Annotated Disclosure Checklist

See the “Disclosure and Evidence Handbook for Family Law Support Staff” published by the Legal Education Society of Alberta (LESA) and [www.familycounsel.ca](http://www.familycounsel.ca)

* Three most recent **Income Tax Returns** (or copies of T4, T4A, other relevant tax slips, statements disclosing all sources of income)
  + Needs to include at least the T1 General and line 150.
  + Accountant authorization page isn’t sufficient.
  + The client can contact their accountant to obtain this, or if they used software, it can print the return out.
  + If the above methods won’t work, CRA’s Form RC378 Access to Information and Personal Information Requestand Form T1013 Authorizing or Cancelling a Representative can be filled out by the client and sent to the CRA.
  + It usually doesn’t matter if the client can’t afford to pay for Income Tax Returns to be completed, the court needs them, otherwise the court could make a guess that could harm the client. There are often local organizations that can help low income persons prepare simple tax returns.
* Three most recent **Notices of Assessment**, or CRA printouts
  + These would have been mailed to the client by the CRA.
  + If the client no longer has these, they can create an account at <http://www.cra-arc.gc.ca/myaccount/>, follow the procedure to obtain an authorization code, and then they’ll be able to print out the online Assessments for recent years.
  + If the above methods won’t work, CRA’s Form RC378 Access to Information and Personal Information Requestand Form T1013 Authorizing or Cancelling a Representative can be filled out by the client and sent to the CRA.
* Three most recent **pay stubs** including YTD (or a letter from employer including salary/hourly rate)
  + The client can request these from their employer.
  + If they’ve been terminated, their Record of Employment will probably be satisfactory, which must be provided by their employer five days after the end of a pay period (or 15 days after the first day of an interruption of earnings). The employer must also file an ROE with Service Canada, which might be able to provide a copy.
  + If their employer is being difficult or they’ve severed ties, then the client can sign a Consent to Release Information and then you can request this information. For example:

CONSENT TO RELEASE INFORMATION

TO: [name of employer]

RE: [client’s name]; SIN: ### ### ###; Date of Birth: ##############

Please regard this as your authority to forward to my solicitors, [lawyer, law firm name, address, any other contact information], any documentation that they may require regarding ##################### in relation to me or submitted by me since [date, usually a few years back].

Dated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_, in the Province of Alberta, this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Witness* Signature of [client’s name]

