

Why the Date of Separation Matters in a San Diego Divorce

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Though the date of separation may seem relatively minor in the grand scheme of a divorce, it can actually be a pivotal date in determining a wide variety of factors—from whether certain property or assets are either communal or separate, to matters of a spousal support, and more. Establishing the date of separation is an incredibly important and necessary step while navigating and/or negotiating a divorce in San Diego.



In the state of California, the date of separation occurs when either spouse no longer intends to continue the marriage and their subsequent actions accordingly comply with that intent. In other words, the date of separation doesn't necessarily boil down to a single monumental fight or even when a spouse temporarily moves out.

Often, the date of separation is a meaningful occurrence in which the marriage is no longer considered viable by either spouse, and his or her ensuing behavior and actions consistently follow suit. It's important to remember that each case has its own set of circumstances. The wisest course of action is to consult with a San Diego divorce attorney who can assist in identifying all the factors that establish your specific date of separation.

Some questions that San Diego family courts consider when confirming an official separation include:

- What are the former couple's current living situations? Do they still live under the same roof?
- How does the former couple present their marital status to family and friends?

- How independent are the former spouses' finances from one another, including income taxes and shared accounts?
- Does the former couple continue intimacy? For instance—do they still eat dinner together every night? Do they vacation together? Do they spend holidays with one another?

All in all, the California (to include San Diego) family courts use these questions (and other factors) to determine the validity of a separation, in turn establishing an official date of separation. Once the date of separation in a San Diego divorce has been gaged, other aspects of divorce negotiations can be broached. For instance, did the marriage enjoy a long enough duration so that spousal support would be allotted for the duration of the receiving spouse's lifetime? Establishing whether or not your marriage is considered long-term or short-term makes a world of difference in broaching matters of spousal support amounts and duration.

The date of separation is also significant in determining matters of community property. If former spouses decided to separate, but remained in the same home for a significant amount of time, the question of what constitutes community property is then raised—not to mention the question of income earned by either partner during that time. A 2015 case called Marriage of Davis is recent evidence that date of separation and continued cohabitation are certainly matters of importance when it comes to negotiating a divorce and all it entails.

The facts are everything when considering a date of separation. In San Diego, divorce and family law cases rely significantly on date of separation determinations to establish a solid foundation for divorce negotiations. Of course, these detailed areas of California law are incredibly complex, and there's no harm in asking questions to better understand all the specifics and personal concerns involved.

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