



Divorce - It Need Not Be The "War Of The Roses"



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In the past, if you wanted to file a "no fault" divorce, you had to wait eighteen months from the date you and your spouse separated into different homes before you could actually file for divorce. For many reasons, most did not want to wait to file for divorce once they had made the decision to file and, as a result, had to choose "grounds" for divorce which pointed the finger of a fault at the other person. These complaints were frequently hurtful and embarrassing to the other spouse, and started the divorce on a very emotional chord right from the beginning of the proceedings. Many times, this resulted in a significant

increase in attorneys' fees and costs because the parties were litigating their emotions while their attorneys were trying to dissolve the marital estate.

Ladies, the State of New Jersey has finally caught up with the new Millennium. Last year, our legislators finally passed a new law allowing your divorce to be filed on the grounds of "irreconcilable differences." Those grounds simply state that both parties have had irreconcilable differences for a period of six months during the marriage and there is no reasonable prospect of reconciliation. Simple, right? The marriage is over, period. No one has to litigate who was meaner, who was colder, who slept with whom, who was cheaper, and all those other finger-pointing, hurtful accusations.

This new approach is groundbreaking for many matrimonial litigators because previously, people really believed that they had to prove their hurtful accusations

in order to "win" in court. It was hard for people to understand that, except in extreme circumstances, none of those allegations had any bearing on the issues of custody, support or equitable distribution.

Custody has always been a highly emotionally charged issue which has also caused many spouses to run up attorneys' fees and costs to prove that they are the "better" parent or that their spouse is unfit to take care of their children. In the event parents cannot resolve custody and parenting issues, mandatory mediation programs have been set up in every county to assist parents in coming to an agreement on their parenting plan. Except in extreme circumstances, the court system will strive to

ensure that the children have liberal access to both parents.

It is important to know that you can make choices. Sit down with your spouse before the divorce even starts to work out your parenting plan and shared responsibilities after the divorce. If you need the assistance of a mediator, there are now many professionals who offer those services privately for a fee. If you have not resolved the parenting issues before filing for divorce, use the services of the court-appointed mediator to assist the two of you into working out your parenting agreement. I guarantee you that any agreement the two of you can work out, either alone or with the assistance of a mediator, will be much more thorough and beneficial to your children

than any arbitrary decision of the court. I would strongly suggest, however, that you consult with a matrimonial attorney before you begin negotiations so that you can be made aware of your legal rights and responsibilities.

Mediators are also available to help you work out your support and equitable distribution matters without litigating these issues in the court system. Although you should always consult with an attorney as you progress to ensure you know what you should seek in your negotiations, you don't have to consider litigation as your first option. Keep in mind that the money you and your spouse spend litigating the matter is money that is no longer available for you and your children.



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Mary Cay Trace is a Partner in Trace and Jenkins, LLC, in Woodbury, New Jersey, where she concentrates in the area of matrimonial law and related matters, ranging from simple to complex matters; non-dissolution matters, civil union and domestic partnership matters, extensive motion practice, trial litigation in divorce, custody, domestic violence and related matters. She is also a Matrimonial Law Mediator.

Admitted to practice in New Jersey and Pennsylvania, and before the United States District Court for the District of New Jersey, the Third Circuit Court of Appeals and the United States Supreme Court. Ms. Trace is a member of the American Academy of Matrimonial Lawyers and the New Jersey State Bar Associate Family Law Section as well as the Camden, Salem and Gloucester County Bar Associations. She is a member and Past Chair of the Gloucester County Family Law Committee and a member of the Camden County Family Law Committee, and serves as a Matrimonial Early Settlement Panelist for Camden and Gloucester Counties. She also serves as a Blue Ribbon Panelist in Camden, Gloucester, Cumberland and Burlington Counties. She serves on the New Jersey Family Law Executive Committee, served on the New Jersey Supreme Court Special Committee on Matrimonial Litigation and was a member and former Chair of the District IV Arbitration Committee. She is a member of the District IV Ethics Committee.

Ms. Trace has lectured for ICLE, Gloucester County College and other professional and community groups. She is a Master, Thomas S. Forkin Family Law American Inns of Court, and she received the E. Henrietta Roesler, Esquire, Women in Law Award in 2004.

Ms. Trace received her B.A. from Douglass College, Rutgers University, and her J. D. from Widener University, the Delaware Law School.