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2023 Edition

Discovery (Financial) in Family Matters

A Guide to Resources in the Law Library

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Other Related [Family Law Research Guides](#):

- [Alimony in Connecticut](#)
- [Child Support in Connecticut](#)
- [Dissolution of Marriage](#)
- [Motion to Open Judgment in Family Matters](#) (Section 2: Postjudgment Discovery – Motion to Open Based on Fraud)

*Prepared by Connecticut Judicial Branch, Superior Court Operations,
Judge Support Services, Law Library Services Unit*

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Introduction

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- Discovery in Family Matters: “Except as otherwise provided in Section [25-33](#), the provisions of Sections [13-1](#) through [13-10](#) inclusive, [13-13](#) through [13-16](#) inclusive, and [13-17](#) through [13-32](#) of the rules of practice inclusive, shall apply to family matters as defined in Section [25-1](#).” Conn. Practice Book [§ 25-31](#) (2023).
- Definitions: “For purposes of this chapter, (1) ‘statement’ means (A) a written statement in the handwriting of the person making it, or signed, or initialed, or otherwise in writing adopted or approved by the person making it; or (B) a stenographic, mechanical, electrical or other recording or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and which is contemporaneously recorded; (2) ‘party’ means (A) a person named as a party in the action, or (B) an agent, employee, officer, or director of a public or private corporation, partnership, association, or governmental agency, named as a party in the action; (3) ‘representative’ includes agent, attorney, consultant, indemnitor, insurer, and surety; (4) ‘electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities; (5) ‘electronically stored information’ means information that is stored in an electronic medium and is retrievable in perceivable form.” Conn. Practice Book [§ 13-1](#) (2023).
- Scope of Discovery: “**In any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, a party may obtain in accordance with the provisions of this chapter discovery of information or disclosure, production and inspection of papers, books, documents and electronically stored information material to the subject matter involved in the pending action, which are not privileged, whether the discovery or disclosure relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, and which are within the knowledge, possession or power of the party or person to whom the discovery is addressed.**” Conn. Practice Book [§ 13-2](#) (2023).
- When Permitted: “**Discovery shall be permitted if the disclosure sought would be of assistance in the prosecution or defense of the action and if it can be provided by the disclosing party or person with substantially greater facility than it could otherwise be obtained by the party seeking disclosure. It shall not be ground for objection that the information sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.**” Conn. Practice Book [§ 13-2](#) (2023).
- Appeals: ““An order issued upon a motion for discovery is ordinarily not appealable because it does not constitute a final judgment, at least in civil actions.” (Internal quotation marks omitted.) [Ingels v. Saldana](#), 103 Conn. App. 724, 731, 930 A.2d 774 (2007); see [Chrysler Credit Corp. v. Fairfield Chrysler-Plymouth, Inc.](#), 180 Conn. 223, 226, 429 A.2d 478 (1980). As an interlocutory order, this discovery order would be immediately appealable only if it met the two part test articulated in [State v. Curcio](#), 191 Conn. 27, 31, 463 A.2d 566 (1983). See [Cruz v. Gonzalez](#), 40 Conn. App. 33, 35, 668 A.2d 739 (1995).” [Nowacki v. Nowacki](#), 129 Conn. App. 157, 162, 20 A. 3d 702 (2011).

Section 1: Mandatory Disclosure and Discovery in General

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources relating to the purpose and scope of discovery in general.

