

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA FAMILY LAW RULES
OF PROCEDURE**

CASE NO.:

**FAST-TRACK REPORT TO IMPLEMENT
2008 LEGISLATIVE CHANGES TO EQUITABLE DISTRIBUTION**

Raymond T. McNeal, Chair, Family Law Rules Committee, and John F. Harkness, Jr., Executive Director, The Florida Bar, file this 2008 Fast-track report under *Fla. R. Jud. Admin.* 2.140(f) and as requested by the Chief Justice in his letter of November 5, 2007 (*see* Appendix A). The proposed amendments have been reviewed by the Executive Committee of The Florida Bar and approved. The voting records of the Committee and the Executive Committee on each proposal are shown below. Because of time constraints, the proposals have not been published in the *Florida Bar News* or posted on The Florida Bar’s website. The rule amendment is attached in both full-page (*see* Appendix B) and two-column (*see* Appendix C) format. The form amendments are attached in the full-page format (*see* Appendix B). The proposals are as follows:

Rule 12.285: Section 1 of Chapter 2008-46, Laws of Florida (*see* Appendix D), created a new section 61.075(11), Florida Statutes. The new subsection abolishes special equity and requires that claims formerly identified as special equity “be asserted either as a claim for unequal distribution of marital property . . . or as a claim of enhancement in value or appreciation of nonmarital property.” *Fla. Fam. L. R. P.* 12.285(d)(15) has been amended to reflect this change. The committee vote on this amendment was 26-0-0. The Board of Governors Executive Committee vote was 10-1.

Form 12.930(b): Item 6 of the standard interrogatory form has also been amended to conform to new section 61.075(11), Florida Statutes, as created by section 1, Chapter 2008-46, Laws of Florida. Subdivision 6a, regarding special equity, has been amended to reflect the language in section 61.075(11), Florida Statutes. The committee vote on this amendment was 26-0-0. The Board of Governors Executive Committee vote was 8-1.

In West’s *Rule of Court – Florida* (2008) at page 1065, an extra line appears above the signature line in this form. It does not appear in the last opinion amending this form. See *Amendments to the Florida Family Law Rules of Procedure*, 853 So. 2d 303, 359 (Fla. 2003). The line has been deleted.

Form 12.932: Item 2p. of this form has been amended to conform to creation of section 61.075(11), Florida Statutes, by section 1 of Chapter 2008-46, Laws of Florida. The amended language tracks the statute. The committee vote on this amendment was 26-0-0. The Board of Governors Executive Committee vote was 8-1.

Several corrections have been made to this form. In item 2o., the letter “I” is missing at the beginning of the item in West’s *Florida Rules of Court – State* (2008) at page 1078. It is also missing in the last opinion amending this rule. See *In re Amendments to the Florida Family Law Rules of Procedure (Two-Year Cycle) and the Florida Supreme Court Approved Family Law Forms*, 913 So. 2d 545, 553 (Fla. 2005). The letter has been added. In the line certifying service, there should be a blank line following “{date}.” It is missing in both West’s *Florida Rules of Court – State* (2008) at page 1079 and in the above opinion. See 913 So. 2d at 553. The line has been added. In the notary block, there should be a blank line following “COUNTY OF.” It is missing in both West’s *Florida Rules of Court – State*

(2008) at page 1079 and in the above opinion (*see* 913 So. 2d at 554). The line has been added.

Chapter 2008-61, Laws of Florida, made significant changes to statutes governing parental responsibility. It is effective October 1, 2008. The Committee will be filing an additional report to address changes necessitated by this legislation.

The Committee respectfully requests that the Court amend the rule and forms as provided in this report.

Respectfully submitted _____.

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APPENDIX A



Supreme Court of Florida

500 South Duval Street
Tallahassee, Florida 32399-1925

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CHIEF JUSTICE
CHARLES T. WELLS
HARRY LEE ANSTEAD
BARBARA J. PARIENTE
PEGGY A. QUINCE
RAOUL G. CANTERO, III
KENNETH B. BELL
JUSTICES

THOMAS D. HALL
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EDWARD DeCOSTE
MARSHAL

November 5, 2007

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The Honorable Robert T. Benton II
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Rules Committee Chairs
November 5, 2007
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Re: Rule Amendments in Response to New Legislation


Dear Rules Committee Chairs:

In assisting the Court in exercising its constitutional responsibilities to adopt rules of procedure, the various Florida Bar rules committees are often called upon to consider whether rule amendments are necessary as a result of statutory changes. The purpose of this letter is to clarify how the Court would like your committees to operate when such changes occur.

First, the committee should make an independent determination as to whether a procedural rule change is needed in response to the new legislation. If the committee determines a rule change is necessary, the committee's proposal to the Court should not merely restate the legislation in the form of a rule. Rather, the committee should consider whether the rule should include any terms of the statute or whether the rule should be a pure procedural rule developed by the committee to implement the substantive provisions of the statute. If the committee believes the legislation contains procedures that are within the Court's purview, the committee should consider the appropriateness of the procedures and not feel constrained to automatically propose rule amendments that mirror the procedures suggested by the Legislature.

The Court thanks your committees for your continued assistance in responding to new legislation with well developed rules of procedure. If you have any questions, please do not hesitate to contact me.

Very truly yours,



R. Fred Lewis

RFL/dm/mb

cc: Mr. John F. Harkness, Jr., Executive Director, The Florida Bar
Mr. Thomas D. Hall, Clerk of Court
Ms. Laura Rush, General Counsel
Ms. Deborah J. Meyer, Director of Central Staff
Bar Staff Liaisons to Rules Committees

APPENDIX B

RULE 12.285. MANDATORY DISCLOSURE

(a) Application.

(1) Scope. This rule shall apply to all proceedings within the scope of these rules except proceedings involving adoption, simplified dissolution, enforcement, contempt, injunctions for domestic, repeat, dating, or sexual violence, and uncontested dissolutions when the respondent is served by publication and does not file an answer. Additionally, no financial affidavit or other documents shall be required under this rule from a party seeking attorneys' fees, suit money, or costs, if the basis for the request is solely under section 57.105, Florida Statutes, or any successor statute. Except for the provisions as to financial affidavits and child support guidelines worksheets, any portion of this rule may be modified by order of the court or agreement of the parties.

