standards before filing. Documents should include detailed income reports, marital assets, shared debt, children, and all other pertinent information. Both parties have a specified timeframe for the discovery process. Your attorney must stay in close contact with your spouse's lawyer to prevent delays in the process.
- **Temporary Orders:** During the divorce process in Utah, the judge can create and enforce Temporary Orders. These can dictate occupancy of the marital home, bill payments, child custody, child support, visitation, and other critical decisions. These issues are reviewed later at the divorce hearing or the trial, and final court orders are then outlined in the divorce decree.
- **Settlement:** After discovery is complete, the parties are encouraged to come to a divorce settlement independently or through divorce mediation. If an agreeable settlement is not reached between the parties, then the divorce attorneys persist with discovery until the court date.

- *Courtroom Trial:* In a contested divorce that reaches this stage without the spouses reaching key agreements, they go to trial in divorce court. Their lawyers present witnesses and cross-examine the other party's witnesses, and give closing arguments for their client's cases. The judge will then hand down the divorce decree or court order declaring the court's decisions on all the matters argued in the hearing. The more complicated the divorce case, the longer the final order can take.
- *Appeals:* If the court's decision is unfavorable, an ex-spouse can file a motion even after the trial ends (usually within a 30-day time limit after the judge's ruling), asking to have the case retried. The other party is then given 30 days to file a response. If the court rejects the post-trial motion, then the party can file an appeal (within another 30-day limit). Next, the attorneys for the parties present oral arguments in court. The case may then be returned to the original court or the judge's original order may be upheld, finalizing the divorce.

As you can see, a contested divorce is an involved legal undertaking. The lawyer you have fighting for your interests can seriously impact the court's decision or the settlement in your case. So, you should work only with an experienced Utah divorce attorney with a strong track record of success in contested divorce cases.

Contested Child Custody, Child Support, or Visitation

During the divorce process, child custody should be legally determined. If the parents have not agreed on custody, the court will decide the child's best interest. The court will usually require a Custody Evaluation in such situations. A psychologist (Ph.D. level) conducts the evaluation. The average cost for this kind of evaluation is around \$3,200 but can run as high as \$5,000, but this is a key part of the process in resolving custody disputes.

Frequently Asked Questions About Contested Divorce

Why Would Someone Contest a Divorce?

Why is a Contested Divorce So Complicated?

A contested divorce process requires more steps than an uncontested divorce, and the greater the number of contentious issues, the more steps necessary to resolve them. Even an uncontested divorce in Utah requires filing the Complaint about for Divorce, processing the recipient's response to the petition, hiring attorneys, and other steps. When proposals on handling marital debts, property divisions, child custody, child support, alimony, and other typical matters in divorce become contentious, additional steps are involved.

Gathering information, sometimes interviewing witnesses, perhaps even a trial can become necessary. These complex legal measures for resolving controversies can significantly complicate and prolong the process in a contested divorce. The parties are

strongly encouraged to enter mediation and work together to the greatest extent possible, to avoid the difficulties of a contested divorce.

How Does the Court Get Involved?

How can an Attorney Help with a Contested Divorce?

What is the Process for Contested Divorce?

How Long Until a Contested Divorce is Final?

Who Pays for a Contested Divorce?

Can Contested Divorce Be Changed to Uncontested?

Can a Divorce Be Contested after It Is Final?

How Do I Stop a Contested Divorce?

Advantages Of Contested Divorce

A contested divorce involves a number of courtroom appearances, including hearings and the eventual trial. Both parties will also have the option to compel discovery of financial records and other information to build a case for arguing before the judge. For this reason, it is sometimes advantageous to pursue a contested divorce instead of an uncontested divorce, such as if you suspect that your spouse may have hidden assets and you want to use the process of discovery to reveal them for the purposes of claiming alimony or asset division.

If You are Facing a Contested Divorce, Protect Your Rights!

Take your first step now by contacting us at the Law Office of David Pedrazas for a Legal Case Review. We understand how much is at stake for you and your family and will diligently pursue a swift and effective resolution to the case with a minimum of stress and expense.

David Pedrazas has been helping people successfully work through contested divorces for over two decades. He has dedicated his legal career to giving people the real help needed to make fully informed choices that lead to a happier future for themselves and their families. Through the years, David Pedrazas has been awarded for excellence in divorce law by the American Academy of Trial Attorneys, the National Academy of Family Law Association, and the American Institute of Family Law.

For more answers to contested divorce questions or to schedule a review of your case, call the Law Office of David Pedrazas, PLLC, Salt Lake City, Utah at (801) 263-7078, or contact us online for help.