- DEFINITIONS:
- Discovery: "A formal request by one party in a lawsuit to disclose information or facts known by other parties or witnesses." [Common Legal Words](#), compiled by the Connecticut Judicial Branch.
 - Family Matters — Mandatory Disclosure and Production: "**Unless otherwise ordered by the judicial authority for good cause shown, upon request by a party involved in an action for dissolution of marriage or civil union, legal separation, annulment or support, or a post judgment motion for modification of alimony or support, opposing parties shall exchange the following documents within sixty days of such request . . .**" Conn. Practice Book [§ 25-32\(a\)](#) (2023).
 - Family Support Magistrate Matters — Standard Disclosure and Production: "**Upon request by a party or as ordered by the judicial authority, opposing parties shall exchange the following documents within thirty days of such request or such order . . .**" Conn. Practice Book [§ 25a-19](#) (2023).
 - Purpose of discovery in general: The "purpose of discovery is to find out additional facts about a well-pleaded claim, not to find out whether such a claim exists." [Abrahams v. Young & Rubicam](#), 979 F. Supp. 122 (D. Conn. 1997).
 - Interrogatories: "**are written questions propounded by one party and served upon the adverse party, who must serve written answers thereto under oath.**" [Neske v. Burns](#), 8 NJ Misc. 160, 149 A. 761 (1930).
 - Deposition: "**is the written testimony of a witness given in the course of a judicial proceeding and may be used at trial to test the credibility of the deponent as he testifies. . .** It may also be used in order to refresh the recollection of a witness. . . A deposition is testimony which remains in the custody of the clerk of the court and is not an exhibit unless offered into evidence." [Rybinski v. Supermarkets General Corp.](#), 2 Conn. App. 494, 495-496, 479 A.2d 1242, 1243 (1984). (Citations omitted; internal quotation marks omitted.)

- COURT RULES:
- Conn. Practice Book (2023)
 - [Chapter 13](#). Discovery and Depositions
 - § 13-1. Definitions
 - § 13-2. Scope of Discovery; In General
 - [Chapter 25](#). Procedure in Family Matters

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- § 25-31. Discovery and Depositions
- § 25-32. Mandatory Disclosure and Production
- § 25-32A. Discovery Noncompliance
- § 25-32B. Discovery – Special Master
- § 25-56. Production of Documents at Hearing or Trial

[Chapter 25a](#). Family Support Magistrate Matters

- § 25a-1. Family Support Magistrate Matters; Procedure
- § 25a-19. Standard Disclosure and Production
- § 25a-22. Interrogatories; In General
- § 25a-23. Answers to Interrogatories
- § 25a-24. Requests for Production, Inspection and Examination; In General
- § 25a-25. Order for Compliance; Failure to Answer or Comply with Order
- § 25a-26. Continuing Duty to Disclose
- § 25a-27. Depositions; In General
- § 25a-28. — Place of Deposition

COURT CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Cremins v. Cremins](#), Superior Court, Judicial District of New Britain, No. CV20-60606000-S (Dec 15, 2022) (2022 WL 18859671) (2022 Conn. Super. LEXIS 2909). “In the course of the dissolution proceedings, however, the plaintiff subpoenaed bank statements pertaining to the individual account of the defendant for the period from December 2019 through December 2020, into which his employer had deposited the defendant's net paychecks. Exhibit C. The defendant argues that, by way of these statements, the plaintiff should have been able to ascertain the defendant's real income for that period rather than relying on his misrepresentation made in the preliminary mediation session in December 2019. Consequently, he argues further, the defendant cannot be found to have engaged in fraud that affected the outcome of the judgment in this dissolution action.” (p.6)

“Although Connecticut courts have not directly addressed the issue as to whether a defrauded party who comes into actual possession of records relevant to the other party's fraudulent conduct, despite having no obligation to obtain them, has any obligation to use or examine them, the Appellate Court addressed a related issue in *Mecca v. Mecca*, 203 Conn. App. 541, 248 A.3d 772, cert. denied, 336 Conn. 940, 249 A.3d 352 (2021).” (p. 10)

“Looking at all the circumstances here, the court concludes that this is not such a case. What we have in this case is a false representation on the part of the defendant compounded by his failure to communicate to the plaintiff information in his possession that would have corrected the misrepresentation as to his annual income.” (p. 15)

- [Longbottom v. Longbottom](#), 197 Conn. App. 64, 231 A.3d 310 (2020). “The defendant's gross income and the

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proceeds from the sale of his stock options were disclosed in his financial affidavit, albeit in two different places. . . . Consequently, the plaintiff had the defendant's accurate **financial information during the hearing.'** The court acknowledged that, although the stock sale income and proceeds were in different places, they were indeed listed on the affidavit, and not omitted or concealed. The court also had the defendant's 2016 W-2 and tax returns, which showed the stock options he received as income. The court was aware of these facts prior to rendering judgment on the defendant's motion to modify, because they were raised by the plaintiff and addressed by both parties during the **hearing on the defendant's motion to modify."** (p. 75)

