

How to Prepare Your Case Information Statement

By: John E. Finnerty, Jr., Esq. and Neeli Berger Margolis, Esq.

All litigants in contested family actions involving support, alimony, or equitable distribution must complete Case Information Statements (CIS). While the Court Rules direct that these statements be filed with the County Clerk at the beginning of the litigation, you are under a continuing duty to inform the Court of any changes in the information contained in your CIS. Thus, as discovery unfolds and additional facts are revealed, your CIS typically will be amended.

I. The Purpose of the CIS

The CIS is intended to provide the Court with pertinent personal and financial information and to alert the Court to specific or special issues in the case. While you must be truthful when completing the CIS, it is essential that you understand that the CIS is an advocacy tool. For instance, this statement can be supplemented with additional statements in the form of riders that support your legal position and provide the Court with additional relevant explanation or clarification. Further, it must be noted that the CIS is completed and signed by the party under oath and the penalties of perjury. Therefore, if there is knowingly erroneous material in the form, it can be used to impeach your credibility at trial.

Lawyers work carefully with clients to make sure that information is presented accurately, in the proper context, and that it is crafted in a fashion that enables appropriate advocacy of the clients' interests. Too frequently, attorneys turn a CIS over to a client, tell them to fill it out, and then present what is returned without careful review and analysis. Such an approach is antithetical to proper presentation which maximize your chances for appropriate recovery in the case.

II. Dissecting the CIS

The CIS is comprised of six separate parts. The following is a discussion of each part.

Part A: Case Information

This part sets forth basic information about the litigation, including the date of the present statement, the parties' birthdays, the date of the complaint and the parties' separation, the issues in dispute in the matter, and the names and ages of the children born to the parties (including the names and ages of children born outside the marriage).

Part B: Miscellaneous Information

This part sets forth the party's address, employer, insurance coverage, and other personal information.

Part C: Income Information:

This part sets forth, with respect to both parties (if such information is known), last year's income, present earned income, year to date earned and unearned income, and the history of any additional compensation (such as bonuses and other forms of supplemental compensation).

The information in this section is essential for determining child support obligations as dictated by the New Jersey Child Support Guidelines as well as determining a party's need or ability to pay spousal support. Often, riders will be added to this section of the CIS to illustrate to the Court any irregularities in income such as non-reoccurring bonuses.

Part D: Monthly Expenses

This part, which is often considered by the parties as the most difficult part to complete, is comprised of three schedules: shelter expenses, transportation expenses, and

personal expenses. The personal expenses schedule often provides clients with the most concern.

First, note that Part D is comprised of two columns one which requests monthly expenses reflecting the standard of the living established during the marriage and the other which requests current lifestyle expenses. The standard of living established during the marriage is generally understood as the lifestyle the parties enjoyed during the last three years of their marriage. The courts, however, may make look back a number of years and adjust accordingly if this three year period is comparatively more extravagant or comparatively more meager than the general lifestyle enjoyed by the parties during their marriage.

At the beginning of the case, with the drafting of the first CIS, it is unlikely that anyone knows, with even approximate accuracy, how much money they have customarily spent to maintain their lifestyle in the various personal categories described in the CIS. We suggest to clients that they review available documentation for an appropriate time period and attempt to provide estimates.

Of course, the numbers set forth throughout your CIS, including the personal expenses schedule, must be truthful and based upon supportable evidence. For instance, monthly expenses cannot exceed earned income. If they do, a rider explaining the source of income used to fund the lifestyle must be included.

The CIS is signed by you, under Oath. If you misrepresent facts or figures, you can be subject to impeachment at trial. Of course, as your counsel, we will review these forms carefully with you and interview and question you about the numbers and the basis you used

to arrive at these numbers. We will also include explanations where we believe them to be necessary.

Part E: Balance Sheet of Family Assets and Liabilities

This part of the CIS, which lists any and all assets and liabilities held by the parties (including ineligible assets and liabilities) is used to determine that parties' net worth. This schedule assists the parties' and their counsel (or the courts, if the matter is resolved by trial) in negotiating an equitable distribution of remaining assets and liabilities. Thus, it is essential that the parties fully disclose any and all assets. In fact, a property settlement agreement may be disregarded by the Court, if it is determined that a party did not fully disclose all assets and liabilities when the Agreement was negotiated. Similarly, if the matter of equitable distribution submitted to the courts, any willful nondisclosure of assets or liabilities can be used to impeach your credibility.

This balance sheet of assets and liabilities request the values of assets and debt amounts. The first step in completing this part of the CIS is to determine those assets or liabilities for which there are definite values (i.e., bank accounts, stock portfolios, 401(k), mortgage liability). Next, with respect to those assets or liabilities, designate a specific date (or dates close in time) and capture the values of those assets or remaining obligations on liabilities during that period. With respect to other assets for which there are no definite values (i.e., residences, business practices, jewelry, collections) it may be best to state that the values of these assets are unknown. Appraisals or evaluations may be necessary to determine the fair market value of such assets. When drafting your CIS, you should provide your counsel with an approximate value of those assets for which there is no definitive

value. Your counsel will then determine whether it is best to provide an approximate valuation or to mark the value of the asset as unknown.

Lastly, this listing requires that the assets and liabilities be designated as to ownership and eligibility (marital property). Marital property is subject to equitable distribution, but all properties may be considered with respect to support. Most assets and liabilities acquired during the marriage will be jointly held by the parties, and thus fully subject to equitable distribution between the parties. Some assets, such as inheritances that have not been commingled with marital property may be deemed separate and subject to equitable distribution. These are very fact sensitive issues and we work carefully with clients to ask probing questions to obtain proper information, so that appropriate presentations can be made, both in the CIS and to the Courts.

Some assets, such as 401(k)s may be partially exempt from equitable distribution. By way of example, if you began to contribute to your 401(k) in January, 1982, were married in June, 1985, and filed your complaint for divorce in April, 2000, only the portion of the 401(k) created from June, 1985 through April, 2000, and only market appreciation or was attributable thereto, would be subject to equitable distribution. The remainder of the 401(k), earned both before the marriage and after the Complaint for Divorce was filed, and appreciation or loss thereon, is exempt from equitable distribution. In such situations, riders detailing dates of contribution, marriage and filing for divorce, supported by financial statements documenting valuations of the asset on the relevant dates, would be attached to the rider to calculate the amount which is exempt from equitable distribution. At a bare minimum, this would have to be done for purposes of proofs to the Court or to the other side, in connection with negotiation.

Similarly, if you used pre-marital assets to contribute to the purchase of another asset (like your marital residence) this contribution should be detailed through a rider, to help preserve the argument that a credit equal to that contribution should be granted to you at the time of equitable distribution.

Part F: Statement of Special Problems

The last part of the CIS is intended to provide litigants with the opportunity to discuss any particular problems or concerns that will effect the resolution of the remaining issues in conflict. Often in this part, a party made discuss any relevant medical problems which may preclude him or her from working, any discussion of special needs of the parties' children, any anticipated significant non-reoccurring expenses, or any other relevant information not already provided for in the CIS. Of course, statements of special need or medical conditions are often supported by a physicians report or similar evaluations. Such reports made be attached to the CIS or may be procured later on in the litigation.

Conclusion

Proper completion of the CIS is a formidable task. It must be completed carefully with the assistance of counsel and the basis of the factual information must be explained so that subsequent revisions made as additional information becomes available, are not inconsistent. CIS' are intended to provide the Court with succinct and encapsulated documentation supporting your position with respect to support, alimony or equitable distribution and if carefully prepared, can be an important advocacy tool.