(2) Original and Duplicate Copies. Unless otherwise agreed by the parties or ordered by the court, copies of documents required under this rule may be produced in lieu of originals. Originals, when available, shall be produced for inspection upon request. Parties shall not be required to serve duplicates of documents previously served.

(b) Time for Production of Documents.

(1) Temporary Financial Hearings. Any document required under this rule in any temporary financial relief proceeding shall be served on the other party for inspection and copying as follows.

(A) The party seeking relief shall serve the required documents on the other party with the notice of temporary financial hearing, unless the documents have been served under subdivision (b)(2) of this rule.

(B) The responding party shall serve the required documents on the party seeking relief on or before 5:00 p.m., 2 business days before the day of the temporary financial hearing if served by delivery or 7 days before the day of the temporary financial hearing if served by mail, unless the documents have been received previously by the party seeking relief under subdivision (b)(2) of this rule. A responding party shall be given no less than 12 days to serve the documents required under this rule, unless otherwise ordered by the court. If the 45-day period for exchange of

documents provided for in subdivision (b)(2) of this rule will occur before the expiration of the 12 days, the provisions of subdivision (b)(2) control.

(2) Initial and Supplemental Proceedings. Any document required under this rule for any initial or supplemental proceeding shall be served on the other party for inspection and copying within 45 days of service of the initial pleading on the respondent.

(c) Disclosure Requirements for Temporary Financial Relief. In any proceeding for temporary financial relief heard within 45 days of the service of the initial pleading or within any extension of the time for complying with mandatory disclosure granted by the court or agreed to by the parties, the following documents shall be served on the other party:

(1) A financial affidavit in substantial conformity with Florida Family Law Rules of Procedure Form 12.902(b) if the party's gross annual income is less than \$50,000, or Florida Family Law Rules of Procedure Form 12.902(c) if the party's gross annual income is equal to or more than \$50,000. This requirement cannot be waived by the parties. The affidavit must also be filed with the court.

(2) All federal and state income tax returns, gift tax returns, and intangible personal property tax returns filed by the party or on the party's behalf for the past year. A party may file a transcript of the tax return as provided by Internal Revenue Service Form 4506-T in lieu of his or her individual federal income tax return for purposes of a temporary hearing.

(3) IRS forms W-2, 1099, and K-1 for the past year, if the income tax return for that year has not been prepared.

(4) Pay stubs or other evidence of earned income for the 3 months prior to service of the financial affidavit.

(d) Parties' Disclosure Requirements for Initial or Supplemental Proceedings. A party shall serve the following documents in any proceeding for an initial or supplemental request for permanent financial relief, including, but not limited to, a request for child support, alimony, equitable distribution of assets or debts, or attorneys' fees, suit money, or costs:

(1) A financial affidavit in substantial conformity with Florida Family Law Rules of Procedure Form 12.902(b) if the party's gross annual income is less than \$50,000, or Florida Family Law Rules of Procedure Form 12.902(c) if the party's gross annual income is equal to or more than \$50,000, which requirement cannot be waived by the parties. The financial affidavits must also be filed with the court. A party may request, by using the Standard Family Law Interrogatories, or the court on its own motion may order, a party whose gross annual income is less than \$50,000 to complete Florida Family Law Rules of Procedure Form 12.902(c).

(2) All federal and state income tax returns, gift tax returns, and intangible personal property tax returns filed by the party or on the party's behalf for the past 3 years.

(3) IRS forms W-2, 1099, and K-1 for the past year, if the income tax return for that year has not been prepared.

(4) Pay stubs or other evidence of earned income for the 3 months prior to service of the financial affidavit.

(5) A statement by the producing party identifying the amount and source of all income received from any source during the 3 months preceding the service of the financial affidavit required by this rule if not reflected on the pay stubs produced.

(6) All loan applications and financial statements prepared or used within the 12 months preceding service of that party's financial affidavit required by this rule, whether for the purpose of obtaining or attempting to obtain credit or for any other purpose.

(7) All deeds within the last 3 years, all promissory notes within the last 12 months, and all present leases, in which the party owns or owned an interest, whether held in the party's name individually, in the party's name jointly with any other person or entity, in the party's name as trustee or guardian for any other person, or in someone else's name on the party's behalf.

(8) All periodic statements from the last 3 months for all checking accounts, and from the last 12 months for all other accounts (for example, savings accounts, money market funds, certificates of deposit, etc.), regardless of whether or not the account has been closed, including those held in the party's name individually, in the party's name jointly with any other person or entity, in the party's name as trustee or guardian for any other person, or in someone else's name on the party's behalf.

(9) All brokerage account statements in which either party to this action held within the last 12 months or holds an interest including those held in the party's name individually, in the party's name jointly with any person or entity, in the party's name as trustee or guardian for any other person, or in someone else's name on the party's behalf.

(10) The most recent statement for any profit sharing, retirement, deferred compensation, or pension plan (for example, IRA, 401(k), 403(b), SEP, KEOGH, or other similar account) in which the party is a participant or alternate payee and the summary plan description for any retirement, profit sharing, or pension plan in which the party is a participant or an alternate payee. (The summary plan description must be furnished to the party on request by the plan administrator as required by 29 U.S.C. § 1024(b)(4).)

(11) The declarations page, the last periodic statement, and the certificate for all life insurance policies insuring the party's life or the life of the party's spouse, whether group insurance or otherwise, and all current health and dental insurance cards covering either of the parties and/or their dependent children.

(12) Corporate, partnership, and trust tax returns for the last 3 tax years if the party has an ownership or interest in a corporation, partnership, or trust greater than or equal to 30%.

(13) All promissory notes for the last 12 months, all credit card and charge account statements and other records showing the party's indebtedness as of the date of the filing of this action and for the last 3 months, and all present lease agreements, whether owed in the party's name individually, in the party's name jointly with any other person or entity, in the party's name as trustee or guardian for any other person, or in someone else's name on the party's behalf.

(14) All written premarital or marital agreements entered into at any time between the parties to this marriage, whether before or during the marriage. Additionally, in any modification proceeding, each party shall serve on the opposing party all written agreements entered into between them at any time since the order to be modified was entered.

(15) All documents and tangible evidence supporting the producing party's claim ~~of special equity or nonmarital status of an asset or debt~~ that an asset or liability is nonmarital, for enhancement or appreciation of nonmarital property, or for an unequal distribution of marital property. The documents and tangible evidence produced shall be for the time period from the date of acquisition of the asset or debt to the date of production or from the date of the marriage, if based on premarital acquisition.

