

Getting Your Fair Share: Documents You Need to Give Your Divorce Lawyer **By Virginia Dante Perry, Esquire**

Documents are very important in divorce litigation. They can be important in establishing fault grounds. They are certainly important in establishing the factors necessary to insure that you get or retain your fair share of income, marital assets and marital debts. If you are unable to prove your case, you may find that you do not get a fair share of the income, assets, and liabilities. The degree to which you cooperate with your lawyer and provide him or her with supporting documents is proportionate to the degree of success you may experience in getting or retaining your fair share of income, of marital assets and marital debts.

The documents mentioned in this article are the standard documents which we ask clients for in contested divorce cases and are included in our client divorce manual. You should ask your attorney if there are other further documents which may support your case. You should at a minimum gather the documents listed in this article and provide them to your divorce lawyer at a point early in the representation. The more organized you are to start with, the better for your case. Many of the documents may be necessary early in the litigation and it may take some time to obtain them.

Under Virginia law, a complete picture of the assets, income and liabilities of both spouses is absolutely necessary for the court to make a fair and equitable distribution. By providing your lawyer with the information and documents mentioned in this article, you will save be time and money. You will also help your lawyer in the preparation of pleadings and documents required in your case. In addition, possession of these documents could help in preventing your spouse from dissipating or secreting any assets. You should make a list of the documents that you cannot get and provide the list to your lawyer, so that he or she can attempt to obtain them for you.

Income:

Because it is important to establish an accurate picture of your financial situation and that of your spouse, you should gather income tax returns, including personal, corporate, partnership, joint venture or other income tax returns, state and federal, including all attachments thereto (w-2, 1099 and k-1 forms) in your possession or control covering the period of your marriage and separation.

In addition to the tax records, you should also obtain supporting documents reflecting current income information, such as payroll stubs and other evidence of income for yourself and your spouse since the filing of your last return. Don't forget other employment records during the term of the marriage, showing evidence of wages, salaries, bonuses, commissions, raises, promotions, expense accounts, and other benefits or deductions of any kind. Be sure to include all records showing any fringe benefits available to you or your spouse from any business entity including, without limitation, auto, travel, entertainment, educational, and personal living expenses.

Assets:

Because it is important to identify marital assets, you should also gather any deeds and leases of property in which you or your spouse has an interest together with evidence of all contributions, in cash or otherwise, made by you or on your behalf, toward the acquisition of and maintenance of such real estate during the marriage or thereafter. You should also provide your lawyer with copies of any sales agreements or options pertaining to real estate and with personal property tax returns filed in Virginia or elsewhere from the start of your marriage to the present time.

If there are stocks, bonds or mutual funds, you should gather certificates, if available, of accounts owned by either spouse during the marriage or owned by you prior to the marriage or acquired subsequent to the separation. You should also gather all documents pertaining to stock options, including options given by employers. If there are pensions, profit sharing plans, 401(K) plans, retirement plans and or deferred compensation plans, you should gather all available documents for your lawyer. If the plan administrator has a package for divorcing parties, you should request that packet.

Business Assets:

If you or your spouse has operated a business during your marriage, you should provide your lawyer with your business records or ledgers in your possession and control that are either personal or business-related, together with all accounts and journals. Don't forget to include Partnership and Joint Venture Agreements to which you have been a party during the marriage.

Personal Property:

Regarding interests in personal property, in addition to personal property returns, you should gather all documents, invoices, contracts, insurance policies, and appraisals on all personal property, including furniture, fixtures, furnishings, equipment, antiques, and any type of collections, owned by you individually, jointly, as trustee or guardian, or through any other person or entity during the term of the marriage. Don't forget to include firearm registrations issued or pending receipt of governmental registration documents, owned, possessed, or controlled by you during the last five (5) years.

Be sure to include titles to motor vehicles, as well as, all financing agreements to all motor vehicles owned by you, individually or jointly, at any time during the last five (5) years, including airplanes, boats, motorcycles, automobiles, or any other types of motor vehicles.

If you and your spouse have executed wills and trust agreements, or if you or either of you or your spouse have a present or contingent interest under a will or trust agreement or you or your spouse are a beneficiary, trustee, executor, or guardian under a will or trust agreement and receive or have received benefits or will receive benefits and which are or were in existence during the past five (5) years, including inter vivos trusts, you should provide those documents to your lawyer, along with all records of declaration of trust and minute books for all trusts to which you are a party, including the certificates, if any, showing such interest and copies of all statements, receipts, disbursements, investments, and other transactions.

Related to both income and assets, your lawyer will need information on your bank accounts and investments. You should gather monthly bank statements, passbooks, check registers, deposit

slips, canceled checks and bank charge notices on personal and business accounts, certificates of deposit and money market and retirement accounts from banks, savings and loans, credit unions, or other institutions in which you or your spouse has an interest. If you have brokerage statements from securities and/or commodities dealers or mutual funds maintained by you or your spouse during the marriage, whether jointly or individually, you should provide those statements to your lawyer.

If you or your spouse has submitted any loan applications or financial statements to banks, lending institutions or other persons or entities during the past five years, you should provide those documents to your lawyer. We have actually been able to discredit a spouse's testimony using information he gave on loan applications.

Insurance:

Another area of interest is insurance. If you or your spouse has life insurance policies insuring your life or that of your spouse, you should provide your lawyer with a copy of the policy and any statement of cash value. You should also gather for your lawyer copies of insurance policies for health, accident, casualty, automobile, property liability and annuities owned over the past five years.

Marital Debts:

Besides income and assets, another area to be considered is outstanding debts. You should gather all documents reflecting debts owed to you or by you, secured or unsecured, including personal loans, credit card statements, and lawsuits pending or previously filed in any court. Be sure to include judgments and pleadings in which you have been a party to, either as Plaintiff or Defendant, during the marriage.

Because standard of living may all be a factor in divorces, you should include membership cards or documents identifying participation rights in any country clubs, key clubs, private clubs, associations, or fraternal group organizations during the past three (3) years of the marriage, together with all monthly statements.

Conclusion:

If you take the time to prepare and to gather documentation of your income, assets and liabilities, you will find that you will be more successful in your efforts to get or to retain your fair share of income, assets and liabilities. If you don't take the time to prepare and to gather documentation of your situation, your divorce will be more costly and you may find that you are not able to prove what you need to prove to get or to retain your fair share.

The foregoing article is protected by copyright 2011 all rights reserved. The article may be reproduced in whole or in part for personal use provided the following language appears with the article: "This article is reproduced by permission of the author Virginia Dante Perry, Esquire."

Virginia Dante Perry, JD is a licensed Virginia attorney and has been actively engaged in the general practice of law with an emphasis on family law and trials for over 30 years. For more information about Virginia Perry or for additional publications and articles on family law, see the website at <http://www.valawtalk.com>.