

Information Sheet for Clients

Massachusetts Rules of Domestic Relations Procedure, Supplemental Rule 410. Mandatory Self Disclosure.

The following Probate and Family Court Rule is included for your reference in order to help you prepare to collect the documentation necessary to present to the Court. The requirements are quite extensive and careful attention must be paid to the collection of the appropriate documents.

(a) Initial Disclosures.

(1) Except as otherwise agreed by the parties or ordered by the court, each party to a divorce action and to a complaint for separate support shall deliver to the other within 45 days from the date of service of the summons the following documents:

(a) The parties' federal and state income tax returns and schedules for the past three (3) years and any non-public, limited partnership and privately held corporate returns for any entity in which either party has an interest together with all supporting documentation for tax returns, including but not limited to W-2's, 1099's, 1098's, K-1, Schedule C and Schedule E.

(b) The four (4) most recent pay stubs from each employer for whom the party worked.

(c) Documentation regarding the cost and nature of available health insurance coverage.

(2) Except as otherwise agreed by the parties or ordered by the court, each party to a divorce action and each party to a complaint for separate support shall also deliver to the other party within 45 days from the date of service of the summons the following documents:

(a) Statements for the past three (3) years for all bank accounts held in the name of either party individually or jointly, or in the name of another person for the benefit of either party, or held by either party for the benefit of the parties' minor child(ren).

(b) Statements for the past three (3) years for any securities, stocks, bonds, notes or obligations, certificates of deposit owned or held by either party or held by either party for the benefit of the parties' minor child(ren), 401K statements, IRA statements, and pension plan statements for all accounts listed on the 401 financial statement.

(c) Copies of any loan or mortgage applications made, prepared or submitted: by either party within the last three (3) years prior to the filing of the complaint.

(d) Copies of any financial statement and/or statement of assets and liabilities prepared by either party within the last three (3) years prior to the filing of the complaint.

(b) Additional Disclosures.

(1) Except as otherwise agreed by the parties or ordered by the court, each party to an action under Chapter 209C that includes a claim for child support where paternity has already been adjudicated or where the parents have completed a notarized voluntary acknowledgment of paternity may serve on a parent who is a party to the action a separate written request entitled "Request for Additional Rule 410 Documents," and the parent served shall, within 45 days from the date of service of the request, deliver to the other party or parties the documents set out in (a)(2)(a)-(d) above.

(2) When a request for child support is first added to an action under Chapter 209C by counterclaim or by amendment of the complaint, a party may serve on a parent who is a party to the action a separate written request entitled "Request for Rule 410 Documents," and the parent served shall, within 45 days from the date of service of the request, deliver to the other party or parties the documents set out in (a)(J)(a)-(c) above.

(3) The parties shall supplement all disclosures as material changes occur during the progress of the case. No party required to deliver documents under this Rule shall be permitted, to file any discovery motions prior to making the initial disclosure as described herein, and no party to a divorce or separate support action shall be permitted to file any discovery motions prior to making both the initial and the additional disclosures as described herein.

(c) Unavailability of Documents.

In the event that either party does not have any of the documents required pursuant to this Rule or has not been able to obtain them in a timely fashion, he or she shall state in writing, under the penalties of perjury, the specific documents which are not available, the reasons the documents are not available, and what efforts have been made to obtain the documents. As more information becomes available there is a continuing duty to supplement.

As added October 10, 1997, effective December 1, 1997; and amended June 5, 2003, effective September 2, 2003 and April 1, 2009, effective May 1, 2009.

Reporter's Notes (2009). The amendment provides for two prongs of document disclosure. The first prong requires automatic exchange of pay stubs, tax returns and health insurance information within 45 days of service of a complaint or counterclaim for establishment of child support. Second prong documents are produced only upon the serving of a Rule 410 notice for request of these documents.