



Fleury, Comery LLP
Barristers & Solicitors

FINANCIAL PRODUCTIONS IN MATRIMONIAL CASES

This memo reviews the financial documents you need to produce to support your case in a matrimonial matter. We hope it will assist in reducing the “back and forth” dialogue about supporting documentation and save our time, and your money.

The Financial Statement

It is almost always necessary to produce and exchange financial information as part of negotiating or litigating a matrimonial case. In the majority of cases, the best way to do so is to exchange sworn Financial Statements. Ontario's Family Court Rules provide for statements ([Form 13.1](#)) that show income, expenses, assets, debts and potential deductions. We suggest using them for all such purposes, because, when we have one in the file, we can proceed more quickly to court if negotiations fail.

General Approach

Please make production the default rule. Consider what you would yourself want to see from the other side to satisfy yourself as to their figures. If there are financial issues to discuss and resolve, then both sides need to be able to rely on the figures provided by the other.

Income

To support your income figures for a Family Rules Financial Statement, you are required to produce copies of:

- your tax returns for the last 3 years
- Notices of Assessment for those returns
- recent pay stubs from employment, or other proof of current income.

It is time-consuming and expensive if you do not provide these documents, because that means we have to correspond further with you.

Expenses

Your expenses compared with your income give us your budget. Do not exaggerate your expenses. It is not credible to see a budget that shows you going into debt at a significant rate..unless you can show that it is true! In cases that we anticipate can be settled, we do not ask our clients for documentation for expenses in the initial stages. If we have to prove expenses, we'll review and discuss the kind of proof we are looking for, such as household bills. We suggest that separated spouses do start keeping all their receipts and bills from the date of separation, in case we have to engage in this rather time-consuming exercise. One exception is daycare expenses: if you are claiming for such “extraordinary expenses” on top of Guideline Child Support (See our [Memos #1](#), and [#23](#)), then please provide your receipts immediately.

Assets

We would not recommend settling a division of net family property (see our [Memo #27](#)) without reasonable proof of the value of significant assets. The productions needed to prove some of the most common assets are discussed here.

-The House and/or Cottage: The property tax bill is a starting point. The assessed value is, however, usually low and you should estimate a somewhat higher value. Valuation is not a huge issue if the house is jointly owned, because when it is sold, the parties receive an equal share of the net proceeds in any event. If the value is contested, appraisals are required. Sometimes an agreed appraisal will suffice.

-Vehicles: Start with a reasonable estimate. If there is disagreement, buy the most recent Black Book or Red Book at Canadian Tire, and give us a copy of the relevant page.

-Pensions and Whole Life Insurance Policies: Pension entitlements and insurance policies with a savings aspect are considered assets. To start the necessary valuation process, you should provide your most recent issued statements for these assets and, if available, the booklets outlining the benefits. The pension will have to be valued by an actuary, and he or she starts from there.

-Accounts, Stocks, RRSP's: It surprises us that clients often neglect to give us the very obvious documentation for this kind of asset, i.e. statements covering the date of separation, and the current time.

-Business Interests: The expert valuation of a business is an expensive exercise, to be avoided if possible. Initially, produce its financial statements for the past 3 years (they may be included with your tax return in many cases), and ask your own accountant to estimate a value. Often that will suffice.

Debts and Other Deductions

The obvious documentation for debts is the statements for the date of separation and the current time. If you are claiming deductions from your net family property, such as assets brought into the marriage, or inheritances received during marriage, you had better be prepared to prove them very well. All paper records available should be produced. You may have to use some resourcefulness here, because banks only keep records for 6 years.

Summary

We recommend early and complete disclosure as part of a strategy to maintain momentum and a positive atmosphere in your matrimonial matter. Sometimes, this kind of behaviour and attitude is not reciprocated. We would like you, our client, to understand that no matter what kind of response we receive to this approach, it saves you money in the end, by leaving us in the best position to commence litigation, and by projecting an open, honest image for your case.

©FLEURY, COMERY LLP gem\office\#37FinancialProduction

**Edward R. Fleury, Q.C. ♦ William F. Comery, Q.C. (1930-2008) ♦ Gregory E. McConnell, M.A., LL.B.
Stephen P. Fleury, B.Sc., LL.B. ♦ Donald C. MacVicar, LL.B., LL.M.**

215 Morrish Road, Suite 104, Scarborough, Ontario, M1C 1E9
Telephone (416) 282-5754 Telecopier (416) 282-9906 E-mail thefirm@fleurcom.on.ca
Website: www.fleurcom.on.ca