(16) Any court orders directing a party to pay or receive spousal or child support.

(e) Duty to Supplement Disclosure; Amended Financial Affidavit.

(1) Parties have a continuing duty to supplement documents described in this rule, including financial affidavits, whenever a material change in their financial status occurs.

(2) If an amended financial affidavit or an amendment to a financial affidavit is filed, the amending party shall also serve any subsequently discovered or acquired documents supporting the amendments to the financial affidavit.

(f) Sanctions. Any document to be produced under this rule that is served on the opposing party fewer than 24 hours before a nonfinal hearing or in violation of the court's pretrial order shall not be admissible in evidence at that hearing unless the court finds good cause for the delay. In addition, the court may impose other sanctions authorized by rule 12.380 as may be equitable under the circumstances. The court may also impose sanctions upon the offending lawyer in lieu of imposing sanctions on a party.

(g) Extensions of Time for Complying with Mandatory Disclosure. By agreement of the parties, the time for complying with

mandatory disclosure may be extended. Either party may also file, at least 5 days before the due date, a motion to enlarge the time for complying with mandatory disclosure. The court shall grant the request for good cause shown.

(h) Objections to Mandatory Automatic Disclosure. Objections to the mandatory automatic disclosure required by this rule shall be served in writing at least 5 days prior to the due date for the disclosure or the objections shall be deemed waived. The filing of a timely objection, with a notice of hearing on the objection, automatically stays mandatory disclosure for those matters within the scope of the objection. For good cause shown, the court may extend the time for the filing of an objection or permit the filing of an otherwise untimely objection. The court shall impose sanctions for the filing of meritless or frivolous objections.

(i) Certificate of Compliance. All parties subject to automatic mandatory disclosure shall file with the court a certificate of compliance, Florida Family Law Rules of Procedure Form 12.932, identifying with particularity the documents which have been delivered and certifying the date of service of the financial affidavit and documents by that party. The party shall swear or affirm under oath that the disclosure is complete, accurate, and in compliance with this rule, unless the party indicates otherwise, with specificity, in the certificate of compliance. Except for the financial affidavit and child support guidelines worksheet, no documents produced under this rule shall be filed in the court file without a court order.

(j) Child Support Guidelines Worksheet. If the case involves child support, the parties shall file with the court at or prior to a hearing to establish or modify child support a Child Support Guidelines Worksheet in substantial conformity with Florida Family Law Rules of Procedure Form 12.902(e). This requirement cannot be waived by the parties.

(k) Place of Production.

(1) Unless otherwise agreed by the parties or ordered by the court, all production required by this rule shall take place in the county where the action is pending and in the office of the attorney for the party receiving production. Unless otherwise agreed by the parties or ordered by the court, if a party does not have an attorney or if the attorney does not have an office in the county where the action is pending, production shall take

place in the county where the action is pending at a place designated in writing by the party receiving production, served at least 5 days before the due date for production.

(2) If venue is contested, on motion by a party the court shall designate the place where production will occur pending determination of the venue issue.

(l) **Failure of Defaulted Party to Comply.** Nothing in this rule shall be deemed to preclude the entry of a final judgment when a party in default has failed to comply with this rule.

Commentary

1995 Adoption. This rule creates a procedure for automatic financial disclosure in family law cases. By requiring production at an early stage in the proceedings, it is hoped that the expense of litigation will be minimized. See *Dralus v. Dralus*, 627 So. 2d 505 (Fla. 2d DCA 1993); *Wrona v. Wrona*, 592 So. 2d 694 (Fla. 2d DCA 1991); and *Katz v. Katz*, 505 So. 2d 25 (Fla. 4th DCA 1987). A limited number of requirements have been placed upon parties making and spending less than \$50,000 annually unless otherwise ordered by the court. In cases where the income or expenses of a party are equal to or exceed \$50,000 annually, the requirements are much greater. Except for the provisions as to financial affidavits, other than as set forth in subdivision (k), any portion of this rule may be modified by agreement of the parties or by order of the court. For instance, upon the request of any party or on the court's own motion, the court may order that the parties to the proceeding comply with some or all of the automatic mandatory disclosure provisions of this rule even though the parties do not meet the income requirements set forth in subdivision (d). Additionally, the court may, on the motion of a party or on its own motion, limit the disclosure requirements in this rule should it find good cause for doing so.

Committee Notes

1997 Amendment. Except for the form of financial affidavit used, mandatory disclosure is made the same for all parties subject to the rule, regardless of income. The amount of information required to be disclosed is increased for parties in the under-\$50,000 category and decreased for parties in the \$50,000-or-over category. The standard family law interrogatories are

no longer mandatory, and their answers are designed to be supplemental and not duplicative of information contained in the financial affidavits.


1998 Amendment. If one party has not provided necessary financial information for the other party to complete a child support guidelines worksheet, a good faith estimate should be made.



2005 Amendment. The requirement that a party certify compliance with mandatory disclosure is intended to facilitate full disclosure and prevent a party from alleging that he or she did not know he or she had to provide documents required by this rule. This certification does not relieve the party of the duty to supplement disclosure.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.930(b),
STANDARD FAMILY LAW INTERROGATORIES FOR ORIGINAL OR ENFORCEMENT
PROCEEDINGS


When should this form be used?

This form should be used to ask the other **party** in your case to answer certain standard questions in writing. These questions are called **interrogatories**, and they must relate to your case. If the other party fails to answer the questions, you may ask the **judge** to order the other party to answer the questions. (You cannot ask these questions before the **petition** has been **filed**.)

The questions in this form should be used in **original proceedings** or **enforcement proceedings** and are meant to supplement the information provided in the **Financial Affidavit**,  Florida Family Law Rules of Procedure Form 12.902(b) or (c). You should read all of the questions in this form to determine which questions, if any, the other party needs to answer in order to provide you with information not covered in the financial affidavit forms. If there are questions to which you already know the answer, you may choose not to ask them.

