

Lis Pendens

If the marital home or other real estate is titled in the opposing party's name alone (or you are not sure whose name is on the property deed), you must file a Notice of Lis Pendens. If you fail to file this notice and the property is sold before the divorce becomes final, you will not be able to get the property back (or a share of it) as part of the divorce.

After a petition for divorce has been filed and a notice of lis pendens properly recorded, no transfer of property by either party, except a bona fide transfer in payment of preexisting debts, will pass title so as to avoid being subject to the final verdict of the jury in the case. A notice of lis pendens must be filed in the office of the clerk of the superior court of the county where the real property is situated in a book kept for such purposes and must contain (1) a notice of the institution of the action, (2) the names of the parties, (3) the time of the institution of the action, (4) the name of the court in which it is pending, (5) a description of the real property involved, and (6) a statement of the relief sought regarding the property.

A valid notice of lis pendens remains effective only until a final judgment has been entered in the divorce action and the time for appeal has expired. An expired notice of lis pendens is not revived by the filing of a motion to set aside a default judgment.

