

Is it Better to File For Divorce Before Your Spouse Does?

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What happens when you file for divorce first in Utah?

People sometimes misunderstand family court principles when they're filing for divorce in Utah. They race against the clock to file a divorce petition (or a divorce complaint) before their spouse does it. They assume that it's critical to be the one to file. But, as in any legal case, the complainant and the respondent are viewed equally by the courts. So, it is the same regarding how your side of the story is treated legally, regardless of who filed the case. In fact, both the petitioner and the respondent actually have certain advantages in a Utah divorce case.

Being the Petitioner Vs. Being the Respondent

Whichever role in the divorce you have, petitioner or respondent, you are equals under the law in Utah. Your side of the case will be heard and reviewed by the family court judge equally whether you filed for the divorce or are responding to the complaint. Generally, whether you file for divorce or answer the petition is irrelevant in terms of how the court views you and the other party and any evidence either of you may offer. Both parties will have time to present your case to the judge and have your input considered impartially.

Advantages Of Filing the Petition For Divorce

The spouse who files the Petition for Divorce with the Utah court is the petitioner in the case. While none of the judge's decisions are to be influenced by who files the petition, there *are* a few potentially significant advantages of being the one who initiates the

divorce action:

- **Start at Your Convenience:** As the petitioner, you can choose the most convenient time for you to begin the divorce proceedings. That means you'll have the time you need to prepare for the financial effects a divorce may bring.
- **Careful Attorney Selection:** If you're the petitioner, you have more time to choose your divorce lawyer very carefully. You are not pressed into a situation in which you, as the respondent, are served divorce papers and must urgently put together your best response to meet the legal deadlines.
- **Protect the Marital Assets:** When you're the divorce petitioner, you have more opportunity to ensure that shared assets are secured until the court's final order for property distribution.

Advantages Of Being Served Divorce Papers

We've seen above that there are benefits of being the spouse who files the divorce petition (the petitioner). But, there are actually advantages to being the person served with the divorce papers (the respondent) too:

- **Saves You Money on the Divorce:** As the respondent, you save costs, because the petitioner bears the initial responsibility for paying a lawyer to prepare the petition and paying the court filing fees.
- **Time to Review the Requests:** As the respondent, you have an opportunity to review the petition carefully and weigh the requests before you need to make any serious decisions.
- **Opportunity to Form a Legal Strategy:** The respondent is in a position to create a strong strategy to address specific requests that are already defined for you in the other party's petition.

You have 21 days to respond to a divorce petition if you are served in Utah and 30 days if you are served out of state. If you do not respond within those timeframes, the court may award the petitioner a default judgment and grant the petitioner everything he or she has requested. So, you do need to obtain an experienced Utah divorce attorney as soon as possible to help you build your best possible strategy to help ensure a desirable outcome of your divorce case.

So, Should I File for Divorce or Let Him or Her Do It?

Overall, whether you file the petition or respond to it is not relevant to the outcome of your divorce case in the Utah family courts. As the petitioner, you have more time to prepare for the start of the proceeding and to develop your case with your divorce lawyer. As the respondent, you save the cost of having the petition prepared and filed, and you can respond to issues that are all predefined for you. Either way, in court, your side and the other party's side of the arguments are processed objectively under Utah law.

Why Choose the Law Office of David Pedrazas, PLLC?

Through all the years of helping people through the Utah divorce court process, our legal team understands the difficulties and stress our clients go through during this life-altering time. We are here to provide highly effective and caring representation. If you're ready to file a petition for divorce in Utah or have been served with divorce papers, you need a well-experienced Salt Lake City, UT, divorce lawyer.

For filing or responding to a divorce petition, call the Law Office of David Pedrazas, PLLC, at (801) 263-7078 to schedule an appointment to discuss your situation.
