Do's and Don'ts from a Separation Lawyer - receiving Court documents from your former partner

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Often, the first time you become aware that your former partner has taken legal action against you is when Court sealed documents are served upon you, usually by a process server knocking on your front door.

Perhaps:

1. You could not come to an agreement with between yourselves;
2. You have not responded to earlier letters from their solicitor; or
3. You have previously disregarded those letters or avoided service of documents.

Whatever the history may be, court sealed documents **should not be ignored**. Instead, you should equip yourself with basic knowledge and seek expert advice from an experienced family lawyer.

The Basics

If you have received Court sealed documents, this means that:

1. Your former partner commenced family proceedings against you;
2. More likely than not, your former partner sought legal advice and then instructed a lawyer to prepare the documents you are now staring down at;
3. Those documents have been filed with the Court and the Court has set a court date; and
4. You are now expected to file a Response and attend at Court.

The longer you hold onto those documents without seeking advice, the less time you and your separation lawyer will have to prepare your documents in response. Seeking legal advice sooner rather than later will enable your lawyer to obtain the necessary instructions from you and provide you with legal advice and practical solutions.

Why should you seek advice from a Separation Lawyer?

Most lawyers are strong advocates of advising client to obtain early legal advice following separation. This advice is even more crucial when you receive Court sealed documents.

This is because the earlier you notify your separation lawyer of the documents, the more time they will have to prepare for the Court date. The benefit of this is that:

1. You can obtain early advice as to what to expect;
2. You can familiarise yourself with the process and procedure;
3. Your separation lawyer can advise you whether negotiations or other steps can be taken

to progress your matter towards resolution prior to the Court date;

4. Your lawyer can ensure they are available to attend at the Court date on your behalf; and
5. You will have sufficient time to provide your lawyer with your instructions and your version of events; and
6. Your lawyer will be able to prepare the documents in response, on your behalf and explain these to you before filing your Response with the Court.

It may be the case that negotiations can take place prior to the Court date which progress the matter or better yet, resolve the matter (either wholly or in part). At Matthews Folbigg, our priority is to work towards a practical resolution of your matter, whether by negotiation or continuation of the legal proceedings. If you have received Court sealed documents, you can call a separation lawyer from our Family Law team for legal advice tailored to your circumstances.

Contact us on 1800 300 170 or email us at familylaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.