

NUTS & BOLTS OF FAMILY LAW MANDATORY DISCLOSURE

Marital & Family Law Section

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In Florida family law cases, financial disclosures are made for the benefit of the court and the opposing party. Financial disclosures are central to the fair resolution of cases because settlement decisions and courts rulings are dependent on full financial disclosure.

Under Rule 12.285(e), parties are required to produce a financial affidavit and financial documents. “While evidence of a person’s financial condition may be drawn from a multitude of documents, a financial affidavit is a party’s formal, sworn position that reduces finances to a manageable chunk of information.”¹

The documents that must be disclosed under Rule 12.285(e) include tax returns, IRS forms, evidence of earned income, loan applications, checking account statements, retirement account statements, and statements for all other accounts.

Many attorneys fail to remind their clients that, in addition to the enumerated accounts, the Rule also requires production of statements for “all other accounts.” Other accounts would include accounts that reside in applications such as Venmo, PayPal, Cash App, Google Wallet, and international money transfer apps. If you would use the word “account” when referencing it, such as “my PayPal account,”

and there is money involved, then you need to disclose it.

Attorneys and clients also routinely fail to update the client’s mandatory disclosures. Under Rule 12.285(f)(1), parties have a “continuing duty to supplement documents described in this rule, including financial affidavits, whenever a material change in their financial status occurs.” Generally speaking, a material change is one that could reasonably be expected to influence the decisions made by the parties or the court.

Rule 12.285(f)(2) also specifically provides that when an amended financial affidavit is filed, the amending party must also serve any documents supporting the amendments. For example, if a party amends her financial affidavit to reflect the purchase of a new car, she is also required to produce the monthly statements for the car loan, the title, and the loan application.

Many lawyers and judges are not aware that Rule 12.285(f) provides the following sanctions for non-compliance: (1) documents produced less than 24 hours prior to a non-final hearing or in violation of pretrial order are not admissible absent good cause; (2) the court may impose the serious sanctions



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authorized by Rule 12.380; and (3) the court may also impose sanctions on the offending lawyer.

Under Rule 12.285(j), a party is also obligated to file and serve a sworn certificate of compliance with the mandatory disclosure obligation. The certificate of compliance must identify with particularity the documents that have been delivered and

certify the date of service to avoid one lawyer “swearing” that they delivered certain mandatory disclosure documents, and the other lawyer “swearing” that the documents were never received.

In short, Rule 12.285 requires parties to disclose their finances, provide supporting documents, update the disclosures whenever there is a material change, and provide detailed certifications of what was disclosed and when the disclosure occurred. ■

¹ *Daniel v. Daniel*, 922 So. 2d 1041, 1045 (Fla. 4th DCA 2006) (discussing the importance of the family law financial affidavit).



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