This form should be typed or printed in black ink. You must complete the box at the beginning of this form to indicate which questions you are requesting that the other party answer. You should send 2 copies of this form and the **Notice of Service of Standard Family Law Interrogatories**,  Florida Family Law Rules of Procedure Form 12.930(a), to the other party. You should also keep a copy for your records. You should not **file** this form with the **clerk of the circuit court**. However, you must file the **Notice of Service of Standard Family Law Interrogatories**,  Florida Family Law Rules of Procedure Form 12.930(a), to tell the court that you have sent this form to the other party.

Where can I look for more information?


Before proceeding, you should read “General Information for Self-Represented Litigants” found at the beginning of these forms. For further information, see the instructions for **Notice of Service of Standard Family Law Interrogatories**,  Florida Family Law Rules of Procedure Form 12.930(a), rules 12.280, 12.285, 12.340, and 12.380, Florida Family Law Rules of Procedure, and rules 1.280, 1.340, and 1.380, Florida Rules of Civil Procedure.

Special notes...

In addition to the standard questions in this form, you may ask up to 10 additional questions. You should type or print legibly your additional questions on a separate sheet of paper and attach it to this form. If you want to ask more than 10 additional questions, you will need to get permission from the judge.

You may want to inform the other party of the following information: As a general rule, within **30 days** after service of interrogatories, the other party must answer the questions in writing and mail (have postmarked) the answers to you. His or her answers shall be written in the blank space provided after each separately numbered interrogatory. If sufficient space is not provided, the answering party may attach additional papers with the answers and refer to them in the space provided in the interrogatories. He or she should be sure to make a copy for him/herself. All answers to these questions are made under oath or affirmation as to their truthfulness. Each question must be answered separately and as completely as the available information permits. The original of the answers to the interrogatories is to be provided to the

requesting party. Do not file the original or a copy with the clerk of the circuit court except as provided in Florida Rule of Civil Procedure 1.340(c). The other party may object to a question by writing the legal reason for the objection in the space provided. He or she may also ask the court for a protective order granting him or her permission not to answer certain questions and protecting him or her from annoyance, embarrassment, apprehension, or undue burden or expense. If the other party fails to either answer or object to the questions within 30 days, he or she may be subject to court sanctions.

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of **Disclosure from Nonlawyer**,  Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

**STANDARD FAMILY LAW INTERROGATORIES
FOR ORIGINAL OR ENFORCEMENT PROCEEDINGS**

TO BE COMPLETED BY THE PARTY SERVING THESE INTERROGATORIES						
I am requesting that the following standard questions be answered: [<input type="checkbox"/> all that apply]						
_____ 1 Background Information	_____ 2 Education	_____ 3 Employment	_____ 4 Assets	_____ 5 Liabilities	_____ 6 Miscellaneous	_____ 7 Long Form Affidavit
In addition, I am requesting that the attached {#} _____ questions be answered.						

The answers to the following questions are intended to supplement the information provided in the Financial Affidavits, ~~and~~ Florida Family Law Rules of Procedure Form 12.902(b) or (c). You should answer the group of questions indicated in the above shaded box. The questions should be answered in the blank space provided below each separately numbered question. If sufficient space is not provided, you may attach additional papers with the answers and refer to them in the space provided in the interrogatories. You should be sure to make a copy for yourself. Each question must be answered separately and as completely as the available information permits. All answers are to be made under oath or affirmation as to their truthfulness.

I, {name of person answering interrogatories} _____,
being sworn, certify that the following information is true:

1. **BACKGROUND INFORMATION:**

- State your full legal name and any other name by which you have been known.
- State your present residence and telephone numbers.
- State your place and date of birth.

2. **EDUCATION:**

- List all business, commercial, and professional licenses that you have obtained.
- List all of your education including, but not limited to, vocational or specialized training, including the following:

- (1) name and address of each educational institution.
- (2) dates of attendance.
- (3) degrees or certificates obtained or anticipated dates of same.

3. **EMPLOYMENT:**

a. For each place of your employment or self-employment during the last 3 years, state the following:

- (1) name, address, and telephone number of your employer.
- (2) dates of employment.
- (3) job title and brief description of job duties.
- (4) starting and ending salaries.
- (5) name of your direct supervisor.
- (6) all benefits received, including, for example, health, life, and disability insurance; expense account; use of automobile or automobile expense reimbursement; reimbursement for travel, food, or lodging expenses; payment of dues in any clubs or associations; and pension or profit sharing plans.

b. Other than as an employee, if you have been engaged in or associated with any business, commercial, or professional activity within the last 3 years that was not detailed above, state for each such activity the following:

- (1) name, address, and telephone number of each activity.
- (2) dates you were connected with such activity.
- (3) position title and brief description of activities.
- (4) starting and ending compensation.
- (5) name of all persons involved in the business, commercial, or professional activity with you.
- (6) all benefits and compensation received, including, for example, health, life, and disability insurance; expense account; use of automobile or automobile expense reimbursement; reimbursement for travel, food, or lodging expenses; payment of dues in any clubs or associations; and pension or profit sharing plans.

c. If you have been unemployed at any time during the last 3 years, state the dates of unemployment. If you have not been employed at any time in the last 3 years, give the information requested above in question 3.a for your last period of employment.

4. **ASSETS:**

a. **Real Estate.** State the street address, if any, and if not, the legal description of all real property that you own or owned during the last 3 years. For each property, state the following:

- (1) the names and addresses of any other persons or entities holding any interest and their percentage of interest.
- (2) the purchase price, the cost of any improvements made since it was purchased, and the amount of any depreciation taken.
- (3) the fair market value on the date of your separation from your spouse.
- (4) the fair market value on the date of the filing of the petition for dissolution of marriage.

b. **Tangible Personal Property.** List all items of tangible personal property that are owned by you or in which you have had any interest during the last 3 years including, but not limited to, motor vehicles, tools, furniture, boats, jewelry, art objects or other collections, and collectibles whose fair market value exceeds \$100. For each item, state the following:

- (1) the percentage and type interest you hold.
- (2) the names and addresses of any other persons or entities holding any interest.
- (3) the date you acquired your interest.
- (4) the purchase price.
- (5) the present fair market value.

