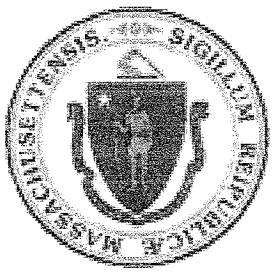
SUFFOLK COUNTY PROBATE & FAMILY COURT REGISTRY

A SELF-HELP GUIDE TO:

Mandatory Discovery in Divorce Cases

- Why do I need to provide such personal information?
- How do I complete the financial statement?
- What other documents will I have to provide to the other party in my case?
- What if I can't get my hands on any of these papers?



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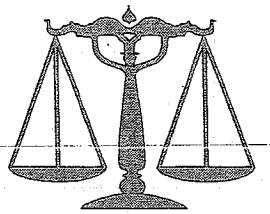
Thanks to Register David E. Sullivan and the Hampshire County Registry for the material contained in this brochure.



MANDATORY DISCOVERY

(FOR DIVORCES)

You will be making very important decisions for yourself and your children during the course of this case. In order to make wise decisions you need financial information. "Discovery" is a way for you to learn about the facts of the other party's case and to share information about your case. Court rules state that certain documents must be exchanged. This exchange is called mandatory discovery.

The rules of the court require that you give this information in the form of documents within 45 days of service of the summons (the sheriff's delivery of notice of the case). If the other party is represented by an attorney, you must give this information to his or her attorney. The other party is required to give the same documents to you or to your attorney.

Always keep a copy of every document for your records.

It may seem like a burden to gather and copy of all these documents within 45 days, but keep in mind that the reason for this rule is to allow both parties to make informed decisions in the case.

There are other forms of discovery available as well. These are interrogatories, requests for production of documents and depositions. This information package does not deal with these forms of discovery. You will need to educate yourself about these forms of discovery if they become important to your case.

FINANCIAL STATEMENTS

A financial statement is a preprinted form provided by the court. It is one of the most important documents in your case. Most people will use the pink, two-sided form of financial statement. If you earn more than $75,000 per year, you will need the longer, purple financial statement. There are also special attachments to the financial statement if you receive income from rental property or have self-employment income or losses. All financial statements and attachments are available at the Registry Office of the court.

You should fill out this form, attach a copy of your most recent W-2 form, and mail a copy of it to the other party within 45 days. Keep the pink original for filing with the court and make a copy for your records.

You will need to file a new, updated financial statement with the Registry Office every time you go before a judge to address any financial issues. This financial statement allows the judge to understand your financial situation before making decisions in your case or approving any agreement you might make with the other party.

Basic Guidelines for Completing Your Financial Statement

1. You must fill out every line on the financial statement. Do not leave lines blank. If the line does not apply to you, write "zero" or "0" or "none."

2. You will need to know weekly income and expense figures. If you know the monthly amount, divide by 4.3 to get a weekly amount. If you know the yearly amount, divide by 52 to get the weekly amount.

3. The income you list on the front of the financial statement is just your income. Do not include your spouse's or any other person's income, even if you share expenses with that person. If you receive income on behalf of any minor child in your home, you will list this income (for example, if the child receives Social Security Income.)

4. The expenses you list are just your expenses. If you share expenses with another person, list only the amount which you pay.

5. If your expenses are more than your income on your financial statement, be prepared to explain to the judge why this is and how you handle this situation.

6. It is important that your financial statement be complete and accurate.

7. When you sign your financial statement, you are swearing under oath that all of the facts in it are true.

OTHER DOCUMENTS

You must also exchange the following documents with the other party within 45 days of service of the summons:

1. Federal and state tax returns for the past 3 years. All attachments and schedules must be included.

2. All bank statements for the past 3 years (including bank statements for accounts in your child's name).

3. The 4 most recent pay stubs from your employer (each employer if you have more than one job).

4. Information about any health insurance available to you:

   A. a copy of the plan itself is very helpful;
   B. the cost for a family plan;
   C. the cost for an individual plan.

5. Statements for the past 3 years for the following:

   A. Pensions
   B. Individual Retirement Accounts (IRAs)

C. Certificates of Deposit (C.D.s)
D. Stocks and/or bonds
E. 401k plans

6. Copies of any loan or mortgage applications you completed within the past 3 years.

7. Copies of any financial statements filed within past 3 years (for example, financial statements filed in another case with another party).

You must make reasonable efforts to get documents which you know exist but that you don't have in your possession. If you cannot get these documents within 45 days, you must file a statement which says this. A form is attached for you to use. You are swearing that the information in this statement is true. You must mail a copy of this statement to the other party and keep a copy for your records.

If you get new documents or obtain the missing documents later, you must give copies to the other party when you receive them.

If you receive updated information about any document, you must give the updated information to the other party when you receive it.

STATEMENT OF UNAVAILABILITY OF DOCUMENTS

I, _____, state that I am unable to give to
(your name)

_____ copies of the following documents:
(the other party's name)

_____
_____
_____
(list documents which are not available)

These documents are not available because:

_____
_____
(list why documents are not available)

I tried to get these documents by:

_____
_____
_____
(list what you have done to try to get these documents)

Signed under the pains and penalties of perjury.

_____ Date:_____
(your name)