"In light of the evidence before the court in ruling on the plaintiff's motion to open the judgment on the basis of fraudulent nondisclosure, it was not an abuse of discretion for the court to conclude that the plaintiff had failed to establish the existence of probable cause that the defendant had fraudulently concealed information during the proceedings on his motion for modification of the parties' educational support order. In concluding that the plaintiff had failed to meet her burden to establish probable cause of fraudulent nondisclosure, the court also had no basis on which to modify, on the basis of fraud, its judgment on the educational support order. Accordingly, on the basis of the record and the facts before us, we cannot conclude that the court abused its discretion in denying the plaintiff's motions to open and to modify the judgment." (p. 76)

- [Lavy v. Lavy](#), 190 Conn. App. 186, 210 A.3d 98 (2019). **"Our rules of practice require that 'at the time a dissolution of marriage or civil union, legal separation or annulment action . . . is scheduled for a hearing, each party shall file. . . a sworn statement . . . of current income, expenses, assets and liabilities.'** Practice Book § 25-30. It is well settled that, in family relations matters, parties have an important and necessary obligation, both to the court and to each other, to be fulsome and honest regarding their financial disclosures because, in doing so, they help to reduce or eliminate the need for extensive financial discovery and the resulting inefficiencies and delays. . . ." (p. 200-201)

"In *Billington* [Billington v. Billington, 220 Conn. 212 (1991)] the court emphasized the heightened duty that parties have for full and frank disclosure on financial affidavits submitted in dissolution actions, and concluded that imposing a requirement on the opposing party to discover nondisclosures or other violations would be inconsistent with that duty." (p. 201)

"Even if he (plaintiff) was not aware of the status of the (savings) account at the time of dissolution or the balance of the funds in the account, he could have, through the exercise of due diligence, determined such information and

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disclosed it on his financial affidavit.” (p. 207)

- [Reinke v. Sing](#), 186 Conn. App. 665, 201 A.3d 404 (2018). “The defendant testified that he was self-represented at the time of the original dissolution trial and, in great detail, testified about the information that he provided on his financial affidavits in 2007 and why he set forth some of the inaccurate information about his income and assets. It suffices to observe that, with respect to the contested issue of fraud, the defendant attempted to demonstrate that his disclosures were made in good faith, even if some of them were incorrect because, for example, they were made in haste or upon incomplete information.” (p. 685)

“The court, having had a firsthand opportunity to observe the defendant and to evaluate his testimony, found that an underreporting of income and assets had occurred, but did not make findings that were consistent with the plaintiff’s argument that underreporting was accompanied by a fraudulent intent. **Far from there being ‘no evidence whatsoever’** that the defendant did not intend to defraud, as the plaintiff argues, the record contains evidence to support a finding that the underreporting of income and assets that occurred was not necessarily the result of fraud. The defendant’s testimony, and the inferences that the court reasonably could have drawn therefrom, support the court’s finding and, absent the type of compelling evidence of fraud that was presented in Weinstein, we are not persuaded that a factual mistake was made by the trial court.” (p.685-686)

- [Zoll v. Zoll](#), 112 Conn. App. 290, 962 A. 2d 871 (2009). “Our Supreme Court has ‘long recognized that the granting or denial of a discovery request rests in the sound discretion of the [trial] court, and is subject to reversal only if such an order constitutes an abuse of that discretion.... [I]t is only in rare instances that the trial court’s decision will be **disturbed.**’ (Internal quotation marks omitted.) *Blumenthal v. Kimber Manufacturing, Inc.*, 265 Conn. 1, 7, 826 A.2d 1088 (2003). Practice Book (2006) § 13-22 (a) provides in relevant part: ‘A party may serve . . . upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters relevant to the subject matter of the pending action set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the existence, due execution and genuineness of any documents described in the request. . . .’” (p. 299)
- [Ramin v. Ramin](#), 281 Conn. 324, 915 A. 2d. 790 (2007). When the plaintiff’s counsel asked the defendant to produce his credit cards, he became furious and threw his wallet at her. He repeatedly used obscenities throughout the proceedings, threatened at one point to leave, responded sarcastically to questions, and during one portion of the proceedings, was reading a magazine. The defendant’s

