DIVORCE

BASICS YOU'LL NEED BEFORE YOU FILE

ADELOLA SHERALYNN DOW ESQ

Welcome!

In my nearly twenty years of representing clients, I've studied how other divorce lawyers represent their clients and how they provide little more than surface-level meet and greets during their "free consultations".

You know, it's the "thanks for calling...Sure, we can help you, just sign here" approach which leaves you with no actual insight as to what you are paying for and what you can expect from them.

That's not how we operate at the Dow Divorce Law. We believe that your time should be invested in something of true value: An understanding of how we intend to help you, what that process looks like, why we will use certain strategies as opposed to others, and why working with us will do for you what no other firm can. Even after the Husbands and fathers I represent have hired other lawyers, they don't yet know many of the concepts I introduce to them during our strategy sessions.
We don't do "free sales meetings"-otherwise known as "free consultations." Instead, we offer comprehensive strategy sessions which show you how you can turn your life around. When you sit down with us, you leave with an actionable plan, not a simple unplanned hope that things will go well.

But, we can offer you for free, right now, this e-book answering key questions we know you have about the divorce process. Whether you're in New York or New Jersey, this booklet is packed with great tips and knowledge for your divorce journey.

FORWARD

You've taken the step of searching for a divorce attorney, and you found us. But you aren't ready to book a Strategy Session with us. So, what do you do now? Well, you're still in the right place! My name is Adelola Sheralynn Dow. I'm a New York and New Jersey-licensed Divorce Lawyer. I own Dow Divorce Law, P.L.L.C., with offices in Staten Island, New York and Middlesex County, New Jersey.

At Dow Divorce Law, our main objective is to help Husbands and Fathers move forward with divorce and family law matters in a way which allows them to take back their power from ANYTHING threatening their ability to be their best selves before, during and after divorce.

If you are that Husband or Father, I want you to know that divorce is a reset, not a failure. And, while it may not be the easiest or the simplest phase of your life, it is a phase which will unleash your power to push"play" on the rest of your life.

So, whether you are ready to make the next step by hiring our firm, gathering information for a friend, or just wanting to get some quick, no nonsense answers to your biggest questions about topics you want to know NOW, you've come to the right place. We're here when you need us!

Check Out Our Blog:
https://www.adelolalaw.com/staten-island-divorce-blog

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Dow Divorce Law

Do I Have To File Where We Married?

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Divorce is generally governed by the laws of the state in which you reside. For example, if a couple was married in New Jersey but lives in New York, the laws and rules of the State of New Jersey will not govern their divorce. New York's will.

People who are already separated may have the option to file for divorce in either of two states if you reside one state while your spouse resides in another. You should confer with an attorney who is licensed in both states for a understanding as to which state best suits your ultimate goals for divorcing.

For instance, a breadwinner spouse may want to file for divorce in New York state because the spousal maintenance laws provide for a durational amount of support even in long-term marriages, while divorce for long-term marriages in New Jersey result in "open durational" alimony. Open durational support has no end date. However, again, consult with an attorney licensed in both states.

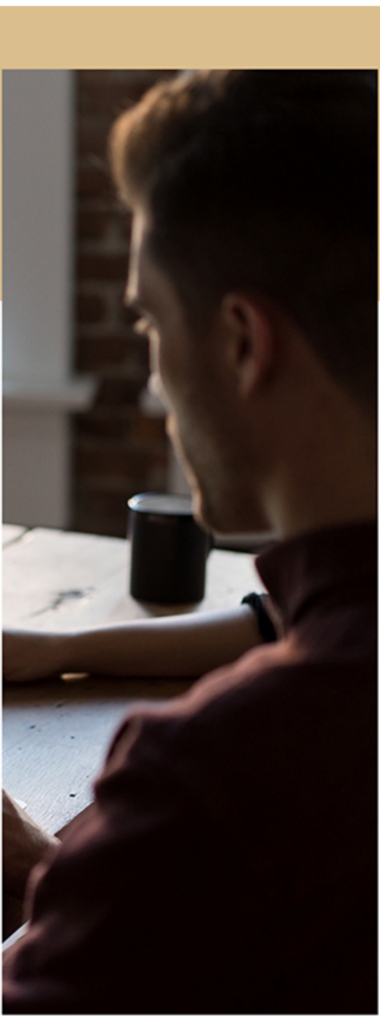
What Is Jurisdiction?

Jurisdiction is a fancy would for describing which state has the authority to handle your case. State laws govern divorces. Each state has different laws about child support, alimony (spousal maintenance), the distribution of marital property, etc.

When filing for divorce, you have to make sure that the state you are filing in has connection to (or jurisdiction over) your case.

