



At the End of Your Case: How to Save Time, Money, and Future Litigation

By LEE S. ASHMORE

Once you have the signed and entered judgment of divorce, carefully examine the judgment and agreement.

If the judgment was made by a judge after a contested hearing, you may be pleased, surprised, hurt, or even shocked by the outcome. Try to take some time and calm down. It is always important to work with your lawyer in a calm state of mind. When you are ready, sit down and read the judgment carefully. Call your lawyer and set up an appointment to talk about the judgment.

Ask Yourself: Do You Want to Appeal or Modify?

If you are unhappy with some part of the judgment, you'll want to talk with your lawyer about your options. There are two ways to change a judgment: by asking the judge who made the ruling to modify it or by appealing the judgment. Both of these options are legal matters to be evaluated by your lawyer. Both options are limited. As a general rule, the judge who made the judgment has broad discretion to place custody, provide for financial support, and divide property as he or she sees fit. The appeals court is not likely to second guess a lower-court judge. Your lawyer can tell you whether the judge has made any mistakes that the judge may want to change or that an appellate court may wish to reverse. Your lawyer can also tell you the likely cost of pursuing any change to the judgment.

If You Accept the Judgment, Meet with Your Lawyer to Plan How to Implement It

Once you have decided not to pursue changing the judgment, either because you're satisfied with the judgment or because you're stuck with it, plan a meeting with your lawyer about implementing the judgment. This meeting will also be the time to discuss the file that your attorney has maintained for your case. If you need any part of the file, you should ask for it at this meeting.

Make a List; Have Your Lawyer Check It

Prior to the meeting, make yourself a list of steps required under the judgment and identify who is going to perform them—there will likely be things for you to do, things for your spouse to do, and things for your attorney to do. When you meet with your attorney, go over your list and make sure it is complete.

Discuss Your Bill

You may owe money to your lawyer, particularly if the judgment was the result of a contested trial. Now is the time to discuss the outstanding bill with your lawyer. If you cannot write a check for the outstanding balance, you will need to work out a plan for paying. Often the division of marital assets after the divorce will produce funds for paying the bill; the marital home will be sold, for example, or a retirement or investment account divided. Your former spouse may have been ordered to pay all or some of your attorney's fees. In reviewing the judgment, you and your lawyer should discuss when and how any outstanding fees are going to be paid.

If you are unable to pay the outstanding fees and the division of marital property will not produce funds to pay the fees, you should discuss alternatives with your lawyer. While your former spouse may have been ordered to pay some of your attorney's fees, the ultimate responsibility for payment remains with you. Your lawyer may be willing to accept a payment plan or settle for less than the full amount. It is better to discuss the outstanding fees with your lawyer than to try to avoid contact with your lawyer. Failing to communicate with your lawyer or make arrangement for payment of fees may result in the lawyer withdrawing from your case without finishing the tasks to implement your divorce judgment.

Set Up Your Files

Now you are ready to start implementing the judgment or agreement. Review your list that you finalized with your lawyer. Create a folder for each required step: one for the transfer of the house, one for the transfer of title to the car, one for the transfer of the retirement accounts, etc. Put the documents related to each step into the appropriate file; these will include titles to property, loan documents, your will and related

documents, and statements of the retirement and investment accounts to be divided. You may want to separate the folders into tasks that you need to handle and tasks that your attorney is handling. Having these documents and tasks organized and at hand will help you keep track of the tasks and provide your lawyer with any documents needed.

Be sure to make a folder for all communications with your ex-spouse.

To the extent possible, communicate with your spouse via email, print each email, and put it in your folder. If problems arise and your lawyer needs to take steps to enforce the judgment, your record of notifying your spouse about what was supposed to have been done will be useful.

Go Down the List

Take care of your tasks and send your attorney an email when a task

Close Accounts and Change Passwords, Credit Cards, Wills, and Utility Bills

In addition to the steps required by the settlement agreement or judgment of divorce, there are a number of steps to take automatically when you divorce.

- ✓ Close all joint accounts, including your mortgage, line of credit, checking, savings, investments, rental agreements, and any online accounts. Make sure there are no outstanding checks or automatic withdrawals. If you leave money in a joint account or continue using a joint account after the divorce, your former spouse can withdraw all the money in the account at any time.
- ✓ Change your online passwords. You do not want your former spouse snooping online, wreaking havoc with your online world.
- ✓ Review all insurance (health, home, auto, and life) and make any needed changes, including beneficiary changes.
- ✓ Close joint safety deposit or post office boxes and open new ones if needed.
- ✓ Change all credit cards, including retail store charge accounts. Open a credit card in your name alone and begin using it (wisely, of course). This will build a record of using credit. Obtain a new copy of your credit report. Obtain your free, annual credit report online from each of the three major reporting agencies. Challenge any inaccuracies.