Witness Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* If self-employed but **unincorporated** (includes **rental income**, **income-earning hobbies**, and **home-based businesses**)
  + 6 weeks of cancelled **cheques**
    - These can be obtained by ordering the business’s bank account statements directly from the bank.
    - Cancelled cheques refer to cheques processed and scanned by the bank, not those with a “stop payment”.
  + Three most recent years of **Financial Statements**
    - Unincorporated businesses often won’t have Financial Statements. If they don’t, check to see if they have a “Form T2125, Statement of Business or Professional Activities” attached to their Income Tax Return.
    - If they exist, the client can usually obtain these from their accountant.
    - It usually doesn’t matter if the client can’t afford to pay for Financial Statements or Income Tax Returns to be completed, the court needs them, otherwise the court could make a guess that could harm the client.
    - If the client won’t provide these (which we strongly recommend against), then they should at least provide three years of the business’s bank account, investment, and credit card statements, and any other revenue/expense ledger.
  + **Statement** of salaries, wages, management fees or other payments/benefits paid to yourself, or person not dealt with at arm’s length, for three most recent tax years
    - See Business Expense Statement by Ken Proudman at <http://familycounsel.ca/download.php?id=519>
    - We recommend providing any receipts, invoices, and other documents that support the personal/non-arm’s length expenses listed in the Business Expense Statement.
    - If they exist, we also recommend providing General Ledgers, and the most recent Property, Plant, and Equipment (Amortization) Schedule, as they help to prove that expenses are reasonably deducted.
* If 1% or more interest in **corporation**
  + Three most recent years of **Financial Statements**
    - The client can usually obtain these from their accountant.
    - It usually doesn’t matter if the client can’t afford to pay for Financial Statements, the court needs them, otherwise the court could make a guess that could harm the client.
    - In the rare even that they don’t prepare Financial Statements or something similar, their Corporate Tax Return and all schedules (including schedules setting out revenues and expenses) might suffice.
    - If the client won’t provide these (which we strongly recommend against), then they should at least provide three years of the business’s bank account, investment, and credit card statements, and any other revenue/expense ledger.
  + **Statement** of salaries, wages, management fees or other payments/benefits paid to yourself, or person not dealt with at arm’s length, for three most recent tax years
    - See Business Expense Statement by Ken Proudman at <http://familycounsel.ca/download.php?id=519>
    - We recommend providing any receipts, invoices, and other documents that support the personal/non-arm’s length expenses listed in the Business Expense Statement.
    - If they exist, we also recommend providing General Ledgers, and the most recent Property, Plant, and Equipment (Amortization) Schedule, as they help to prove that expenses are reasonably deducted.
  + Record of **shareholder loans** transactions for past 12 months
    - The client can usually obtain these from their accountant, or bookkeeper.
    - It will probably also show up in their ongoing corporate leger.
    - If there is no ongoing ledger but the client isn’t aware of any shareholder loan transactions, I would note that the bookkeeper/accountant might later classify some transactions as shareholder loans.
* 6 months of **bank account** statements and **cancelled cheques**
  + The client can request these from their bank.
  + Depending on the level of contention, the other side probably won’t object if they just print out their online bank account statements without providing the cancelled cheques, although you should check with your lawyer to find out whether the formal statements should be provided. Most online banking platforms have a separate section of their website where the client can download the formal statements, or they may have to contact the bank to order older statements.
  + Cancelled cheques refer to cheques processed and scanned by the bank, not those with a “stop payment”.
* 6 months of **credit card** statements
  + The client can either request these from the credit card company, or the other side probably won’t object if they just print out their online statements.
  + It doesn’t hurt to provide their LOC statements as well, although not mandatory.
* Monthly **budget** (if spousal/partner support is an issue)
  + Blank form usually provided to the client at the first meeting.
  + Once received from the client, please re-type into a blank budget so that it looks more professional, as it could get inserted into an Affidavit at some point.
  + I tell clients that exact numbers are preferable where possible, although in some categories (eg groceries) the best they can do is make reasonable guesses.
  + Clients should focus on providing details about significant unusual expenses, especially if they’re expenses not paid by their former spouse/partner. They can also provide a separate breakdown of these if they wish, which would be helpful.
  + They should be careful to list debts, including any minimum payments (unless they’ve regularly paid a higher amount for some time).
  + If anything appears to be missing or too vague, please ask the client for additional details. I find it helps to highlight the missing/vague information, then email it to them and ask for them to provide input on the highlighted items.
* Sworn itemized list of **income, assets and liabilities** (Schedule “A”)
  + See the “Disclosure and Evidence Handbook for Family Law Support Staff” published by LESA and [www.familycounsel.ca](http://www.familycounsel.ca)
  + See enhanced version at <http://familycounsel.ca/download.php?id=574>
  + I try to include a little bit of identifying information such as the legal description and physical address for the home (it’s a good time to pull the Title anyways), year/make/model of vehicles, the corresponding date of the account/investment’s balance, and the last 4 digits of each bank/credit card/investment account number. Enough that the other side can’t later allege that your client didn’t disclose a particular asset. Plus that way when your lawyer is reviewing the other side’s financial disclosure they can tell whether they’re transferring funds to an undisclosed bank account or to our client.
  + A rough estimated year of acquisition is fine, just write (Approx.) beside it. Can probably also indicate whether it was before/during/after the relationship, because that’s what’s most relevant.
  + Let your lawyer know if there are any issues/uncertainties in calculating their estimated income for the current year, and your lawyer will try to work with the client to perform a realistic calculation. It’s important that it be accurate, because the other side may request support based on this number, and courts can refuse to uphold a settlement where information was found to be misleading.
  + If anything appears to be missing or too vague, please ask the client for additional details. I find it helps to highlight the missing/vague information, then email it to them and ask for them to provide input on the highlighted items.
  + Please have your lawyer review this Statement before the client swears it. The client should also review it carefully, and they should be asked about whether they’ve disposed of any assets within a year preceding the filing of a property division claim (or within a year of swearing if a claim hasn’t yet been filed).
  + If the client lives outside of Edmonton or it’s impractical for them to sign, then you can probably get away with sending the unsworn version for now.
* List and documentation of **Exemptions**
  + Your lawyer might provide them with a form to fill out their exemptions.
  + I try to indicate what category of exemption it is (acquired prior to the marriage, gift, inheritance, personal injury proceeds, insurance proceeds, exchange of \_\_\_\_\_\_\_\_\_, proceeds of sale of \_\_\_\_\_\_\_\_ (the blank being one of the other categories)). Ideally, the value on the later of the date of relationship (date of marriage where they separated before January 1, 2020) or date that the property was received is also useful information, but don’t guess at this as it’s difficult to argue for a higher value later.
  + I always add “Such further exemptions to be provided prior to the trial of this matter” in the Disclosure Statement.
* List and receipts of **section 7** expenses claimed
  + Most clients don’t provide these, so I usually add “Such further expenses, receipts, and documentation to be provided prior to the trial or hearing of this matter” to the Disclosure Statement.
* If **partner**, confirmation of income, draws from, and capital in the partnership, for three most recent tax years
  + Their accountant can probably do this.
  + I would also make sure that their Income Tax Returns contains a “Form 5013 Schedule 1, Net Income (Loss) for Income Tax Purposes” and “Form T5013 Schedule 50, Partner’s Ownership and Account Activity”.
  + Although it technically might not be required, we recommend also providing:
    - Business Expense Statement by Ken Proudman at <http://familycounsel.ca/download.php?id=519>
    - Any receipts, invoices, and other documents that support the personal/non-arm’s length expenses listed in the Business Expense Statement.
    - If they exist, General Ledgers, and the most recent Property, Plant, and Equipment (Amortization) Schedule, as they help to prove that expenses are reasonably deducted.
* **EI** Statement
  + These can be obtained online or from Service Canada. See <https://www.canada.ca/en/employment-social-development/services/my-account.html>
* **Social Assistance** Statement
  + These can be obtained from Service Alberta.
* **Pension** Statement
  + The client can request this from their pension administrator.
  + They should also ask their pension administrator for the pension’s handbook/manual, and a statement of division after matrimonial breakdown
    - But if the client is being told that they have to pay a hefty fee to obtain a pension division statement (eg over $1000), then a statement showing the most recent balance for now is probably fine.
  + If they’re having trouble, some pension administrators have the request forms on their websites, or even online access to forms.
  + If they’re having trouble, then the client can sign a Consent to Release Information and then you can probably request this information, although this isn’t ideal as it could take some time. The pension administrator should be contacted for this form, as they may have a specific form.
* **RRSP** Statement
  + They may only have a yearly statement, but that’s probably fine.
  + An online printout is probably fine, and probably preferable as it would carry a more recent balance.
* **Term Deposit** Certificates
  + They may only have a yearly statement, but that’s probably fine.
  + An online printout is probably fine, and probably preferable as it would carry a more recent balance.
* **GIC** Certificates
  + They may only have a yearly or initial statement, but that’s probably fine.
  + An online printout is probably fine, and probably preferable as it would carry a more recent balance.
* Other **Investment** Statements
  + They may only have a yearly statement, but that’s probably fine.
  + An online printout is probably fine, and probably preferable as it would carry a more recent balance.
* **WCB** Statement
  + Can be retrieved by the client at <https://www.wcb.ab.ca/resources/for-workers/online-services/>
* **Disability** Payment Statement
  + For CPP-Disability, these can be obtained online or from Service Canada. See <https://www.canada.ca/en/employment-social-development/services/my-account.html>
  + For AISH, these can be obtained from Service Alberta.
  + For private disability plans, they’ll have to contact the administrator.
  + Note that they might be receiving both.
* **Share/Dividend** Statement
  + They may only have a share certificate, yearly statement, and/or T5 Slip, but it’s probably okay if they provide all of those that exist.
  + An online printout is probably fine, and probably preferable as it would carry a more recent balance.
* **Student** Funding Statement (including loans, grants, bursaries, scholarships, living allowances)
  + They’ll have to obtain this from the lender or post-secondary institution.
  + Online printout is probably fine.
* **Trust** beneficiary Settlement Agreement and three most recent Financial Statements
  + They can probably obtain this from the trustee, or any accountant or financial management company involved.
  + The Settlement Agreement is the document that established the trust, it might also be called something similar to “Trust Deed”.

