IRFLP 401 Mandatory Disclosure in Contested Proceedings

Idaho Rules of Family Law Procedure Rule 401. Mandatory Disclosure in Contested Proceedings.

The requirements of this rule are minimum disclosure requirements for every family law case. Unless otherwise provided for in this rule or agreed to in writing by the parties or ordered by the court, within thirty-five (35) days after the filing of a responsive pleading, each party shall disclose in writing, signed under oath, to every other party the information set forth in this rule.

A. Child Support. In a case in which child support is an issue, each party (with the exception of the Idaho Department of Health and Welfare) shall disclose the following information to the other party:

1. a fully completed Affidavit Verifying Income on a form substantially in compliance with Rule 126.I [1] and Appendix A and a Child Support Worksheet substantially in compliance with Rule 126.I [1] and Appendix B or C;

2. proof of income of the party from all sources, specifically including W-2 forms, 1099 forms, and K-1 forms, for the prior two (2) completed calendar years, and year-to-date income information for the current calendar year, including, but not limited to, year-to-date pay stub, salaries, wages, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, worker's compensation benefits, unemployment insurance benefits, disability insurance benefits, recurring gifts, prizes, and spousal maintenance;

3. proof of the amount of court-ordered child support and spousal maintenance actually paid by the party in any case other than the one in which disclosure is being provided;

4. proof of the cost of all medical, dental, and vision insurance premiums paid by the party for any child listed or referenced in the petition;

5. proof of the cost of any child care expenses paid by the party for any child listed or referenced in the petition;

6. proof of any expenses paid by the party for private or special schools or other particular education needs of a child listed or referenced in the petition; and

7. proof of any expenses paid by the party for the special needs of a gifted or handicapped child listed or referenced in the petition.

B. When Health and Welfare is a party. When the Idaho Department of Health and Welfare (IDHW) is a party to a case in which child support and/or other financial matters regarding the child(ren) are at issue, IDHW shall disclose all financial information at its disposal after redacting social security numbers to the other parties who have made an appearance in the case.

C. Spousal maintenance and attorneys' fees and costs. If either party has requested an award of spousal maintenance or an award of attorneys' fees and costs, each party shall disclose the following information to the other

1. a fully completed affidavit containing the information required by Rule 504.A.2 [2] and

2. those documents set forth in subdivision A.2 above.

D. Property. Unless the parties have entered into a written agreement disposing of all property issues in the case or no property is at issue in the case, each party shall prepare a list of all items having a fair market value more than $100 of real and personal property, including, but not limited to, household furniture, furnishings, antiques, artwork, vehicles, jewelry and similar items in which any party has an interest, together with the party's estimate of current fair market value (not replacement value) for each item. In addition, each party shall provide to the other party the following documents:

1. copies of all deeds, deeds of trust, purchase agreements, escrow documents, settlement sheets, and all other documents that disclose the ownership, legal description, purchase price and encumbrances of all real property owned by any party;

2. copies of all monthly or periodic bank, checking, savings, brokerage and security account statements in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure;

3. copies of all monthly or periodic statements and documents showing the value of all pension, retirement, stock option, and annuity balances, including Individual Retirement Accounts, 401(k) accounts, and all other retirement and employee benefits and accounts in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information;

4. copies of all monthly or periodic statements and documents showing the cash surrender value, face value, and premiums charged for all life insurance policies in which any party has an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available for this time period, the most recent statements or documents that disclose the information;

5. copies of all documents that may assist in identifying or valuing any item of real or personal property in which any party has or had an interest for the period commencing six (6) months prior to the filing of the petition, including any documents that the party may rely upon in placing a value on any item of real or personal property;

6. copies of all business tax returns, balance sheets, profit and loss statements, and all documents that may assist in identifying or valuing any business or business interest for the last two (2) completed calendar or fiscal years and through the latest available date prior to disclosure with respect to any business or entity in which any party has an interest or had an interest for the period commencing twenty-four (24) months prior to the filing of the petition; and

7. copies of any bankruptcy filings of the parties, or either of them.

If a party does not possess a copy of any of the above documents, they shall provide the name, address and telephone number of the custodian of the documents.

E. Debts. Unless the parties have entered into a written agreement disposing of all debt issues in the case or no debts are at issue in the case, each party shall prepare a list of all debts identifying the creditors and the amounts owed. In addition, each party shall provide to the other party the following documents:

1. copies of all monthly or periodic statements and documents showing the balances owing on all mortgages, notes, liens, and encumbrances outstanding against all real property and personal property in which the party has or had an interest for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure, or if no monthly or quarterly statements are available during this time period, the most recent statements or documents that disclose the information; and

2. copies of credit card statements and debt statements for all months for the period commencing six (6) months prior to the filing of the petition and through the date of the disclosure.

F. Disclosure of witnesses. Forty-two (42) days before trial each party shall disclose the names, addresses, and telephone numbers of any witness whom the disclosing party expects to call at trial, along with a statement fairly describing the substance of each witness's expected testimony. A party shall not be allowed to call witnesses who have not been disclosed at least forty-two (42) days before trial, or such different period as may be ordered by the court.

G. Disclosure of expert witnesses. Forty-two (42) days before trial each party shall disclose the name, address and telephone number of any person whom the disclosing party expects to call as an expert witness at trial, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for each opinion, the qualifications of the witness, and the name and address of the custodian of copies of any reports prepared by the expert. A party shall not be allowed to call an expert witness who has not been disclosed at least forty-two (42) days before trial or such different period as may be ordered by the court.

H. Continuing Duty to Disclose. The duty described in this rule shall be a continuing duty, and each party shall make additional or amended disclosures before a motion hearing or trial in the event new or different information is discovered or revealed.

I. Not Filed with Court. The disclosures shall not be filed with the court. The party receiving disclosures shall retain the original of the disclosures with a copy of the notice of service affixed thereto until one (1) year after final disposition of the action. At that time, the originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

J. Notice of Serving. The party serving disclosures shall file with the court a notice of when the disclosures were served and upon whom.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015; amended April 23, 2015, effective July 1, 2015.)

Source URL: http://isc.idaho.gov/irflp401

Links:
[1] http://isc.idaho.gov/irflp126
[2] http://isc.idaho.gov/irflp504