

# Settle or Litigate? Contested vs. Uncontested Divorce in Utah

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Going through any type of divorce in Utah can be one of the most difficult times in a person's life. Not only are you forced to admit that the relationship that you previously depended on didn't quite work out, but you also have to go through the process of dividing assets and all of the other legal ramifications that go along with such an act. The process can intensify dramatically both emotionally and monetarily if kids are involved, as well.

When the divorce process begins in earnest, you will at some point need to make a very important decision. You'll need to decide if you and your soon to be former spouse can come to an amicable agreement and settle your divorce or if you'll need to litigate to get not only what you want, but what you feel you deserve. These two types of divorces are called uncontested divorces and contested divorces, respectively. They have a number of clear differences that shouldn't be ignored, regardless of whether you're just beginning the divorce process or if you think that you're reaching that light at the end of the proverbial tunnel.

## Contested Divorce Cases Go To Trial?

The main difference between an uncontested and a contested divorce is that in the former type of scenario, the two parties will go to trial and will present their case to the court to decide the outcome of the divorce proceedings.

If you and your former spouse (and both sets of attorneys) were able to reach an agreement that all parties found mutually beneficial and that everyone was happy with, there would be no need to even consider going to trial at any point during the process. If

you're unable to come to an agreement for whatever reason, however, a trial will begin looking more and more likely.

One of the most common reasons why two parties would be unable to come to an agreement in this type of situation is because one party doesn't actually want a divorce at all. If your spouse previously believed that he or she was part of a happy marriage that had a normal level of ups and downs, they may have been blindsided by your request for separation and then to begin the divorce proceedings. The reverse can also be true: maybe you're the one that doesn't actually want a divorce at all, which can make the "come to a mutually beneficial agreement" part of the proceedings exceedingly difficult.

For whatever the reason, a court may need to step in during a trial and settle the dispute once and for all. Remember that just because you're going to trial in this type of situation doesn't mean that you won't be getting a divorce if the court rules in favor of the person who didn't want to begin the process in the first place. Nobody will be forced to stay married even if they don't want to. What it does mean, however, is that the court will decide how assets are split, what happens to any children who may be a part of the equation and more.

## The Family Law Court System

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Another important thing to understand about taking your divorce to trial is that the court systems won't always be fair in the strictest sense of the word. Your definition of fair and the definition that the court uses to decide the ultimate fate of your relationship could be two completely different things.



### Child Custody in Utah

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One of the many things that a court will consider during a contested divorce is what happens to any children that you may have had with your soon to be ex-spouse in that regard, the courts will delve into the past of each of the two people involved to try to find the best situation possible not for the husband or for the wife, but for the kids.

Even if both parents are deemed completely fit to raise kids, for example, one spouse may be awarded primary custody of the children if it is determined that he or she can provide them with a significantly better lifestyle. A number of factors will also be considered by the court when it comes to determining when or even if you will get partial custody of those children. Courts can subpoena documents about your employment history, your criminal background history, your income taxes and more all in an attempt to definitively determine how capable you will be with regards to raising kids either on your own or through sharing custody with your ex spouse.

Utah divorce courts can choose to give full custody of kids to one of the parents and refuse to even award visitation rights to the other if they determine that is the best course of action to take. Though you may not necessarily think that is fair, the court doesn't necessarily hold your opinion in high regard when it comes to the safety and well being of minors in our society.

## Asset Distribution

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Another important thing that the courts will consider during a contested divorce is asset distribution. This is especially true if one of the people in the marriage makes a significantly larger amount of money than the other.

Consider a scenario where you make several hundred thousand dollars a year more than your soon to be ex wife. If you were the primary source of income in a particular household, the court will determine that your wife has a right to continue to live up to the lifestyle standards that she had previously enjoyed while you two were together. They will consider the standard of living for both parties at the time of either trial separation, marriage or the beginning of the contested divorce trial depending on the specifics of the situation in question. As a result, your alimony payments may be larger than average to close that income gap between the two parties. Even if you don't necessarily think this is fair, it is well within the court's power to do so.

The caveat in this scenario, however, has to do with when that income was actually earned. If you made a significant amount of money in your life prior to your marriage and haven't made quite as much per year since, the amount of yearly income that will be used to determine alimony payments is normally only those years where the marriage is in full effect. This is true on both sides of a divorce. If you suddenly come into a huge amount of money by way of a new job position, a huge raise or even the lottery after the divorce is finalized, the court cannot retroactively decide to raise your monthly alimony payments as a result.

## What if One Party Doesn't Want a Divorce in Utah?

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It is an unfortunate fact of life that sometimes two people just won't work out together. Just because you don't want a divorce doesn't mean that you can somehow force the other party to stop the proceedings – not even the court can prevent someone from divorcing you if they don't want to be married anymore. No-fault divorces mean that it isn't up to just you – it's up to your spouse as well.

It's also important to consider that contesting a divorce could be more costly in the long run, regardless of how much you want the process to stop as quickly as possible. Contesting a divorce means that you'll be paying a divorce lawyer for a significantly larger amount of time than if you had just tried to work out a settlement as quickly as possible. If the divorce ends up going to trial, you'll also be looking at a huge amount of money to that divorce lawyer for the normal costs associated with trying that type of case.

Even if you don't want a divorce, it is sometimes better to just embrace the inevitable and try to help the process along as quickly and as smoothly as possible. This is especially true if you don't have the money to spend on the process to begin with.

## What Can a Salt Lake City Divorce Lawyer Do to Help Me?

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When entering the divorce process, one of the most invaluable tools that you will have at your disposal is an experienced divorce lawyer. Divorce attorneys are there to help you navigate the rough waters of the divorce process using all of their experience and expertise in the subject matter. Statistically speaking, you are likely looking at the first divorce you've ever been a part of. A divorce lawyer, on the other hand, will have been intimately involved in hundreds of different cases with nearly every configuration that you can imagine.



Your divorce lawyer knows what it takes to get you exactly what you want and what you deserve. He or she can help get you through the process as quickly and as reasonably as possible without spending too much of your hard earned money or giving up a significant portion of it to a soon to be ex spouse that doesn't actually deserve it for whatever reason. Utah divorce lawyers are truly here to help. Call the Law Firm of David Pedrazas for a free case review.