

PRETRIAL CONSIDERATIONS
IN DOMESTIC LAW CASES
or Creating and Implementing Rule 108/Rule 26A

- I. Introduction
- II. The creation or Why now?
- III. The details
- IV. The dilemmas
- V. The process or What's next?
- VI. Conclusion
- VII. Questions/Comments

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OR Rule 210A?

1 Rule 108. Disclosure in domestic relations actions.

2 (a) Scope. This rule applies to domestic relations actions, including divorce,
3 temporary separation, separate maintenance, parentage and modification. This rule
4 does not apply to adoptions, enforcement of prior orders, cohabitant abuse protective
5 orders, child protective orders and civil stalking injunctions.

6 (b) Time for disclosure. Without waiting for a discovery request, petitioner in all
7 domestic relations actions shall disclose to respondent the documents required in this
8 rule within 40 days after service of the petition unless respondent defaults or consents
9 to entry of the decree. The respondent shall disclose to petitioner the documents
10 required in this rule within 40 days after respondent's answer is due.

11 (c) Financial Declaration. Each party shall disclose to all other parties a fully
12 completed court-approved Financial Declaration and attachments. Each party shall
13 attach to the Financial Declaration the following:

14 (c)(1) For every item and amount listed in the Financial Declaration, excluding
15 monthly expenses, the producing party shall attach copies of statements verifying the
16 amounts listed on the Financial Declaration that are reasonably available to the party.

17 (c)(2) All federal and state income tax returns filed by that party, on behalf of that
18 party, and any returns in which that party has a business, corporate, partnership or trust
19 interest including all W-2s, 1099s, K-1s and all supporting tax schedules for the two tax
20 years before the petition was filed.

21 (c)(3) Pay stubs and other evidence of all earned and un-earned income for the 12
22 months before the petition was filed.

23 (c)(4) All loan applications and financial statements prepared or used by the party
24 within the 12 months before the petition was filed.

25 (c)(5) Documents verifying the value of all real estate in which the party has an
26 interest, including, but not limited to, the most recent appraisal, tax valuation and
27 refinance documents.

28 (c)(6) All statements for the 3 months before the petition was filed for all financial
29 accounts, including, but not limited to checking, savings, money market funds,
30 certificates of deposit, brokerage, investment, retirement, regardless of whether the
31 account has been closed including those held in that party's name, jointly with another

32 person or entity, or as a trustee or guardian, or in someone else's name on that party's
33 behalf.

34 (c)(7) If the foregoing documents are not reasonably available or are in the
35 possession of the other party, the party disclosing the Financial Declaration shall
36 estimate the amounts entered on the Financial Declaration, the basis for the estimation
37 and an explanation why the documents are not available.

38 (d) Certificate of Service. Each party shall file a Certificate of Service with the court
39 certifying that he or she has provided the Financial Declaration and attachments to the
40 other party in compliance with this rule.

41 (e) Exempted agencies. Agencies of the State of Utah are not subject to these
42 disclosure requirements.

43 (f) Sanctions. Failure to fully disclose all assets and income in the Financial
44 Declaration and attachments may subject the non-disclosing party to sanctions under
45 Rule 37 including an award of non-disclosed assets to the other party, attorney's fees or
46 other sanctions deemed appropriate by the court.

47 (g) Failure of a party to comply with this rule does not preclude any other party from
48 obtaining a default judgment, proceeding with the case, or seeking other relief from the
49 court.

50 (h) Notice of the requirements of this rule shall be served on the Respondent and all
51 joined parties with the initial petition.

52 Advisory Committee Notes

53 (c)(3): Refer to statutory definition