

CHANGE IN RULES FOR DIVORCE MASTER PROCESS

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The York County Court of Common Pleas adopted revised Rules of Court on December 28, 2009, some of which pertain to the Divorce Master process. These rule changes may have an effect on how we proceed with divorce matters, and in fact, may permit us to move forward more quickly than in the past.

Prior to these new rules, the only way to Appoint a Divorce Master for divorce and equitable distribution was to wait until two years had passed from the date of separation. Once the Appointment was made, the Divorce Master commenced proceedings by entering discovery directives to both parties, so that both parties would give and receive information on the marital estate and the assets and debts contained therein. Once that discovery was accomplished (and depending on the parties and complexity of the case, that could stretch out over a period of months or even a year or more), the Master could schedule a Settlement Conference to try and help the parties negotiate a resolution to all the outstanding economic matters of the divorce. If there was no resolution reached, then a hearing or hearings would be held where exhibits would be entered on the record and testimony taken. The parties would submit their Proposed Findings of Fact and settlement proposals, and the Master would then make a decision (which, again, depending on the complexity of the case, could take months or over a year or more).

Under the new rules, the parties have options for Appointing a Divorce Master, prior to the 2 year waiting period's expiration. Those options are as follows:

1. **Interim Relief.** This is a new option under the rules, which allows one party or the other to Petition for Appointment of a Master to award Interim counsel fees, costs or expenses (if, for instance, one party needs to hire an expert, such as an accountant, and cannot afford to do so), or to request Mediation of Discovery. The purpose of this mediation is to allow the parties, with the help of the Master, to engage in sharing of discovery information BEFORE the 2 years are up, thereby allowing progress to be made in determining all of the assets and debts of the marriage long before the parties are able to appoint the master for equitable distribution. There is a \$100 filing fee for this request to Appoint a Master.
2. **Establishing Grounds for Divorce or Annulment.** Under the old rules, if there was a dispute between the parties as to the date of separation, or whether there was, in fact, a separation, then that was the first issue a Master would have to resolve after the two years of separation have passed and before addressing the equitable distribution issues, but in addition to the equitable distribution issues. Under the new rules, this issue can be addressed first and separately from equitable distribution. This option is also for those who are seeking a divorce under fault grounds, and/or an annulment. The filing fee for this request is \$300.00.

3. **Equitable Distribution, Alimony, Counsel Fees, Cost or Expenses**. If there are no issues regarding a date of separation, or the fact that a separation has occurred, and the divorce grounds have been established, the Master may be appointed for the purpose of equitable distribution. However, in order to Appoint the Master here, discovery MUST be substantially completed, and if it is not, then the parties need to go back to #1 above and start from there. If discovery is complete, then the Master may be appointed to move forward with equitable distribution, and the filing fee is \$300.
4. **Alimony Pendente Lite**. Typically, under the old rules, this matter (which is support sought by one spouse from another during the pendency of a divorce case) was referred by the Master to Domestic Relations for handling. However, a party now has the option to request that the Master handle this matter, rather than Domestic Relations. In cases where there is a strong likelihood of an appeal of the order stemming from a Domestic Relations Support Conference, or in complex cases, it may be more expeditious to request that the Master handle the APL matter from the start, rather than progressing from a conference at DRO, through the de novo appeal, and waiting for a judge to schedule that de novo hearing. The filing fee remains \$50, which is what it was previously.