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behavior during his deposition exemplifies why a trial court should not refuse to sanction a noncompliant party for failure to obey court orders. (p. 344-345)

“First, it would be grossly unfair to the plaintiff to require her to establish precisely how she was harmed in proving her case by not having access to the extensive list of already ordered discovery materials to which she never gained access solely as a result of the court’s refusal to consider her motion.... Second, placing the burden in this respect on the defendant who failed to comply fully with the court’s orders is consistent with our decision in *Billington v. Billington*, supra, 220 Conn. 221, in which we articulated the requirement of full and frank mutual disclosure in marital cases.” (p. 348)

- [Weinstein v. Weinstein](#), 275 Conn. 671, 882 A.2d 53 (2005). **“Finally, the principle of full and frank disclosure . . . is essential to our strong policy that the private settlement of the financial affairs of estranged marital partners is a goal that courts should support rather than undermine. . . . That goal requires, in turn, that reasonable settlements have been knowingly agreed upon.... Our support of that goal will be effective only if we instill confidence in marital litigants that we require, as a concomitant of the settlement process, such full and frank disclosure from both sides, for then they will be more willing to [forgo] their combat and to settle their dispute privately, secure in the knowledge that they have all the essential information. . . . This principle will, in turn, decrease the need for extensive discovery, and will thereby help to preserve a greater measure of the often sorely tried marital assets for the support of all of the family members.’ (Citations omitted; internal quotation marks omitted.) *Billington v. Billington*, 220 Conn. 212, 219-22, 595 A.2d 1377 (1991).” (p. 687)**

“Thus, as our case law for the last fifteen years makes clear, the duty to disclose continued until the judgment of dissolution was final. In the present case, however, because the defendant filed a motion for reconsideration, the judgment ultimately did not become final until the dissolution court acted on his motion.” (p. 698)

FORMS:

- *Library of Connecticut Family Law Forms*, 2d ed., by MacNamara, Welsh, and George, editors, Connecticut Law Tribune, 2014.
Chapter 4. Discovery
 - 4-000 Commentary – Discovery
 - 4-001 Request for Mandatory Disclosure and Production
 - 4-002 Request for the Production and Inspection of Records
 - 4-003 Request for Supplemental Compliance
 - 4-004 Response to Request for Mandatory Disclosure and Production

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- 4-005 Objection to Request for Production and Inspection of Records
- 4-006 Supplemental Response to Request for Mandatory Disclosure and Production
- 4-007 Request to Produce at Hearing/Trial
- 4-008 Objection to Request to Produce at Hearing/Trial
- 4-009 Subpoena Duces Tecum
- 4-010 Subpoena Ad Testificandum
- 4-011 Motion to Quash and for Protective Order
- 4-012 Notice of Filing Interrogatories
- 4-013 First Request for Interrogatories
- 4-014 Response to First Request for Interrogatories
- 4-015 Notice of Filing Request for Admission of Facts
- 4-016 Request for Admission of Facts
- 4-017 Response to Request for Admission of Facts
- 4-018 Motion for Order Re: Request to Admit
- 4-019 Notice of Deposition
- 4-020 Motion for Protective Order
- 4-021 Motion for Appointment of a Commission to Take The Deposition of a Resident
- 4-022 Request for Access to Personal Property for Inspection and Appraisal
- 4-023 Request for Access to Real Property for Inspection And Appraisal
- 4-024 Request for Extension of Time
- 4-025 Affidavit of Counsel Re: Practice Book Section 13-10(c) Objections
- 4-026 Motion to Compel
- 4-027 Memorandum in Support of Motion to Compel
- 4-028 Motion to Compel (Re: Interrogatories)
- 4-029 Memorandum in Support of Motion to Compel (Re: Interrogatories)
- 4-030 Motion to Fix Deposition Date
- 4-031 Motion for Issuance of a Capias
- 4-032 Motion to Appoint Discovery Special Master
- 4-033 Confidentiality Agreement

- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).

