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Topic for the Month:

Divorce

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What is the Basis for Filing for a Divorce? In Wisconsin, the basis for filing for a divorce is that the marriage is "irretrievably broken." This means there is no chance for reconciliation. A judge may find a marriage "irretrievably broken" even if only one of the spouses wants a divorce. The fact that a husband and wife have lived apart continuously for 12 months is one form of evidence that there is no chance for reconciliation. You do not have to prove misconduct such as adultery, mental cruelty, incompatibility or any other such reason for divorce in Wisconsin.

Residency Requirements: Before you can file for divorce, one spouse must have been a resident of Wisconsin for at least six months. In addition, either spouse must have been a resident of the county where the action is started, for at least 30 days.

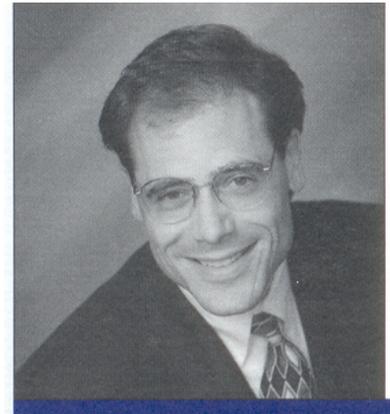
How is a Divorce Action Commenced? The divorce action begins when the Summons and Petition are filed with the Clerk of Courts and served upon the Family Court Commissioner and the spouse. Typical documents filed during a divorce proceeding, are:

- The **Summons**, the filing of which legally starts the case.
- The **Petition for Divorce**, which sets forth the legal and factual history of the marriage and the relief requested.
- The **Affidavit for Temporary Order** which is the basis for obtaining a court order setting forth the terms and conditions during the pendency of the case, while awaiting trial.
- The **Order to Show Cause** contains the date of the hearing before the Family Court Commissioner and the request for terms during the pendency of the action, based upon the affidavit for temporary relief.

How long does it take to get a divorce? Although the court can make exceptions for certain emergencies, there usually has to be at least four months between serving of the initial papers and the final hearing. But most divorces take more than four months. The complexity of your case, the ability of you and your spouse to agree on issues (i.e. property division, child support and maintenance), plus the backlog of the trial court where the claim is pending, all affect how long the divorce will take.

KNOW YOUR RIGHTS: Our firm is proud of its commitment of educating consumers on all legal issues, including family law and divorce. Feel free to call attorneys Hammer or Miller, at our firm, to discuss your legal rights. **Knowledge is Power.**

Attorney **Marc A. Hammer**, is a senior partner of the firm. Attorney Hammer is a certified family trial specialist. Attorney Hammer is licensed to practice law in Wisconsin and Illinois. He serves as a Brown County Court Commissioner and an adjunct professor of business law at St. Norbert College. Marc's professional affiliations include: immediate past President of the Brown County Bar Association; and member of the Wisconsin Bar Association. Marc's civic affiliations include: serving as a board President of Cerebral Palsy, Inc. and on the Board of Directors for the Family Violence Center.



Attorney **Peggy L. Miller's** areas of practice include: divorce, child placement, litigation and collections. Attorney Miller's professional affiliations include: membership in the Brown County Bar Association; State Bar of Wisconsin; District 14 State Bar Board of Governors; Inns of Court and the Collaborative Family Law Council of Wisconsin. Peggy's civic affiliations include: serving on the Board of Directors for the YWCA; and volunteer judge for Youth Court and Moot Court programs.

