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### **New Mandatory Document Exchange program for Family Court cases in St. Louis County**

The St. Louis County Family Court recently amended Local Rule 68 to encompass its “Mandatory Document Exchange” program. Effective May 1, 2010, the program was designed by the Court, in conjunction with the St. Louis County Family Law Bar, to establish a set of procedures for attorneys and parties to exchange information pertinent to family court cases. This document exchange program is required in matters involving paternity, child support, child custody and divorce; this includes both original petitions and motions to modify prior decrees in domestic relations cases.

The Court has determined that the following documents are required to be exchanged in contested family law matters to ensure that “all parties have equal access to information relevant to the case at the earliest opportunity so as to encourage the settlement of disputes.” Local Rule 68.5.

Local Rule 68.5 (A) provides that the following documents are required to be exchanged in all cases:

- 1) Federal and state income tax returns including all schedules, W-2, K-1 and 1009 forms for the preceding three years;
- 2) Wage stubs (or other evidence of wages, tips, or salaries if wage stubs are not issued) for the three months preceding the filing of the case;
- 3) Any statements or other documents evidencing expenses incurred in the last 12 months preceding the filing of the case pertaining to work related child care costs, premium payments for health insurance for the children of the parties and dental and orthodontic costs attributable to the children of the parties.

Local Rule 68.5 (B) provides that the following documents must be exchanged in cases involving an award of maintenance, an award of property or a division of debt, or a request for the payment of attorney fees:

- 1) The three most recent statements for all bank accounts and all other accounts held jointly or individually by the parties in any brokerage firm or other financial institution;
- 2) The most recent benefit statement for any retirement plan, whether vested or not vested, in which a party has an interest;

- 3) Any appraisals of any marital or separate property conducted in the 12-month period preceding the filing of the case;
- 4) Credit card statements and store charges for purchases occurring during the three months preceding the filing of the case;
- 5) The most recent mortgage statement for any real property owned jointly or separately by the parties and copy of the deed for any such property;
- 6) The most recent balance statement for any existing debt owned jointly or separately by the parties.

The timetable for this document exchange is extremely short. “Within 60 days of a service of summons, each party shall deliver to the other party a complete and readable copy of each of the documents specified on the mandatory exchange of documents form.” This given time period allows for a minimal window of opportunity for parties to collect and exchange information; as such, we advise our clients to provide us with the mandated documents at the same time they share all of the information necessary for us to commence litigation of their domestic relations matter.

In many cases, one party is the “record keeper” in the relationship and thus leaves the non-record-keeping party without access to the required records. The Court has taken this into consideration and included a provision in the Rule allowing a party to certify that they did not produce the required documentation because it was not in their possession. Local Rule 68.5 (8).

Failure to comply with the amended rule has very direct and debilitating consequences for the party failing to comply. The Court has mandated that “Any documents required to be produced under this Rule that are not timely exchanged with the other party shall not be admissible into evidence at any hearing or trial of the case unless the court finds good cause for the failure to exchange. The court may, in its discretion, impose any other penalty within its power for the failure to comply with any provision of this rule including an award of attorney fees.” Local Rule 68.5 (9).

This amended Local Rule 68 for St. Louis County may require additional work for the client at the outset, but the compilation of this information serves several purposes. In addition to complying with the Local Rule requiring that this information be exchanged, reviewing and assessing this information at an early stage assists us in being able to form a clearer picture of the issues involved in the case and to advise our clients appropriately.

For more information, please contact your Lashly & Baer attorney or [Allison S. Lee](#) at (314) 621-2939.