Chapter 21. Disclosures and Discovery

- § 21:3 Interrogatories
- § 21:4 Interrogatories—Form
- § 21:5 Requests for production, inspection and examination
- § 21:6 Request for production—Form
- § 21:6.50 Electronic discovery
- § 21:12 Notice of deposition—Form
- § 21:13 Client notification letter and instruction sheet regarding deposition—Form
- § 21:14 Request for production at deposition
- § 21:15 Motion to quash request for production at deposition—Form
- § 21:16 Motion for videotape deposition—Form

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- § 21:17 Motion to take out of state deposition—Form
- § 21:23 Motion for Protective Orders—Form
- § 21:25 Notice of supplemental compliance—Form

- *2 Family Law and Practice*, by Arnold H. Rutkin, Matthew Bender, 2023 (also available on Lexis).
 - Chapter 13. Financial discovery
 - § 13.10. Sample discovery forms
 - [1] FORM: Sample Discovery Letter
 - [2] FORM: Sample Notice to Produce
 - [3] FORM: Sample Motion for Discovery
- *1 Family Law Practice in Connecticut*, by Gerald I. Adelman, et al., Law Practice Handbooks, Inc., 1996.
 - Chapter 4. Motion Practice in Matrimonial Action
 - § 4.30. Interrogatories and Requests for Production
 - Motion for Disclosure of Facts and for Production of Records
 - § 4.31. Motion for Compliance
 - Motion to Compel Compliance with Request for Production and Service of Interrogatories
 - § 4.32. Sanctions
 - Motion to Compel Compliance and for Sanctions Pursuant to Practice Book Section 231
 - § 4.33. Protective Orders
 - Motion for Protective Order
 - § 4.34. Notice of Deposition
 - Notice of Deposition
 - § 4.35. Motion to Quash
 - Motion to Quash Request for Production at Deposition
 - § 4.36. Deposition by Videotape
 - Motion to Record Deposition Testimony by Videotape
 - § 4.37. Commission to Take Out-of-State Deposition
 - Motion for Appointment of a Commissioner to Take An Out of State Deposition
 - Order Appointing Commissioner to Take Deposition
- *Library of Connecticut Civil Discovery Forms*, by Bruce H. Raymond, et al., Connecticut Law Tribune, 2011.
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement.
 - Chapter 4: Discovery
 - Exhibit 4D – Manuscripted Financial Affidavit
 - Exhibit 4F – Interrogatories
 - Exhibit 4G – Request for Production of Documents
 - Exhibit 4H – Motion for Extension of Time to Respond
 - Exhibit 4I – Authorization for Release of Protected Health Information
 - Exhibit 4K – Subpoena Duces Tecum

Exhibit 4L – Application for Appointment of a
Commission to Take the Deposition of a
Nonresident
Exhibit 4M – Request to Admit

- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Esq., Addicus Books, 2014.
Sample Discovery Request – Request for Mandatory Disclosure and Production, pp. 17-18
Sample Motion to Compel, pp. 65-66

CHECKLISTS:

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- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
Chapter 4. Pretrial Pleadings and Discovery
Part IV: Seeking Discovery
§ 4.21. Checklist: Seeking Discovery
- *2 Family Law and Practice*, by Arnold H. Rutkin, Matthew Bender, 2023 (also available on Lexis).
Chapter 13. Financial discovery
§ 13.02[2]. Requests for Production - Checklists
- *Family Law Checklists*, by Richard E. Crouch, Thomson West, 2022 ed. (also available on Westlaw).
Chapter 5. Discovery
I. Governing Law, Practical Principles
II. Strategic Considerations and Timing
III. Interrogatories to the Opponent
§ 5:3. Record-building complications
§ 5:4. Drafting interrogatories
§ 5:5. Interrogatories relating to property division
§ 5:6. Support-related inquiries
§ 5:7. Custody inquiries
§ 5:8. Grounds-related inquiries
IV. Interrogatories from the Opponent
V. Request for Documents
§ 5:10. Practice notes
§ 5:11. Grounds-related documents
§ 5:12. Custody-related documents
§ 5:13. Support-related documents
§ 5:14. Property-related documents
VI. Depositions
§ 5:19: When your client is witness or deposed
VII. Requests for Admissions
VIII. Compulsion and Enforcement
IX. Use of Discovery Materials at Trial
§ 5:22. Interrogatories
§ 5:23. Depositions

