

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1596

Amending Civil Rule 26.1 concerning initial disclosures and legal separations, and amending the title of Civil Rule 26.1.

Amending the title of Civil Rule 90.1, and adding new subsections (i) and (j) to Civil Rule 90.1 concerning legal separations.

IT IS ORDERED:

1. Civil Rule 26.1 is amended to read as follows:

Rule 26.1. Discovery and Disclosure in Divorce and Legal Separation Actions.

(a) **Generally.** This rule governs the information that must be disclosed by the parties in a divorce or legal separation case and the time when other discovery methods may be used. Discovery and disclosure in divorce and legal separation actions ~~are~~ otherwise governed by Civil Rule 26(a)(4) through (e), ~~and~~ Civil Rules 27 through 37, and Civil Rule 90.1.

(b) **Initial Disclosures.**

(1) In all divorce and legal separation actions, a party shall, without awaiting a discovery request, provide to the other party:

(A) the legal description and street address of all real property, wherever located, in which either party has an interest, together with all appraisals, tax assessments, and broker's opinions regarding each such property obtained within the last two years;

(B) a signed and dated release, valid for six months from the date of signature, authorizing the other party to obtain all earnings and employee benefit information (including but not limited to health insurance, cashable leave, stock options, and perquisites or in-kind compensation such as employer provided housing or transportation benefits) from the party's current employer;

(C) a signed and dated release, valid for six months from the date of signature, authorizing the other party to obtain all pension, retirement, deferred compensation, and profit sharing information from any plan in which the party is a participant or has accrued benefits;

(D) a listing of all accounts in banks, credit unions, brokerages, and other financial institutions on which the party has been a signatory within the past two years and in which the party has a personal or business interest, together with a signed and dated release, valid for six months from the date of signature, authorizing the other party to obtain all information regarding such accounts; ~~and~~

(E) copies of account statements for the past three months for all ~~such~~ accounts listed in subparagraph (D);

~~(E)~~(F) a listing of all outstanding debts together with written documentation or an account statement from each creditor indicating the principal balance currently owed and the payment terms;

~~(F)~~(G) a listing by description and location of all personal property with a current fair market value over \$100 in which either party has an interest, together with all appraisals,

tax assessments, and broker's opinions regarding each such property obtained within the last two years;

~~(G)~~(H) the most recent statements and reports from financial institutions or other sources pertaining to investments in which the party has an interest (including but not limited to stocks, bonds, certificates of deposit, IRAs, life insurance, and annuities);

~~(H)~~(I) federal tax returns filed by the party or on the party's behalf, including all schedules and attachments (W-2 forms, 1099 forms, etc.) for the past three years, together with all year-end tax documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.) for the most recent tax year in the event that return has not yet been filed;

~~(I)~~(J) pay stubs, vouchers, or other similar proof of income from all sources for the past two months, including but not limited to salaries and wages, overtime and tips, commissions, interest and dividends, income derived from self-employment and from businesses and partnerships, social security, veterans benefits, worker's compensation, unemployment compensation, ~~Aid to Families with Dependent Children (AFDC)~~ Alaska Temporary Assistance Program (ATAP), Supplemental Security Income (SSI), disability benefits, Veteran Administration benefits, income from trusts or from an interest in an estate (direct or through a trust), and net rental income;

~~(J)~~(K) an itemized list by description and location of all ~~items~~ assets and debts listed above in (A) through ~~(H)~~(G) which the party considers non-marital and the basis for the non-marital designation; and

(L) a description of the party's current medical coverage, including but not limited to the name of the provider, the policy or group number, the monthly cost of the policy, the names of family members currently covered by the policy, and whether any family members are eligible for other medical coverage, such as Medicare, Medicaid, Indian Health Service, or military medical benefits; and

~~(K)~~(M) any other information or documentation required by local order.

(2) Unless otherwise permitted by the court, these disclosures shall be made within forty-five days after the filing of the answer. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(c) **Scope and Timing of Discovery.**

(1) *Scope.* The disclosures mandated by ~~subsection paragraph~~ (b) are intended to provide minimum base information. ~~Subsection Paragraph~~ (b) does not limit the scope or amount of discovery parties may properly request in a divorce or legal separation action.

(2) *Timing.* Discovery in a divorce or legal separation case may take place at the times allowed by Civil Rule 26(d)(2).

2. The title of Civil Rule 90.1 is amended, and new subsections (i) and (j) are added to read as follows:

Rule 90.1 Dissolution of Marriage, and Divorce, Actions and Legal Separation Actions.

* * * *

(i) Action for Divorce, Dissolution, or Annulment Filed After Action for Legal Separation.

(1) Notice of Legal Separation Action. A divorce, dissolution, or annulment action that is filed after the filing of an action for legal separation must include notice of the prior action.

(2) Consolidation of Cases. The consolidation of a divorce, dissolution, or annulment action with a legal separation action previously filed in Alaska is governed by AS 25.24.430 and Civil Rule 42(a).

(j) Action for Legal Separation – Commencement. An action for legal separation under AS 25.24.400-.460 is commenced by the filing of a complaint in the superior court.

DATED: April 12, 2006

EFFECTIVE DATE: October 15, 2006

/s/
Chief Justice Bryner

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Carpeneti