- (6) the fair market value on the date of your separation from your spouse.
- (7) the fair market value on the date of the filing of the petition for dissolution of marriage.

c. **Intangible Personal Property.** Other than the financial accounts (checking, savings, money market, credit union accounts, retirement accounts, or other such cash management accounts) listed in the answers to interrogatories 4.d and 4.e below, list all items of intangible personal property that are owned by you or in which you have had any ownership interest (including closed accounts) within the last 3 years, including but not limited to, partnership and business interests (including good will), deferred compensation accounts unconnected with retirement, including but not limited to stock options, sick leave, and vacation pay, stocks, stock funds, mutual funds, bonds, bond funds, real estate investment trust, receivables, certificates of deposit, notes, mortgages, and debts owed to you by another entity or person. For each item, state the following:

- (1) the percentage and type interest you hold.
- (2) the names and addresses of any other persons or entities holding any interest and the names and addresses of the persons and entities who are indebted to you.
- (3) the date you acquired your interest.
- (4) the purchase price, acquisition cost, or loaned amount.
- (5) the fair market value or the amounts you claim are owned by or owed to you:
 - (a) presently, at the time of answering these interrogatories.
 - (b) on the date of your separation from your spouse.
 - (c) on the date of the filing of the petition for dissolution of marriage.

You may comply with this interrogatory (4.c) by providing copies of all periodic (monthly, quarterly, semi-annual, or annual) account statements for each such account for the preceding 3 years. However, if the date of acquisition, the purchase price and the market valuations are not clearly reflected in the periodic statements which are furnished then these questions must be answered separately. You do not have to resubmit any periodic statements previously furnished under rule 12.285 (Mandatory Disclosure).

d. **Retirement Accounts:** List all information regarding each retirement account/plan, including but not limited to defined benefit plans, 401k, 403B, IRA accounts, pension plans, Florida Retirement System plans (FRS), Federal Government plans, money purchase plans, HR10 (Keogh) plans, profit sharing plans, annuities, employee savings plans, etc. that you have established and/or that have been established for you by you, your employer, or any previous employer. For each account, state the following:

- (1) the name and account number of each account/plan and where it is located.
- (2) the type of account/plan.
- (3) the name and address of the fiduciary plan administrator/service representative.
- (4) the fair market value of your interest in each account/plan.
 - (a) present value
 - (b) value on the date of separation
 - (c) value on the date of filing of the petition for dissolution of marriage
- (5) whether you are vested or not vested; and if vested, in what amount, as of a certain date and the schedule of future vesting.
- (6) the date at which you became/become eligible to receive some funds in this account/plan.
- (7) monthly benefits of the account/plan if no fair market value is ascertained.
- (8) beneficiary(ies) and/or alternate payee(s).

e. **Financial Accounts.** For all financial accounts (checking, savings, money market, credit union accounts, or other such cash management accounts) listed in your Financial Affidavit, in which you have had any legal or equitable interest, regardless of whether the interest is or was held in your own name individually, in your name with another person, or in any other name, give the following:

- (1) name and address of each institution.
- (2) name in which the account is or was maintained.
- (3) account numbers.
- (4) name of each person authorized to make withdrawals from the accounts.
- (5) highest balance within each of the preceding 3 years.
- (6) lowest balance within each of the preceding 3 years.

You may comply with this interrogatory (4.e) by providing copies of all periodic (monthly, quarterly, semi-annual, or annual) account statements for each such account for the preceding 3 years. You do not have to resubmit account statements previously furnished pursuant to rule 12.285 (Mandatory Disclosure).

f. Closed Financial Accounts. For all financial accounts (checking, savings, money market, credit union accounts, or other such cash management accounts) closed within the last 3 years, in which you have had any legal or equitable interest, regardless of whether the interest is or was held in your own name individually, in your name with another person, or in any other name, give the following:

- (1) name and address of each institution.
- (2) name in which the account is or was maintained.
- (3) account numbers.
- (4) name of each person authorized to make withdrawals from the accounts.
- (5) date account was closed.

g. Trust. For any interest in an estate, trust, insurance policy, or annuity, state the following:

- (1) If you are the beneficiary of any estate, trust, insurance policy, or annuity, give for each one the following:
 - (a) identification of the estate, trust, insurance policy, or annuity.
 - (b) the nature, amount, and frequency of any distributions of benefits.
 - (c) the total value of the beneficiaries' interest in the benefit.
 - (d) whether the benefit is vested or contingent.
- (2) If you have established any trust or are the trustee of a trust, state the following:
 - (a) the date the trust was established.
 - (b) the names and addresses of the trustees.
 - (c) the names and addresses of the beneficiaries.
 - (d) the names and addresses of the persons or entities who possess the trust documents.
 - (e) each asset that is held in each trust, with its fair market value.

h. Canceled Life Insurance Policies. For all policies of life insurance within the preceding 3 years that you no longer hold, own, or have any interest in, state the following:

- (1) name of company that issued the policy and policy number.
- (2) name, address, and telephone number of agent who issued the policy.
- (3) amount of coverage.
- (4) name of insured.
- (5) name of owner of policy.
- (6) name of beneficiaries.
- (7) premium amount.
- (8) date the policy was surrendered.
- (9) amount, if any, of monies distributed to the owner.

i. Name of Accountant, Bookkeeper, or Records Keeper. State the names, addresses, and telephone numbers of your accountant, bookkeeper, and any other persons who possess your financial records, and state which records each possesses.

j. Safe Deposit Boxes, Lock Boxes, Vaults, Etc. For all safe deposit boxes, lock boxes, vaults, or similar types of depositories, state the following:

- (1) The names and addresses of all banks, depositories, or other places where, at any time during the period beginning 3 years before the initiation of the action, until the date of your answering this interrogatory, you did any of the following:

- (a) had a safe deposit box, lock box, or vault.
 - (b) were a signatory or co-signatory on a safe deposit box, lock box, or vault.
 - (c) had access to a safe deposit box, lock box, or vault.
 - (d) maintained property.
- (2) The box or identification numbers and the name and address of each person who has had access to any such depository during the same time period.
 - (3) All persons who have possession of the keys or combination to the safe deposit box, lock box, or vault.
 - (4) Any items removed from any safe deposit boxes, lock boxes, vaults, or similar types of depositories by you or your agent during that time, together with the present location and fair market value of each item.
 - (5) All items in any safe deposit boxes, lock boxes, vaults, or similar types of depositories and fair market value of each item.