If not, even though a state's laws may be more beneficial to you, its laws will be of no help to you. Filing for divorce in the wrong jurisdiction can severely impact your divorce rights, obligations and responsibilities.

Though it seems simple, where you file means everything to your case. Consult with an attorney if you are in any way unsure.



Does It Matter Who Files For Divorce First?

Filing for divorce first makes you the Plaintiff. And so, if you want the satisfaction which sometimes comes with being the one to initiate the divorce, you may want to file first.

That said, unless there is some sort of legally-based strategic reason for filing first--such as the need to preserve an asset you anticipate receiving as your separate asset so that your spouse does not have rights to it--being the first to file for divorce first does not give you additional privileges, rights, or particular advantages in a divorce proceeding.

Be sure to talk about this issue with competent legal counsel.

Will My Spouse Have To Move After Being Served?

Living with your spouse when you are getting divorced is hard, to say the least. And, the speed with which your spouse will have to move out of the house after being served is the most frequent question we receive, outside of "How Long Does Divorce Take?"

Generally, there are two (2) limited situations which allow you to eject your spouse from your home: 1. an act of domestic violence has occurred against you, or your child, at the hands of the spouse you want removed from the house; or 2. the court determines that it is not safe for the parties to stay in the home together.

Also, if your spouse moves out of the residence voluntarily, it is common to ask the court to give you consent to remain at the home without your spouse having access to the house.

How Long Does Divorce Take?

It depends.

I know, I know, that's a lawyer's answer. But, unless your case is uncontested--which is a divorce case in which you and your spouse fully agree upon all aspects of your divorce--even the best attorney will tell you that the length of time your case will take will vary based upon the positions each party takes in the divorce.

I always tell my clients that it takes one person to litigate (fight) and two people to negotiate. The more invested you and your spouse are in reaching an amicable divorce, the less time your divorce will take. When divorcing spouses fight, their cases take longer to complete and finalize.

That said, negotiated divorces traditionally resolve in between six months and a year. Complicated cases can take upwards of three years. We offer support for every aspect of your case, in every type of divorce matter.

How Much Will My Divorce Cost, Really?

The more you and your spouse can negotiate and resolve, the cheaper your case will be. Uncontested divorce cases can cost between $2,500 and $5,000, depending upon the complexities of your marital estate. Contested cases which do not end in trial can cost upwards of $15,000-$25,000.

However, if your case is complicated enough to go to trial--or if trial preparation is done-such as when you are fighting for custody or contesting marital assets, your case can cost upwards of $50,000 to $100,000 depending upon the attorney you select. Some charge even more!

Remember, the attorney with the highest retainer and the highest hourly rate is not necessarily the most expensive choice. The ultimate cost of your divorce depends upon the billing habits of the attorney you select. Not all attorneys bill the same.

For instance, I recently went to trial in a matter where I represented my client in two different cases (Divorce and a Family Court Order of Protection) and one appeal. My total fee for all three cases totaled less than one-half of my opponent's legal fees. So, look for value, not just at the hourly rate.

Should I Even File For Divorce?

This is your life. Only you, based on whatever spiritual beliefs you may have, are ultimately responsible for creating the life you want to lead.

As a divorce lawyer, it is my role to assist clients in coming to a decision, but far be it from me to tell anyone to end a marriage.

This is an extremely personal decision which ultimately has to be made by you. What I can say is that life is too short to be unhappy.

And, even the most difficult divorce ultimately ends in the type of freedom which one could never experience in a dead marriage.

What If My Spouse Doesn't Want To Sign?

Your spouse's refusal to sign a Stipulation of Settlement or Marital Settlement Agreement will not always prevent you from securing a divorce.

There are many options to divorce your spouse even if he or she refuses to cooperate.

One of the most frequently used ways to secure a divorce without your spouse being involved is through the "default process". A default occurs when the defendant (the person against whom the case is filed) does not answer the papers they were served with.

Speak with us about how we can help you navigate the road to default when your spouse will not cooperate.

I Don't Know Where My Spouse Lives. Can I Still Get Divorced?

Once a divorce is started, the defendant must be provided with copies of the document, personally. That is called "service".

While there are some special exceptions, you'll need to know where your spouse is in order to "serve" them with the divorce papers. Not knowing where your spouse is can complicate your divorce in ways which require you to hire a private investigator to run skip traces or other searches.

When you really can't locate your spouse after diligent efforts, documents may need to be filed with the court to allow you to serve your spouse differently.

You'd be best served talking to our offices about those options.

Can We Be Represented By One Lawyer?

Finances are a large consideration in many divorce cases.

However, using the same lawyer to save money almost always results in a conflict of interest for the lawyer. But furthermore, it's not ethical.

Even in the most amicable divorce, you and your spouse have opposing legal interests. You and your spouse may both want your marriage to be over, but your legal interests are different.

