**Steps in the Contested Divorce Process**

In Massachusetts there are two types of divorce: uncontested and contested. In a contested divorce there are basic steps that occur in every case. While each case differs per the circumstances, there are five or six main steps that occur in each case.

1. ***Filing of the* *Complaint***: The divorce process starts when one party files a document referred to as a *complaint* with the Probate and Family Court in his/her county. In the complaint, a reason for the divorce must be set out—the most common grounds for divorce is “irreconcilable differences” which results in an irretrievable break down of the marriage. Reasons for getting a divorce, such as adultery or cruel and abusive treatment are often stated, however they are not always the main reasons I see in a complaint for divorce. Based on the circumstance of your situation, you and your attorney will decide on what grounds your complaint will be founded.

After the *Complaint for Divorce* is filed, the Court will issue a summons to will be served by a local constable or Sherriff’s office. Within the packet of paperwork given to your spouse is an *Automatic Restraining Order*, which becomes effective once the Defendant is served with the summons and complaint. Set out in the documents that accompany the Complaint for Divorce, the terms of the restraining order relates to the person’s property. The Order prevents him/her from selling, transferring, concealing, assigning, removing, encumbering or disposing of any property that belongs to either party in the action, except as what is required for reasonable living and business expenses in the usual and ordinary course. The parties are also prevented from incurring any further debts, changing beneficiaries of any life insurance policies, pension plans, retirement or investment accounts. The main reason for this is to protect all assets until there is a court order deciding what will be done with them.

1. ***Case Management Conference***: The court uses the *Case Management Conference* as a tool for all parties to sit down and discuss issues such as \*discovery deadlines, as well as to set a pre-trial conference and any other deadlines. Parties use the Case Management Conference to discuss any issues and hopefully work towards a resolution.

In some instances, the parties and their counsel elect not to go to the Case Management Conference. When this happens, the parties will file a *Stipulation of Case Management Conference* which sets out the deadlines for discovery and any other administrative issues that need to be addressed.

\*Discovery is the process of determining everything involved in the case. It can involve subpoenaing documents, etc.

1. ***Temporary Orders***: *Temporary Orders* are not used in every case. In some instances, parties have issues they need to be addressed immediately. If one party to the divorce action needs immediate relief which cannot wait until the Case Management Conference, then the attorney representing the party in need will file a *Motion for Temporary Orders* to get into court prior to the Case Management Conference. The court will usually hear a Motion for Temporary Orders for issues relating to temporary support for the other party or minor children, custody, visitation, or health insurance for any of the parties. Once the Motion is filed, the court will schedule a hearing where all parties will have an opportunity to be heard. Should the parties not resolve their issues through mediation at the court house, a judge will ultimately make a decision.
2. ***Process prior to the Pre-Trial Conference***: Prior to the *Pre-Trial Conference,* all of the parties to the matter MUST sit down and hold a *Four-Way Conference*. The hope is the parties will work out the contested issues are in the case prior to the Pre-Trial.

After the Four-Way Conference, counsel will draft a Pre-Trial Memorandum that sets forth all of the parties’ issues, as well as what the parties respective opinions are as to what is going on in the case. This document is filed with the court along with the parties’ financial forms on the day of the Pre-Trial.

1. ***Pre-Trial Conference***: At the *Pre-Trial Conference*, all of the parties will appear at the local Probate and Family Court. This is an opportunity for the parties to present their unresolved issues in the case to the judge assigned to their case.
2. ***Trial:*** If the parties are unable to settle all of the matters between them, the case will be set down for a *trial* where the parties will present evidence through documents and testimony of witnesses. This can be a very expensive process, but sometimes a necessary step that needs to be taken to preserve someone’s rights. At the end of the trial, which could last anywhere from 1 day to a number of days, the court will take the matter under advisement and next issue a *judgment* which addresses all of the issues presented before it. This judgment is binding on all of the parties.

*Financial Statements:* Every party to a divorce action MUST file a financial statement with the court. This is done before *every* court appearance, regardless of whether anything has changed. The financial form lists ALL of your income, expenses, assets and liabilities. The purpose of this form is so both parties have full financial disclosure of the other person’s assets and income, as well as to assure the court understands your financial situation. The court also requires a copy of your W2 from the previous tax year.