5. **LIABILITIES:**

a. **Loans, Liabilities, Debts, and Other Obligations.** For all loans, liabilities, debts, and other obligations (other than credit cards and charge accounts) listed in your Financial Affidavit, indicate for each the following:

- (1) name and address of the creditor.
- (2) name in which the obligation is or was incurred.
- (3) loan or account number, if any.
- (4) nature of the security, if any.
- (5) payment schedule.
- (6) present balance and current status of your payments.
- (7) total amount of arrearage, if any.
- (8) balance on the date of your separation from your spouse.
- (9) balance on the date of the filing of the petition for dissolution of marriage.

You may comply with this interrogatory (5.a) by providing copies of all periodic (monthly, quarterly, semi-annual, or annual) account statements for each such account for the preceding 3 years. You do not have to resubmit account statements previously furnished under rule 12.285 (Mandatory Disclosure).

b. Credit Cards and Charge Accounts. For all financial accounts (credit cards, charge accounts, or other such accounts) listed in your Financial Affidavit, in which you have had any legal or equitable interest, regardless of whether the interest is or was held in your own name individually, in your name with another person, or in any other name, give the following:

- (1) name and address of the creditor.
- (2) name in which the account is or was maintained.
- (3) names of each person authorized to sign on the accounts.
- (4) account numbers.
- (5) present balance and current status of your payments.
- (6) total amount of arrearage, if any.
- (7) balance on the date of your separation from your spouse.
- (8) balance on the date of the filing of the petition for dissolution of marriage.
- (9) highest and lowest balance within each of the preceding 3 years.

You may comply with this interrogatory (5.b) by providing copies of all periodic (monthly quarterly, semi-annual, or annual) account statements for each such account for the preceding 3 years. You do not have to resubmit account statements previously furnished under rule 12.285 (Mandatory Disclosure).

c. Closed Credit Cards and Charge Accounts. For all financial accounts (credit cards, charge accounts, or other such accounts) closed with no remaining balance, within the last 3 years, in which you have had any legal or equitable interest, regardless of whether the interest is or was held in your own name individually, in your name with another person, or in any other name, give the following:

- (1) name and address of each creditor.
- (2) name in which the account is or was maintained.
- (3) account numbers.
- (4) names of each person authorized to sign on the accounts.
- (5) date the balance was paid off.
- (6) amount of final balance paid off.

You may comply with this interrogatory (5.c) by providing copies of all periodic (monthly, quarterly, semi-annual, or annual) account statements for each such

account for the preceding 3 years. You do not have to resubmit account statements previously furnished under rule 12.285 (Mandatory Disclosure).

6. **MISCELLANEOUS:**

- a. If you are claiming ~~a special equity in any assets, list the asset, the amount claimed as special equity,~~an unequal distribution of marital property or enhancement or appreciation of nonmarital property, state the amount claimed and all facts upon which you rely in your claim.
- b. If you are claiming an asset or liability is nonmarital, list the asset or liability and all facts upon which you rely in your claim.
- c. If the mental or physical condition of a spouse or child is an issue, identify the person and state the name and address of all health care providers involved in the treatment of that person for said mental or physical condition.
- d. If custody of minor children is an issue, state why, and the facts that support your contention that you should be the primary residential parent or have sole parental responsibility of the child(ren).

7. **LONG FORM AFFIDAVIT:** If you filed the short form affidavit, Florida Family Law Rules of Procedure Form 12.902(b), and you were specifically requested in the Notice of Service of Standard Family Law Interrogatories to file the Long Form Affidavit, Form 12.902(c), you must do so within the time to serve the answers to these interrogatories.

I certify that a copy of this document was [**one** only] () mailed () faxed and mailed () hand delivered to the person(s) listed below on *{date}* _____.

Other party or his/her attorney:

Name: _____

Address: _____

City, State, Zip: _____

Fax Number: _____

I understand that I am swearing or affirming under oath to the truthfulness of the answers to these interrogatories and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Party
Printed Name: _____
Address: _____
City, State, Zip: _____
Telephone Number: _____
Fax Number: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of notary or deputy clerk.]

____ Personally known
____ Produced identification
____ Type of identification produced _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW: [fill in **all** blanks]

I, {full legal name and trade name of nonlawyer} _____,
a nonlawyer, located at {street} _____, {city} _____,
{state} _____, {phone} _____, helped {name} _____,
who is the [**one** only] _____ petitioner **or** _____ respondent, fill out this form.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.932,
CERTIFICATE OF COMPLIANCE WITH MANDATORY DISCLOSURE

When should this form be used?

Mandatory disclosure requires each **party** in a **dissolution of marriage** case to provide the other party with certain financial information and documents. These documents must be provided by mail or hand delivery to the other party within 45 days of **service** of the petition for **dissolution of marriage** or supplemental petition for modification on the **respondent**. The mandatory disclosure rule applies to all original and **supplemental** dissolution of marriage cases, except simplified dissolution of marriage cases and cases where the respondent is served by **constructive service** and does not answer. You should use this form to notify the court and the other party that you have complied with the mandatory disclosure rule.

Each party must provide the other party with the documents listed in section 2 of this form if the relief being sought is permanent regardless of whether it is an initial or supplemental proceeding. Of the documents listed on this form, the **financial affidavit and child support guidelines worksheet** are the only documents that must be **filed** with the court **and** sent to the other party; all other documents should be sent to the other party but not filed with the court. If your individual gross annual income is under \$50,000, you should complete the **Family Law Financial Affidavit (Short Form)**, Florida Family Law Rules of Procedure Form 12.902(b). If your individual gross annual income is \$50,000 or more, you should complete the **Family Law Financial Affidavit**, Florida Family Law Rules of Procedure Form 12.902(c).

In addition, there are separate mandatory disclosure requirements that apply to **temporary financial hearings**, which are listed in section 1 of this form. The party seeking temporary financial relief must serve these documents on the other party with the notice of temporary financial hearing. The responding party must either deliver the required documents to the party seeking temporary relief on or before 5:00 p.m., 2 business days before the hearing on temporary relief, **or** mail (postmark) them to the other party seeking temporary relief 7 days before the hearing on temporary financial relief. Any documents that have already been served under the requirements for temporary or initial proceedings, do not need to be reserved again in the same proceeding. If a supplemental petition is filed, seeking modification, then the mandatory disclosure requirements begin again.

This form should be typed or printed in black ink. After completing this form, you should **file** the original with the **clerk of the circuit court** in the county where your case is filed and keep a copy for your records. A copy of this form must be mailed **or** hand delivered to any other party in your case.

