

Terminating Your Marriage: Litigation and Settlement

Q: I have already filed my complaint for divorce, and now my spouse is suggesting that we try to work out an agreement. Is it too late?

A: No. It is never too late for you and your spouse to agree on the terms of your divorce. In fact, the court encourages settlement negotiations even when you're in the middle of litigation.

Q: If I negotiate with my spouse, do I have to dismiss my complaint for divorce?

A: No. Litigation and settlement negotiations may occur simultaneously. You and your spouse may work to settle all or just some of the issues through the trial and appeals process.

Q: We can agree on matters such as who gets to keep the house, how our cars will be divided, and how our household furnishings will be divided, but we cannot agree on anything else. Do we have to agree on everything?

A: No. You and your spouse may reach a partial settlement of matters.

Q: What are some benefits of reaching a settlement with my spouse?

A: Reaching a settlement is generally more efficient and less costly than preparing for a trial, and also may be less emotionally difficult for you and your spouse. The terms of settlement can generally be drafted to meet your specific needs, as opposed to a one-size-fits-all divorce.

Q: Are there any drawbacks to settling my divorce case?

A: While many settlements can offer "win-win" results, oftentimes people walk away feeling like they made some sacrifices. However, the same can happen in litigation, and settlements relieve the uncertainty of wondering how the court might decide your case in a trial.

Q: If I offer a settlement to my spouse and it is rejected, can my offer later be used against me in litigation?

A: The Ohio Rules of Evidence provide that offers of settlement and statements made during settlement negotiations generally cannot be used at trial.

Q: My spouse and I have agreed to the terms of our settlement. What's next?

A: Essentially, your contested divorce case will be converted into an uncontested divorce or a dissolution. You and your spouse will make a formal written agreement called a "separation agreement." Once you have both signed the separation agreement, the court will hold a short

hearing. So long as the terms of the settlement agreement meet with the court's approval, the court will grant your divorce according to the terms of the separation agreement.

6/15/2014

This "Law You Can Use" column was provided by the Ohio State Bar Association (OSBA). It was prepared by Allison K. Tracey, an attorney with the Columbus law firm of Collins & Slagle Co., LPA.

Articles appearing in this column are intended to provide broad, general information about the law. Before applying this information to a specific legal problem, readers are urged to seek advice from an attorney.

