
New York Matrimonial Action Procedure FAQ's -

1. How do you start an action for divorce, separation or annulment?

An Action for divorce, separation or annulment is started by filing with the County Clerk and then, unless the court orders otherwise, by personally serving a Summons or Summons and Complaint on your spouse.

2. What is a summons?

A written notification to the Defendant that an action has been commenced against him, and requiring that the Defendant appear within a specific period of time to answer the Complaint.

3. What is a complaint?

The First Pleading in action for divorce, separation, or annulment, setting forth the allegations upon which the request for relief is based.

4. What is the difference between a summons and complaint?

The complaint must set forth in great detail each act which comprises your grounds for divorce or separation, while the summons need only state the general basis for your action (i.e., adultery, cruelty, abandonment).

5. What does my spouse have to do after being served with the summons or the summons and complaint?

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- **If the action is started by filing and then serving a summons without a complaint on your spouse, he or she has twenty days to serve a "notice of appearance" upon you (or your attorney, if represented by an attorney) . This means that he or she appears in the action and you have twenty days (unless extended) thereafter to serve your verified complaint upon your spouse.**
- **If the action is started by serving a summons and verified complaint on your spouse, he or she has 20 days to serve his or her verified (sworn) answer to your complaint, either admitting or denying what it says.**

6. What is a counterclaim?

Your spouse may also serve a claim against you within the 20-day period. If he or she does counterclaim, you have 20 days to reply to the counterclaim in writing, either admitting or denying what it says.

7. What right do I have to see my spouses financial records?

After the complaint, answer, counterclaim, and reply, if any, are served, both parties have the right to complete Financial Disclosure of the other party as to his/her income, assets and expenses before the case can be put on the calendar for trial.

Each spouse is required to serve and file with the Clerk of the Court a "Net Worth Statement." In addition, each spouse can be required to testify before trial, answer written questions, and produce documents as to his/her income, assets or expenses.

8. How do I prove my case?

Whatever ground a party relies on, it will have to be proved. The exact type and amount of evidence necessary to prove a certain ground are established by prior cases. In this State, where the action is contested, there must at some point be a trial or hearing at which at least one witness (it may be you) will have to testify about the allegations. Proof is whatever testimony or documents the Court believes. In many cases, the only testimony in a contested divorce will be that of you and your spouse. If the Court finds your testimony to be more believable than the testimony of your spouse, you will have proven your case.