

DOCUMENTS WE NEED FROM YOU

What is Discovery?

Oregon law requires both parties in a dissolution of marriage proceeding to exchange certain information with each other upon request. This is called “discovery.” There may be penalties for failure to exchange this information. In fact, a divorce proceeding can be “reopened” if a party fails to disclose an asset. This is the beginning of the discovery process, in which your lawyer will exchange information with the other side so that both sides can get to know the facts of the case and prepare themselves for negotiations or trial.

What the Law Requires

Full disclosure is the general rule. Depending on the complexity of your case, you may need to produce more or different information later in the process.

What You Need to Do

1. For each category of documents listed below, please mark the checklist to tell us if no such documents exist (if, for example, there is no military retirement account), or if such documents exist but are not in your possession or control.
2. Before going to extreme lengths to get a document, ask us.
3. You are only required to provide documents that you have or can get. You are not required to provide documents that are available only to your spouse.
4. Provide a **copy** (not the original) of all requested documents to your lawyer.
5. Label each set of documents with the corresponding request number.
6. We prefer to receive these documents electronically. Please save them in .PDF format. If you are unsure how to do this, please contact us.

Providing Documents is Critical – Now and in the Future When You Receive New Statements

Produce the listed documents as soon as possible, and keep us supplied with new statements and other documents as you receive them. This will enable us to comply with legal requirements and will allow us to move forward on your case without undue delay. We do not want to be in a position of having to explain to a judge why you did not produce documents that you could and should have produced.

Redacting Information

It is your responsibility to black out (redact) any personal information (i.e., Social Security Number, Driver License Number, Personal Identification Number, etc.) that you do not want your spouse or the other attorney to see. Do not black out information just because it might be embarrassing or you think it might hurt your case. An example would be an entry on your credit card statement indicating that you spent a large amount of funds at a casino. That is the type of substantive information that should not be redacted from any of your documents. If you redact account numbers, such as your bank account, **you must leave the last four digits of the account visible** so I can easily identify each of the accounts. Please contact my office if you have specific questions about what you should or should not redact from your documents, but I want to be clear that you **should not** rely on our office to redact that information for you.

CHECKLIST OF DOCUMENTS WE NEED FROM YOU

Please provide copies, *not originals*, of the following:

- 1. **Tax Returns.** All federal and state income tax returns filed by you and your spouse for the last three calendar years, whether filed separately or jointly. Include all schedules, W-2's, and 1099's.
- 2. **Past Income Records.** All W-2 statements, year-end payroll statements, interest and dividend statements, and all other records of income earned or received by you and your spouse during the last calendar year if income tax returns have not been filed for the last calendar year.
- 3. **Current Income Records.** All records showing any income earned or received by you and your spouse for the current calendar year.
- 4. **Net Worth Statement.** Any financial, net worth statements and loan applications which you and your spouse have filed. Loan refinance paperwork falls within this request. Contact the financial institutions to which you submitted these statements and get copies if you did not keep a copy for yourself.
- 5. **Retirement Plan.** Contact the bookkeeper, plan administrator, or person responsible for your pension plan, profit-sharing plan, stock option plan, deferred compensation plan, PERS, Keogh, or tax sheltered annuity which you own or participate in through your employment and request a copy of the summary plan description, a statement as to your current interest in such plan, and its monetary value. Your employer must provide this information upon your request. You may already have this information in your records. Also provide any such documents you have regarding your spouse's retirement benefits. Do not call your spouse's pension administrator or employer for information.
- 6. **Individual Retirement Account.** The name of the financial institution, account number, beneficiary, and a current statement showing the balance in any IRA accounts which either you or your spouse own. For any account in your name, include at a minimum the four most recent account statements that should reflect not only the account balance, but also any withdrawals or contributions made during that time.
- 7. **Military Retirement.** Any information you have on military retirement and/or disability benefits which either you or your spouse now receive or are entitled to receive in the future.
- 8. **Real Estate.** Any documents you may have on real estate (land) which you or your spouse own. These include real estate contracts, deeds, appraisals, mortgages, leases, and the most recent real property tax statements (county assessments). We must have a complete legal description for each parcel of real property since it will be included in pertinent legal documents. We can usually get the description from a title company if you do not have it. Provide the name of any person or entity who holds a security interest (mortgage, trust deed, contract, etc.) in the land, their address, the account number, and the current payoff figure.

- 9. **Insurance Policies.** All insurance policies involving you or your spouse:
 - 9.1 **Life Insurance.** Include the full declaration page that summarizes the policy. It should reflect who owns the policy, the name of the insurer, policy number, death benefit, premium and designated death beneficiaries.
 - 9.2 **Health/Dental Insurance.** The company name, address, policy/group number, and subscriber number for each policy of health/medical and dental insurance you have. Provide a copy of the insurance card itself and a website where the policy can be downloaded.
 - 9.3 **Long-term Care Insurance.** Include a full copy of the policy, including the declaration page that summarizes the policy.
 - 9.4 **Disability Insurance.** Include a full copy of the policy, including the declaration page that summarizes the policy.
 - 9.5 **Auto/Liability/Collision Insurance.** A copy of the insurance card for each vehicle that you or your spouse own, together with the most recent premium statement issued by the company for each covered vehicle.
 - 9.6 **Homeowner, Renter and Property Insurance Policies.** Include a copy of the policy, the most recent premium statement issued by the insurer and any riders that are maintained on property-related policies of insurance, including, but not limited to, riders covering collectibles, firearms and jewelry.
 - 9.7 **Personal Umbrella Policy.** Include a full copy of the policy, including the declaration page that summarizes the policy.
- 10. **Bank Accounts.** The last twelve monthly statements for any bank (checking and savings), credit union or brokerage accounts in which you have an interest or had signing privileges in the past year, whether or not the account is now closed. This information can be obtained from the financial institution by you upon request if you do not have the statements in your possession, but do not spend a lot of money getting copies from the bank without checking with us first.
- 11. **Safe Deposit Boxes.** Prepare a list with the name and address of the bank, the box number, and names of authorized signers for any safe deposit box to which you or your spouse have access. A listing of the contents of the box would be helpful but is not required.
- 12. **Securities.** Documents showing stocks, bonds, secured notes, mutual funds, and other investments in which you or your spouse have an interest. Include documentation showing the date of purchase, the purchase price, and the current owner of such securities. This information can be obtained directly from the person who handled the purchase of the securities for you or your spouse. Most major investment houses generate monthly statements. Provide these if you have them.