- ✓ Change beneficiaries for any pensions or retirement accounts.
- ✓ Change all wills, advanced directives, and powers of attorney. If you gave your former spouse a power of attorney, you should ensure that it is revoked in writing. Destroy all copies of the prior power of attorney. Give notice of revocation to all third parties who previously relied on the power of attorney. If the power of attorney was recorded as part of a public record, a properly acknowledged revocation should be recorded as well.
- ✓ Change the name of the utility bills to reflect who is now responsible.

Do not assume that your former spouse is of good character and would never take advantage of a joint credit card or a joint account. Your divorce attorney can tell you plenty of stories about otherwise upstanding people who did vengeful things to their former spouses after a divorce. If you leave your former spouse as beneficiary on a life insurance policy or retirement plan, he or she will receive that money when you die. If that is not the result you want, be sure to change the beneficiaries.

Remember: the terms of your settlement agreement or judgment of divorce must always be followed. If the terms call for your former spouse to be a beneficiary of your life insurance or pension, you must comply with those terms. — L.S.A.

is complete. Schedule a date and time to conduct any exchange of personal property provided for in the agreement or judgment. If your former spouse is not taking steps to remove personal property in accordance with the judgment, ask for permission to discard the items and give a deadline after which you will dispose of the property. If there were automobiles to be transferred, take care of the title, registration, license plates, insurance, and any tax issues.

Notify Your Employer, the IRS, and Social Security

When you get divorced, you need

to notify your employer. You need to give your employer a new, completed Form W-4 (www.irs.gov/pub/irs-pdf/fw4.pdf), "Employee's Withholding Allowance Certificate," within ten days after the divorce or separation showing the new number of exemptions. Go to www.irs.gov/Individuals/IRS-Withholding-Calculator and run the calculator to see what your withholding should be.

If you move as part of your divorce, in addition telling everyone else about your new address, you need to mail a completed Form 8822 (www.irs.gov/pub/irs-pdf/f8822.pdf), "Change of Address," to the Internal Revenue

Center for your old address.

If you changed your name as part of your divorce, you need to notify: (a) the Social Security Administration by submitting a completed Form SS-5 (www.ssa.gov/online/ss-5.pdf), "Application for a Social Security Card"; (b) your employer, who may need to change company records, health or life insurance plans, or accounts regarding retirement or 401(k) retirement plans; and (c) your bank, credit card companies, and other financial institutions. You will need to change your driver's license and passport. If you are going to change your name, change all of your

To Help Your Children, Be Kind to Their Parent

Part of the judgment or agreement will deal with arrangements for your children. You now have a schedule, and either you or your ex-spouse has been ordered to pay child support. Do your best to forget the problems of the past and make the schedule work. If you start out well, things tend to continue going well. If you start out badly, things tend to get worse. If you just finished a custody battle and "won" or "lost," you and your ex-spouse may not be emotionally ready to be cooperative and communicative. You may feel like you want to get even. You may notice that your ex-spouse seems to be trying to get even. Do your best to remember that the custody and visitation arrangements that have been ordered will be a major part of your life for years to come. Try to also remember that reciprocity works both ways. People tend to repay kindness with kindness and meanness with meanness.

Follow the Schedule

We use schedules for a reason. People involved in the system—the lawyers, judges, social workers, and psychologists who work with custody and visitation every day—will tell you that schedules are usually the only way to make visitation work. Be punctual. Be courteous. Treat the other parent the way you want to be treated because the other parent will probably treat you the way you are treating him or her.

Communicate with the Other Parent

Communicate with the other parent, preferably by email. Written communication makes a record that both of you can refer to. It also tends to reduce angry, insulting exchanges that are not helpful. Always remember that when you send an email or text to the other parent, a judge may one day read that email. If you

go back to court someday for modification or enforcement, your lawyer will submit those emails to the judge. Do not write things in the emails that you would not want a judge to read. Judges want to see constructive, problem-solving communication, not insults, anger, and threats. If the other parent puts inappropriate material in emails, simply ignore it. You'll be glad you did later when you watch a judge reading the emails.

Try to find small ways to accommodate the other parent. A little kindness goes a long way.

