

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[Max Rodden](#) is a North Carolina Bar Board Certified Family Law Specialist and has been practicing family law since 1991. He represents clients in all aspects of family law, and has extensive trial experience at all levels of North Carolina courts including district, superior, special proceedings, juvenile, small claims, administrative proceedings, the Court of Appeals and the Supreme Court.

Effect of Divorce on Important Rights

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The body of law governing divorce contains few absolutes. One such absolute is the timing of the divorce relative to the assertion of claims for alimony and division of assets and debts, known as equitable distribution.

A declaration by a judge that a divorce has been granted ends the marriage. Such a declaration comes about as a result of a relatively uncomplicated legal proceeding that culminates in a judge signing a divorce judgment, which is the final divorce paper stating that the parties are no longer married to each other.

Without exception, a husband or wife must take action *before the divorce is granted* to make certain that his or her claim for alimony or equitable distribution has been properly asserted and preserved. Otherwise, those claims are forever barred. Claims for equitable distribution or alimony do not have to be decided before the judge grants the divorce. They only need to be pending at the time of the divorce to be ruled on by a judge or settled by the parties at a later date.

Often, parties agree on alimony and equitable distribution during the one-year separation required by North Carolina law before a divorce can be granted. In such instances, the divorce does nothing to change the parties' agreement. Properly prepared alimony and equitable distribution agreements enable the spouses to avoid a court determination of those matters.

If no such agreement is in place, an experienced family law attorney should be consulted without delay when a spouse wants to file for a divorce or when they receive a lawsuit for divorce. The attorney would be able to help decide whether claims for equitable distribution, or alimony, or both, should be asserted and to complete the necessary paperwork to preserve those claims on a timely basis so that important rights are not lost by granting the divorce.

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