In New York and New Jersey, it is unethical for an attorney to represent both parties in an action for divorce. You may want to think twice about any lawyer who tells you differently.

At the Law Offices of Adelola Sheralynn Dow, ethics are paramount. We will not represent both parties to a divorce. We will never do anything we consider or know to be against the ethical guidelines of the states in which we practice.

Will I Have To Go To Court?

There are several ways to avoid going to court when divorcing.

One way to avoid court is to have an uncontested or a negotiated divorce where you and your spouse ultimately agree upon the terms of your separation and your divorce. You agree on things including the reason for the divorce, spousal support, child support, who keeps what, etc.

Another way to avoid court is to engage in the Collaborative Divorce process. This is where you and your spouse agree to divorce in a series of out-of-court meetings, with hired experts who assist you in coming to a resolution, all while being represented by two separate lawyers who are trained in that non-confrontational process. Within that process all participants sign an agreement committing to the process and agreeing not to engage the court.

Most cases resolve without extensive court involvement.

Can Children Choose Where They Live?

The older a child gets, the more voice they have in the outcome of the parenting time and custody arrangements. However, there is no age at which a child can have final say about where they will live and have a judge do exactly what as the child says.

Many people think that children have exclusive say at age 13.

They do not. If the child's parents cannot agree upon where a child will reside, the Court will ultimately have the last say. And that say may be the opposite of what the child wants.

The Court is charged with making custody and parenting decisions in the best interest of the children. If the choice the child makes is ultimately not in their best interest, the Court will not grant that choice.

Do Children Testify In Court?

The worst thing anyone can do is to have their child in the middle of their divorce.

For their mental and physical health, children should be as far removed from the divorce process as possible.

And, while children may be assigned an attorney or advocate who argues their desires before the court, most courts will scoff at any attempt an attorney makes to have a child testify against a parent in open court.

Instead, Courts use a process called an "in camera" interview where the children meet with the judge, the judge's attorney, and no one else. The judge will ask the child questions about their experiences with either parent, and explore the child's opinions.

> This is done as a replacement of testimony and is less intimating than testifying.

Do I Need A Lawyer?

At our firm, we make it a habit not to even suggest representation to someone who truly doesn't need it. We give advice based upon our experience as litigators, and we are the first to tell you when you do not need an attorney.

There are, however, situations when an attorney is absolutely necessary.

When you are litigating custody, you should consider hiring an attorney. When you are a business owner, you should consider hiring an attorney.

When you are the breadwinner and you have a support obligation which is not based upon W-2 income, you should consider hiring an attorney.

When you have a pre-marital home that you are trying to preserve, you should consider hiring an attorney.

And, when you know that you are not keen on meeting court deadlines, gathering documents, or arguing your case--you need an attorney.

If you are the person who truly has a "simple divorce", and you like to manage legal documents, then you likely do not need legal representation. What is a simple divorce? When you and your spouse agree upon EVERYTHING which has to be decided in a divorce, your divorce is simple.

But where you do not agree upon support, who will stay in the house, pensions, etc., then your divorce is not simple. You will need an attorney.

Aren't All Attorneys The Same?

Most attorneys have a law degree. All attorneys have passed a bar exam. But not all attorneys are the same.

After practicing matrimonial law for almost fifteen years, I can tell you with certainty that not all attorneys are cut from the same cloth. There are many unexperienced "divorce attorneys" who offer matrimonial services which should be offered by a person who lives, breathes, and eats this specialized area of practice.

Matrimonial law should be practiced by someone who does only this, day in and day out.

A "jack of all trades and master of none" is not the person who should represent you in your divorce.

And, even when they're well-versed at matrimonial law, sometimes the lawyer you've interviewed may not be suitable for you. Maybe they don't communicate in a way which you can relate to. Perhaps they speak down to you or don't consider your feelings when they do. Or, maybe their firm isn't as technologically advanced as you'd like or need.

You must be comfortable with the attorney you select. Finally, while it may be easier and cheaper to consult with only one attorney, be sure to check all attorneys' reviews and relative experience before you settle on one--because they aren't all the same.

In Closing

Representing clients as they transition their lives from unhappily married to conscientiously single is the passion which has driven me to remain in and perfect my practice of matrimonial law.

I've dedicated myself to practicing with knowledge and integrity and to constantly growing my knowledge base and the manner in which I offer services to our clients.

But, without our clients, we have nothing but an unrealized dream for this Brooklyn girl.

And so, thank you. Thank you for the years of confidence and trust. Thank you for the countless referrals and opportunities to serve.

Be sure to call us for guidance through your divorce action which will help you "Turn Fear Into Power When Happily Ever After Fades Away.

~ Sheralynn

Legal Mumbo Jumbo

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