

Information & Instructions: Client Letter to Explain the Divorce Process

PREVIEW

1. The following information letter, frequently referred to as a "do's and don'ts" letter, gives the client practical advice regarding the clients conduct in the divorce and also advises the client what to expect in the proceedings.

Form: Divorce client information letter

[Date]

[Client Name]

[Client Address]

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Dear [Client Salutation]:

You are about to undergo one of the most disagreeable and heart wrenching experiences that you may encounter. This letter is therefore written to advise you of the steps in a divorce action and to give you some practical tips regarding your conduct during the divorce process.

The divorce action commences with the filing of a Petition for Divorce. The Petition may be either simple or complex. The complex divorce Petition may contain an application for a temporary injunction and/or restraining order to prohibit the opposing spouse from doing things such as wasting the couple's joint assets or threatening the other spouse. The Petition may also ask for temporary orders regarding the support of the spouse and maintenance of the community estate pending the finalization of the divorce.

Once the Petition is filed, the opposing party may fail to answer the Petition in which case a Default Judgment can be entered against the spouse, or he or she may Waive Citation by signing a document giving up his or her right to have the Divorce Petition served upon him or her by the Constable. A Waiver of Citation is usually done where it is anticipated the parties can peacefully negotiate an agreed Divorce Decree. The third alternative is that the opposing spouse may employ an attorney and file an answer to the Divorce Petition at which point the case becomes contested.

Most divorce decrees, fortunately, are worked out by agreement between the parties and their counsel. Even this often requires difficult and lengthy negotiation, but it is quicker and less expensive and less arduous than having the Court fashion the decree. The main issues to resolve of course include property settlement, child custody, child support, division of assets and liabilities and possibly alimony for the spouse.

If both parties are unable to initially negotiate the terms of the settlement of the divorce, either or both parties may desire to conduct discovery. Discovery is the legal process by which either party may learn information about the income, assets and physical and emotional history of the other. If

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discovery is necessary, your spouse's attorney may request and be entitled to review copies of your financial records and other personal records that you have accumulated over the years.

PREVIEW

Your testimony (called a deposition) may also be requested. If your deposition is held, an experienced attorney will subject you to cross-examination. He or she will be allowed to ask you questions, many of which you may find objectionable. You, however, will generally be required to answer all questions asked and you will not be able to ask questions in response. Your attorney will be present, and if a question is decidedly improper, your attorney will make an objection on your behalf.

Until the Divorce Decree is granted, it is best to avoid serious dating. The easiest way to turn an uncontested divorce into a contested divorce is for your spouse to believe that you have begun serious dating. Your personal conduct, both before and after the Date, through the date of divorce is subject to being questioned, in great detail and at length. Please therefore be careful how you act during this time because your conduct may ultimately become public news both on deposition and on trial.

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If you have minor children, and you have custody or visitation rights with the children during the divorce proceeding, under no circumstances should you bring your children around any person that could be considered to be a potential spouse.

During the divorce proceeding, do not transfer, hide or conceal any of your property or money or threaten to do so. Do not purchase any major or expense items without consultation with your attorney. If you, for instance, buy a car or other major consumer item before the divorce is granted, the car becomes community property, and half of it belongs to your spouse. The same is true if you take out an earnest money contract on a house prior to the finalization of the divorce.

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Both parties will find that a divorce is expensive and it is more expensive to maintain two separate households than one household. Accordingly, you will have to budget your money and probably reduce expenses.

If a property dispute is expected, obtain copies of all relevant legal papers, insurance policies, titles, certificates of deposit, bank books, canceled checks, deeds, notes, deeds of trust, pension, profit sharing plans, payroll check stubs, contracts and any other documents that might have any bearing on any and all property you and your spouse own and bring them to my office so that I can review them and properly advise you.

We will do the best we can to represent your interests in this divorce proceeding but we will need your assistance. If you have any questions, please call me.

THANK YOU

Very truly yours,

[Attorney's name]

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