What should I do next?

After you have provided the other party all of the financial information and documents and have filed this form certifying that you have complied with this rule, you are under a continuing duty to promptly give the other party any information or documents that change your financial status or that make the information already provided inaccurate. You should not file with the clerk any of the documents listed in the certificate of compliance other than the financial affidavit and child support guidelines worksheet. Refer to the instructions regarding the **petition** in your case to determine how you should proceed after filing this form.

Where can I look for more information?

Before proceeding, you should read “General Information for Self-Represented Litigants” found at the beginning of these forms. For further information, see rule 12.285, Florida Family Law Rules of Procedure.

Special notes...

You may provide copies of required documents; however, the originals must be produced for inspection if the other party requests to see them.

Although the financial affidavits are based on individual gross income, either party may ask the other party to complete the **Family Law Financial Affidavit**, Florida Family Law Rules of Procedure Form 12.902(c), by serving the appropriate interrogatory form. (See **Standard Family Law Interrogatories**, Florida Family Law Rules of Procedure Form 12.930(b) (original proceedings) or (c) (modification proceedings)).

Any portion of the mandatory disclosure rule may be modified by order of the **judge** or agreement of the parties. Therefore, you and your **spouse** may agree that you will not require each other to produce the documents required under the mandatory disclosure rule. This exception does **not** apply to the **Financial Affidavit**, Family Law Rules of Procedure Form 12.902(b) or (c), which is required in all cases and cannot be waived.

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

CERTIFICATE OF COMPLIANCE WITH MANDATORY DISCLOSURE

I, *{full legal name}* _____, certify that I have complied with the mandatory disclosure required by Florida Family Law Rule 12.285 as follows:

1. FOR TEMPORARY FINANCIAL RELIEF, ONLY:

The date the following documents were served: _____.

[all that apply]

- ___ a. Financial Affidavit (Filing of a Financial Affidavit cannot be waived.)
 - () Florida Family Law Rules of Procedure Form 12.902(b) (short form)
 - () Florida Family Law Rules of Procedure Form 12.902(c) (long form)
- ___ b. () All personal (1040) federal tax, gift tax, and intangible personal property tax returns for the preceding year; or
 - () Transcript of tax return as provided by IRS form 4506-T; or
 - () IRS forms W-2, 1099, and K-1 for the past year because the income tax return for the past year has not been prepared.
- ___ c. Pay stubs or other evidence of earned income for the 3 months before the service of the financial affidavit.

2. FOR INITIAL, SUPPLEMENTAL, AND PERMANENT FINANCIAL RELIEF:

The date the following documents were served: _____.

[all that apply]

- ___ a. Financial Affidavit (Filing of a Financial Affidavit cannot be waived.)
 - () Florida Family Law Rules of Procedure Form 12.902(b) (short form)
 - () Florida Family Law Rules of Procedure Form 12.902(c) (long form)
- ___ b. () All personal (1040) federal and state tax income returns, gift tax returns, and intangible personal property tax returns for the preceding 3 years;
 - () IRS forms W-2, 1099, and K-1 for the past year because the income tax return for the past year has not been prepared.
- ___ c. Pay stubs or other evidence of earned income for the 3 months before the service of the financial affidavit.
- ___ d. A statement identifying the source and amount of all income for the 3 months before the service of the financial affidavit, if not reflected on the pay stubs produced.
- ___ e. All loan applications and financial statements prepared for any purpose or used for any purpose within the 12 months preceding the service of the financial affidavit.

- ___ f. All deeds to real estate in which I presently own or owned an interest within the past 3 years. All promissory notes in which I presently own or owned an interest within the last 12 months. All present leases in which I own an interest.
- ___ g. All periodic statements for the last 3 months for all checking accounts and for the last year for all savings accounts, money market funds, certificates of deposit, etc.
- ___ h. All brokerage account statements for the last 12 months.
- ___ i. Most recent statement for any pension, profit sharing, deferred compensation, or retirement plan (for example, IRA, 401(k), 403(b), SEP, KEOGH, etc.) and summary plan description for any such plan in which I am a participant or alternate payee.
- ___ j. The declaration page, the last periodic statement, and the certificate for any group insurance for all life insurance policies insuring my life or the life of me or my spouse.
- ___ k. All health and dental insurance cards covering either me or my spouse and/or our dependent child(ren).
- ___ l. Corporate, partnership, and trust tax returns for the last 3 tax years, in which I have an ownership or interest greater than or equal to 30%.
- ___ m. All credit card and charge account statements and other records showing my (our) indebtedness as of the date of the filing of this action and for the prior 3 months. All promissory notes on which I presently owe or owned within the past year. All lease agreements I presently owe.
- ___ n. All premarital and marital agreements between the parties to this case.
- ___ o. If a modification proceeding, all written agreements entered into between the parties at any time since the order to be modified was entered.
- ___ p. All documents and tangible evidence relating to claims for ~~special equity~~ an unequal distribution of marital property, enhancement or appreciation in nonmarital property, or nonmarital status of an asset or debt.
- ___ q. Any court order directing that I pay or receive spousal support (alimony) or child support.

I certify that a copy of this document was [one only] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____.

I understand that I am swearing or affirming under oath to the accuracy of my compliance with the mandatory disclosure requirements of Fla. Fam. L. R. P. 12.285 and that, unless otherwise indicated with specificity, this disclosure is complete. I further understand that the punishment for knowingly making a false statement or incomplete disclosure includes fines and/or imprisonment.

Other party or his/her attorney:

Name: _____
 Address: _____
 City, State, Zip: _____
 Fax Number: _____
 Dated: _____

 Signature of Party
 Printed Name: _____
 Address: _____
 City, State, Zip: _____
 Telephone Number: _____
 Fax Number: _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of
notary or clerk.]

____ Personally known
____ Produced identification
____ Type of identification produced _____

**IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN
THE BLANKS BELOW:** [fill in **all** blanks]

I, *{full legal name and trade name of nonlawyer}* _____,
a nonlawyer, located at *{street}* _____, *{city}* _____,
{state} _____, *{phone}* _____, helped *{name}* _____,
who is the [**one** only] ___ petitioner **or** ___ respondent, fill out this form.