If you are the custodial parent, you are expected to keep the other parent informed about the children's education, medical treatment, and activities. Do this on a regular, weekly basis. Make a file. Print the emails and the documents attached to the emails, and keep records. If the other parents ever claims that you have failed to keep him or her informed, your lawyer can simply produce the emails.

All of these files will help your lawyer a great deal if either you or your former spouse seeks to modify the judgment.

Be Careful with Child Support

Carefully review the provisions in the judgment or agreement regarding child support with your lawyer. Exactly how is the monthly child support to be paid? Directly to the other parent? Through a child support receiver? Through the child support enforcement office? By wage lien? Make sure that payments are made the way they are supposed to be made. If the order requires payment through child support enforcement and you



records. Having yourself identified by different names in different records is a prescription for a headache.

Keep Track of Tasks Your Lawyer Is Supposed to Complete

Once a judgment of divorce has been obtained, lawyers tend to move on to other cases demanding their attention. Make sure that all tasks are completed.

Monitor the Transfer of Retirement Benefits

One important task that your lawyer will need to complete after the divorce is the transfer of retirement assets. Such transfers usually require a special order called a qualified domestic relations order, or "QDRO." A QDRO is drafted by an attorney, entered by the court, and sent to the administrator of the retirement plan. It directs the

instead make payments directly to the other parent, those payments may not count. Pay by checks and keep the canceled checks. Never pay with cash or accept cash.

Avoid getting behind on your child support payments if at all possible. A lot of bad things can happen if you develop child support arrears. If you are put in jail, lose your driver's license, or lose your vocational license, you may find yourself getting even further behind. Do not assume that child support enforcement or the courts will be "reasonable." When it comes to child support, their job is to collect.

If you are paying or receiving child support or alimony and you have a substantial change in your income, contact your lawyer and seek a modification quickly. Your lawyer can advise you about whether the change is sufficiently "substantial" to justify seeking a modification. Modifications can usually be backdated only to the date the motion for modification was filed. If you are ordered to pay support in the amount of \$1,000 per month and you lose your job or become disabled, you still owe \$1,000 per month until the court changes the amount. If you wait a year before filing a motion for modification, you will owe the \$12,000. That debt can be enforced by a contempt-of-court proceeding, and it cannot be discharged in bankruptcy. Consult with your lawyer immediately if changes occur.

Watch Out for Children's Uncovered Medical Expenses

Review with your lawyer the provisions in the agreement or judgment for dividing uncovered medical expenses for the children. Usually, the noncustodial parent is expected to reimburse the custodial parent for uncovered medical expenses. There are typically steps the custodial parent has to take in order to claim reimbursement. Review those steps with your lawyer and follow them. Find out if there are other expenses for which one parent may have to reimburse the other parent. As always, be sure to keep a file of documents, email, and proof of payment for your lawyer if a dispute should arise about reimbursement.

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administrator to transfer funds or set up a special account for the receiving spouse. The QDRO must be acceptable to the plan administrator, even if it has been issued by the court. Each type of retirement asset and each individual plan has its own QDRO requirements.

Funds in an IRA can usually be transferred without a QDRO by simply filing out a form provided by the plan administrator. Contribution retirement plans, such as 401(k)s, require a QDRO instructing the plan administrator to transfer funds to another plan. Defined benefit plans such as pensions require a QDRO requiring monthly payments to the receiving spouse, who is the "alternate payee" at the time of retirement. If the attorney who handled your divorce does not draft QDROs, he or she may refer you to a specialist attorney whose practice is largely devoted to drafting QDROs for other attorneys.

Larger retirement plans often offer instructions and forms for completing a QDRO. You may be tempted to follow the instructions and complete the provided form yourself. Be very cautious about doing so. QDROs are a technical minefield full of surprises, where even many experienced family law lawyers fear to tread. Have an attorney with the necessary expertise prepare the QDRO and get it accepted by the QDRO plan administrator.

Make sure that all necessary steps have been taken to secure your interest. If the work is not done correctly, you may receive nothing when your former spouse dies or you may have to chase after him or her for your share of the monthly retirement benefits, rather than receiving your share directly from the administrator of the plan. The plan administrator will usually send a letter confirming acceptance of the QDRO. The plan administrator may take six months or more to evaluate the proposed QDRO. Be sure to follow up until you get such a letter. Keep the confirmation letter in the appropriate file.

Remember: Communicate and Keep Good Files

Maintain good communication with your lawyer and keep good files of documents needed for your case and for any future issues that may arise. That will make it a lot easier for your lawyer to do a good job for you, save you money, and even help you avoid future litigation. **FA**



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