

## **THE CLOSING LETTER**

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A typical Pro Confesso hearing includes asking the Plaintiff the standard statutory questions and entering the Judgment of Divorce. As attorney and client leave the courtroom, the client will often ask, “Is that it, is it all over?” The attorney will often respond with “Yes, that’s it; it is all over; you are divorced.” Unfortunately, what many attorneys fail to realize - especially those that do not specialize in divorce - is that the answer to the client’s question should be, “NO, it is not over.” The attorney would advise the client that although the Judgment of Divorce was entered with the Court and the client is divorced, there are additional and significant transfer of ownership matters that the client must be completed.

In order to advise and provide the client with a checklist for the transfer items, the attorney may send the client a very thorough closing letter. The closing letter provide an opportunity to inform the client of what the client needs to do to close the case. In addition, a closing letter is a potential marketing opportunity to explain other legal services such as estate planning.

The closing letter may include several key topics, some of which include: insurance, changing of beneficiaries, re-titling of property, tax issues, modification of spousal support, child support and revised estate planning.

A proposed sample closing letter is as follows:

Dear Client:

Enclosed is a copy of your Judgment of Divorce entered by the Court on \_\_\_\_\_. This Judgment should be kept with your other valuable legal papers. Now that your divorce is concluded, you must address the following:

1. **Insurance:**

a. **Beneficiaries:** Your Judgment may require you or your former spouse to maintain life insurance on her/his own life, and medical and hospitalization insurance on the children. You or your children may be the required beneficiaries. You must do whatever is necessary to verify that the insurance is in place, and that the beneficiary on the policy is accurate. It is absolutely essential that you check at least annually with the insurance carrier to make sure that the beneficiary on the policy remains as required by the Judgment of Divorce and that the health insurance is active.

b. **Life Insurance:** Confirm that you are the owner of any insurance policies insuring your life unless something different has been required in the Judgment. Change all of the beneficiaries on all

life insurance policies which existed prior to the time of the entry of the judgment of divorce, unless it is not required or the judgment requires you to name somebody else as a beneficiary.

c. **Health Insurance**: If you are to continue to receive insurance benefits from your spouse's insurance carrier through COBRA, **you must notify the carrier employer now**. If you or your spouse are permitted to acquire continuing coverage under COBRA, please be certain that all of the necessary forms provided by the carrier have been filled out and that the necessary premiums have been paid.

2. **Vehicle Titles**: Transfer the titles to all vehicles through the Michigan Department of State to the party receiving the vehicle. Failure to change title to a vehicle can create potential serious liability problems because an owner of a vehicle is responsible for any injuries caused by the owner's negligence. You do not want a former spouse to continue to have your name on a vehicle. Also, confirm that you are the named insured on any vehicle which is in your name. Failure to do so can result in significant liability if an accident happens.

3. **Titled Property**: All property which carries a title, such as stock certificates, savings accounts, credit card accounts, certificates of

deposit, real estate, and so forth, must be properly transferred to the name of the person receiving the property. Contact your broker, banker, and/or any other financial agent to make these transfers.

4. **Estate Plan**: Revise or change your will so that it carries out your wishes in the event of your death, particularly the distribution of your assets.

5. **401(k), Pension and other Tax Deferred Programs**: Change the beneficiary on your 401(k)/pensions, profit sharing and other tax deferred programs. It may be necessary for you to supply a copy of your Judgment of Divorce to the plan administrator to effectuate your beneficiary changes. **NOTE: Failure to change your beneficiary designations before your death may cause your former spouse to receive the benefits from your retirement/qualified plans rather than the person(s) you intend.**

6. **Receipt of 401(k) Payments**: Please be advised that if you received any funds from your former spouse's 401(k) or any other ERISA plan, pursuant to IRS code §3405 and §402(c)(3), you **must** roll those funds (direct transfer) into another qualified plan within **60 days of receipt of those funds or you will be subject to income**

**taxes and penalties which you must claim on your personal income tax return. Failure to claim receipt of these funds on your tax returns may result in IRS interest and penalties.**

7. [To person receiving] **Child Support and Spousal Support**: Child support and spousal support orders may be modified based upon a change in circumstances. Because you are receiving child or spousal support, if your spouse's earnings increase substantially or your income decreases substantially, you may have a right to petition the court for an increase in child or spousal support. The Friend of the Court may automatically review child support two years following the Judgment of Divorce based on a request of either party, and every two years thereafter. However, please call me before you do anything relating to your child or spousal support, and keep in mind that child support cannot be modified retroactively, only to the date that the opposing party receives notice of your motion to modify child support.

8. [To person paying] **Child Support and Spousal Support**: Since you are the person paying child or spousal support, if your earnings decrease by a substantial amount (10% or more), you may be entitled to a reduction in support. The Friend of the Court will assist you in such a

review regarding child support, but not spousal support. However, please call me before you do anything relating to your child or spousal support.

9. **Taxes Relating to Spousal Support:** Spousal Support is nearly always income to a person receiving it, and deductible by a person paying it for income tax purposes. Please check with your tax advisor at the time that you file your income tax return. Child support is neither taxable nor deductible.

If you need any assistance with any of these matters, specifically with the revision of your estate planning documents, please do not hesitate to contact me.

I will now be closing your file with [name of firm]. It is our policy to keep all divorce files until the minor children reach the age of 20. Therefore, your file will be destroyed on \_\_\_\_\_, without further notice to you. You may, at any time within 30 days of this letter, and at no charge, obtain any papers not previously furnished to you from the file. If you do not desire to have us destroy your file on the date listed above, you must contact us within 30 days before the destruction date.

It has been a pleasure assisting you in this matter and we wish you success in your future endeavors. If you have any questions or need any further legal assistance, please do not hesitate to contact me.

Although the closing letter may be modified according to the facts and circumstances of each case, it is highly recommended that any attorney who handles divorce cases formulate a standard closing letter. Failure to do so may leave both the client and the attorney exposed to liability.