If our client gives you any trouble:

* You can remind them that if they don’t provide the information soon, it could mean that:
  1. They’d have to pay their lawyer to appear in court;
  2. The court could easily make an Order that they disclose the information (which the other side will constantly bring up to make it look like they’re hiding something);
  3. The court would likely order that they pay the other side’s legal costs for having to appear in court;
  4. They might be prevented from filing their own Affidavit in response to a support application, in which case they can’t present their own version of events;
  5. Their income might be set at a higher amount for support purposes;
  6. The judge won’t like them;
  7. Any settlement entered into might not be upheld by the courts; and
  8. There are many other steps that a court can take to punish them if they still don’t provide their information after being ordered or required to do so (e.g. fine, imprisonment, claim or defence struck, assumed that they’re hiding something, etc).

Dealing with the opposing firm:

* If it’s their application
  + Most firms will grant multiple adjournments, although more aggressive firms might not.
  + We recommend requesting an adjournment at least 72 hours in advance.
  + You need the adjournment confirmation before 3:30 p.m. the day before, otherwise please let your lawyer know that they need to appear in court, and let them know what you’re still missing.
  + If you only have part of the client’s disclosure and the other side has already granted at least one adjournment, you can send a draft Disclosure Statement with what you have before, just marked “Interim” at the top, “To be provided” for any missing items, and not including the budget and Statement unless your lawyer has reviewed them.
  + If they’ve already granted multiple adjournments and don’t want to grant any further adjournments, your lawyer might want you to offer that your lawyer will sign a Consent Order mandating that the client shall provide disclosure by a certain date, on a **without-costs basis**.
  + If you’ve complied with the vast majority (eg the Statement just isn’t sworn), then it’s probably worth pressing them to just adjourn *sine die* and you’ll provide it before the matter is resolved, especially if you can tell them a date that the client is scheduled to come in to sign.
* If it’s our application
  + If they’re asking for an adjournment, your lawyer might have a policy to grant adjournments, or more if you receive the majority of the disclosure (you can tell them to send what they have for now).
  + If they haven’t provided disclosure after multiple appearances, your lawyer may want you to offer that the other side can sign a Consent Order setting out what disclosure needs to be provided.
  + Your lawyer might have precedent Consent Orders and disclosure request letters.