APPENDIX C

Proposed rule

Reasons for change

RULE 12.285. MANDATORY DISCLOSURE

(a) [No change]

(b) [No change]

(c) [No change]

(d) **Parties' Disclosure Requirements for Initial or Supplemental Proceedings.** A party shall serve the following documents in any proceeding for an initial or supplemental request for permanent financial relief, including, but not limited to, a request for child support, alimony, equitable distribution of assets or debts, or attorneys' fees, suit money, or costs:

(1) – (14) [No change]

(15) All documents and tangible evidence supporting the producing party's claim ~~of special equity or nonmarital status of an asset or debt~~ that an asset or liability is nonmarital, for enhancement or appreciation of nonmarital property, or for an unequal distribution of marital property. The documents and tangible evidence produced shall be for the time period from the date of acquisition of the asset or debt to the date of production or from the date of the marriage, if based on premarital acquisition.

(16) [No change]

Amended to conform to creation of section 61.075, Florida Statutes, by section 1 of Chapter 2008-46, Laws of Florida.
Amended to conform to creation of section 61.075, Florida Statutes, by section 1 of Chapter 2008-46, Laws of Florida.

(e) [No change]

(f) [No change]

(g) [No change]

(h) [No change]

(i) [No change]

(j) [No change]

(k) [No change]

(l) [No change]

Commentary

[No change]

Committee Notes

[No change]

APPENDIX D

1

2 An act relating to dissolution of marriage; amending s.
3 [61.075](#), F.S.; providing for interim partial distributions
4 during dissolution actions; providing for motions;
5 providing for effect on final distributions; providing
6 factors to be considered; revising the definition of the
7 term "marital assets and liabilities"; conforming
8 provisions to the abolition of special equity; providing a
9 presumption concerning certain personal property acquired
10 during the marriage; specifying the burden of proof
11 necessary to overcome the gift presumption; abolishing
12 special equity; providing for claims formerly identified
13 as special equity; amending s. [741.0306](#), F.S.; conforming
14 provisions to the abolition of special equity; providing
15 an effective date.

16

17 Be It Enacted by the Legislature of the State of Florida:

18

19 Section 1. Subsections (5) through (9) of section [61.075](#),
20 Florida Statutes, are redesignated as subsections (6) through
21 (10), respectively, a new subsection (5) is added to that
22 section, paragraph (a) of present subsection (5) of that section
23 is amended, and subsection (11) is added to that section, to
24 read:

25 61.075 Equitable distribution of marital assets and
26 liabilities.--

27 (5) If the court finds good cause that there should be an
28 interim partial distribution during the pendency of a dissolution
29 action, the court may enter an interim order that shall identify
30 and value the marital and nonmarital assets and liabilities made
31 the subject of the sworn motion, set apart those nonmarital
32 assets and liabilities, and provide for a partial distribution of
33 those marital assets and liabilities. An interim order may be
34 entered at any time after the date the dissolution of marriage is
35 filed and served and before the final distribution of marital and
36 nonmarital assets and marital and nonmarital liabilities.

37 (a) Such an interim order shall be entered only upon good
38 cause shown and upon sworn motion establishing specific factual
39 basis for the motion. The motion may be filed by either party and
40 shall demonstrate good cause why the matter should not be
41 deferred until the final hearing.

42 (b) The court shall specifically take into account and give
43 appropriate credit for any partial distribution of marital assets
44 or liabilities in its final allocation of marital assets or
45 liabilities. Further, the court shall make specific findings in
46 any interim order under this section that any partial
47 distribution will not cause inequity or prejudice to either party
48 as to either party's claims for support or attorney's fees.

49 (c) Any interim order partially distributing marital assets

50 or liabilities as provided in this subsection shall be pursuant
51 to and comport with the factors in subsections (1) and (3) as
52 such factors pertain to the assets or liabilities made the
53 subject of the sworn motion.

54 (d) As used in this subsection, the term "good cause" means
55 extraordinary circumstances that require an interim partial
56 distribution.

57 (6)(5) As used in this section:

58 (a) 1. "Marital assets and liabilities" include:

59 a.1. Assets acquired and liabilities incurred during the
60 marriage, individually by either spouse or jointly by them. ;

61 b.2. The enhancement in value and appreciation of
62 nonmarital assets resulting either from the efforts of either
63 party during the marriage or from the contribution to or
64 expenditure thereon of marital funds or other forms of marital
65 assets, or both. ;

66 c.3. Interspousal gifts during the marriage. ;

67 d.4. All vested and nonvested benefits, rights, and funds
68 accrued during the marriage in retirement, pension, profit-
69 sharing, annuity, deferred compensation, and insurance plans and
70 programs. ; ~~and~~

71 2.5. All real property held by the parties as tenants by
72 the entirety, whether acquired prior to or during the marriage,
73 shall be presumed to be a marital asset. If, in any case, a party
74 makes a claim to the contrary, the burden of proof shall be on

75 the party asserting the claim that the subject property, or some
76 portion thereof, is nonmarital ~~for a special equity~~.

77 3. All personal property titled jointly by the parties as
78 tenants by the entireties, whether acquired prior to or during
79 the marriage, shall be presumed to be a marital asset. In the
80 event a party makes a claim to the contrary, the burden of proof
81 shall be on the party asserting the claim that the subject
82 property, or some portion thereof, is nonmarital.

83 4. The burden of proof to overcome the gift presumption
84 shall be by clear and convincing evidence.

85 (11) Special equity is abolished. All claims formerly
86 identified as special equity, and all special equity
87 calculations, are abolished and shall be asserted either as a
88 claim for unequal distribution of marital property and resolved
89 by the factors set forth in subsection (1) or as a claim of
90 enhancement in value or appreciation of nonmarital property.

91 Section 2. Paragraph (e) of subsection (3) of section
92 [741.0306](#), Florida Statutes, is amended to read:

93 [741.0306](#) Creation of a family law handbook.--

94 (3) The information contained in the handbook or other
95 electronic media presentation may be reviewed and updated
96 annually, and may include, but need not be limited to:

97 (e) Property rights, including equitable distribution,
98 ~~special equity~~, premarital property, and nonmarital property.

99 Section 3. This act shall take effect July 1, 2008.

I certify that these rules and forms were read against West's *Florida Rules of Court – State* (2008).

Ellen H. Sloyer, Associate Editor
Legal Publications
The Florida Bar