- 13. **Savings Bonds.** Copies of any government savings bonds owned by you or your spouse (or any savings bonds for your children). Prepare a list of the bonds, separated by denomination, stating the month of purchase and exact registration of each bond if that is easier.
- 14. **Collections.** Describe any coin, stamp or other valuable collections owned by you or your spouse. Provide any appraisals you have which value your collection(s). Advise us if appraisals do not exist so we can arrange for appraisals to be done.
- 15. **Business Interests.** Copies of the partnership or corporate tax returns of any business entity in which you or your spouse have an interest. Also provide copies of any and all partnership agreements, employment agreements, buy and sell agreements, stock purchase or option agreements, or any other agreements between you and your present employer, any firm, corporation or individual, balance sheets, and profit and loss statements for the last three years. You might find this difficult to obtain if you do not have a controlling interest. Advise us and we will contact the necessary individuals to secure the information if you cannot obtain it.
- 16. **Estate or Trust Interests.** Tell us if you or your spouse have any interest in any estate or inheritance now or if you believe you will have such an interest in the near future. Provide us with a copy of the will, inventory, final account, and judgment affecting the interest. It is important for us to review the actual trust agreement, the inventory, most recent annual accounting, and tax returns for the last three years, for any trust in which you or your spouse have an interest. This includes a complete copy of any living trust that you have created for estate planning or other purposes.
- 17. **Previous Marriages.** A copy of the decree or judgment entered in any previous marriage for either you or your spouse.
- 18. **Written Agreements.** A copy of any written agreement entered into by you and your spouse concerning support, property or other matters. **Under no circumstances should you enter into any further agreements with respect to this proceeding without first consulting this office.**
- 19. **Vehicles.** Title and registration for every vehicle in which you or your spouse own an interest. This includes cars, trucks, boats, motorcycles, trailers, campers, aircraft, and mobile homes. Indicate the amount of the lien and name of the creditor for any vehicle which you do not own free and clear. Provide the name of any person or entity who has a lien on the vehicle, the account number of the lien, and the current payoff figure.
- 20. **Liabilities.** If you owed money to a creditor at any time within the past year, all monthly billing statements received from that creditor during that period. For example, include mortgage payment statements, credit card bills, loan payments, etc. These statements should include the creditor's name and address, the account number, and the amount due. This request includes any records or other evidence of any debt you claim is due a friend or relative, vehicle loans, loans taken against your retirement account, educational debts for yourself or one of your children, etc.

- 21. **Cell Records.** Provide information about your cellular telephone contract, including whether you or your spouse is the primary account holder. Provide all telephone numbers on the contract, who will be responsible for your children's coverage, if appropriate, and an indication of whether you want to retain ownership of the contract.
- 22. **Mileage Plans or Other Rewards Accounts.** Provide information about any rewards program in which you or your spouse may participate. This includes mileage rewards plans, cash back rewards on a credit card, etc. It is not necessary to provide information about your grocery store discount cards. Provide information about who the primary account holder is.
- 23. **Power of Attorney.** Provide copies of any living will, Advance Directive for Health Care, or power of attorney that you or your spouse may have signed.
- 24. **Public Assistance.** All records and documents pertaining to any state or public benefits for which you have applied or for which you currently receive public assistance beginning September 1, 2013, and continuing to date. This includes, but is not limited to, records for any benefit, including WIC, food stamps, childcare assistance, etc.
- 25. **Medical.** A copy of your medical records evidencing any medical issue for which you are currently receiving treatment or for which you are taking medication *if you believe this may be an issue in your case*. The records should reflect the medications you are taking, the reasons for taking the medication and what kind of limitations, if any, are imposed upon you as a result of your condition and the medications that you are taking. Include information on claims related to support or employability as well as any mental health issue that you suffer from.
- 26. **Credit Report.** Free credit reports can be ordered online once each year from www.annualcreditreport.com. Be careful to go to the correct Website (www.annualcreditreport.com) and obtain a copy of the full, expanded report, not the abbreviated report. Beware of sites which use "free" in their names to lure customers into *purchasing* ongoing credit reports.

NOTE TO PRACTITIONERS:

A variation of "Documents We Need From You" is available from the law office of Paul Saucy in the 2016 OSB CLE "Handling Domestic Relations Cases."

IMPORTANT NOTICES

This material is provided for informational purposes only and does not establish, report, or create the standard of care for attorneys in Oregon, nor does it represent a complete analysis of the topics presented. Readers should conduct their own appropriate legal research. The information presented does not represent legal advice. This information may not be republished, sold, or used in any other form without the written consent of the Oregon State Bar Professional Liability Fund except that permission is granted for Oregon lawyers to use and modify these materials for use in their own practices. © 2018 OSB Professional Liability Fund