TEXTS &
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- 7 Connecticut Practice Series, *Family Law and Practice with Forms*, 3d ed., by Arnold H. Rutkin, et al., Thomson West, 2010, with 2022-2023 supplement (also available on Westlaw).
 - Chapter 21. Disclosures and Discovery
 - § 21:1 In general
 - § 21:2 Mandatory disclosure and production
 - § 21:3 Interrogatories
 - § 21:5 Requests for production, inspection and examination
 - § 21:6.50 Electronic discovery
 - § 21:7 Disclosure relating to experts
 - § 21:8 Time limits on disclosure of experts
 - § 21:9 Judicially appointed experts
 - § 21:10 Depositions, generally
 - § 21:10.50 Telephone, videoconference or other remote electronic depositions
 - § 21:11 Depositions of experts
 - § 21:17 Motion to take out-of-state deposition—Form
 - § 21:18 Physical and mental examinations
 - § 21:19 Discovery of statements, photographs, video and audio recordings and other recordings
 - § 21:20 Admissions of fact and execution of writings
 - § 21:21 Sanctions relating to discovery
 - § 21:22 Protective orders
 - § 21:22.50 Inadvertent disclosures
 - § 21:24 Continuing duty to disclose
 - § 21:26 Stipulations regarding discovery procedure
 - § 21:27 Discovery special masters
- *A Practical Guide to Divorce in Connecticut*, Hon. Barry F. Armata and Campbell D. Barrett, editors, Massachusetts Continuing Legal Education, 2013, with 2018 supplement (also available on Westlaw).
 - Chapter 4. Discovery
 - § 4.1. Introduction
 - § 4.2. Specific Discovery Provisions
 - § 4.3. Interrogatories
 - § 4.4. Production of Documents
 - § 4.5. Expert Disclosure
 - § 4.6. Depositions
 - § 4.7. Requests to Admit, Answers and Objections, Effect of Admission, Expenses for Failure to Admit, Conn. Prac. Bk. §§ 13-22 – 13-25
 - § 4.8. Litigation Misconduct
- 2 *Stephenson's Connecticut Civil Procedure*, 3d ed., by Renee Bevacqua Bollier, et al., Atlantic Law Book Company, 2002, with 2003 supplement.
 - Chapter 20. Family Law Procedures
 - § 254 — Discovery
- *LexisNexis Practice Guide: Connecticut Family Law*, Louise Truax, editor, 2023 ed., LexisNexis.
 - Chapter 4. Pretrial Pleadings and Discovery

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Part IV: Seeking Discovery

§ 4.22 Defining the Permissive Nature of Discovery and Privileges

§ 4.23. Seeking Mandatory Discovery

§ 4.24. Propounding Interrogatories

§ 4.25. Filing Requests for Production

§ 4.26. Objecting to Discovery Requests and Seeking Protective Orders

§ 4.27. Taking the Depositions of Parties and Non-Parties

§ 4.28. Utilizing Experts

§ 4.29. Taking an Out-of-State Deposition

§ 4.30. Obtaining Physical and Mental Examinations and Associated Privileges

§ 4.31. Filing Requests for Admission

§ 4.32. Complying with Discovery Requests

§ 4.33. Obtaining Discovery Sanctions

§ 4.34. Appointing a Special Discovery Master

- *Civil Discovery Practice in Connecticut*, by David J. Baker, 1995, Law Practice Handbooks, Inc.
 - Chapter 1. The Practical Applications of Connecticut Discovery Rules
 - Chapter 2. Limitations on Discovery
- *1 Family Law Practice in Connecticut*, by Gerald I. Adelman, et al., Law Practice Handbooks, Inc., 1996.
 - Chapter 4. Motion Practice in Matrimonial Action
 - § 4.29. Discovery Techniques
 - § 4.30. Interrogatories and Request for Production
 - § 4.31. Motion for Compliance
 - § 4.32. Sanctions
 - § 4.33. Protective Orders
 - § 4.34. Notice of Deposition
 - § 4.35. Motion to Quash
 - § 4.36. Deposition by Videotape
 - § 4.37. Commission to Take Out-of-State Deposition
- *2 Family Law and Practice*, by Arnold H. Rutkin, Matthew Bender, 2023 (also available on Lexis).
 - Chapter 13. Financial Discovery
 - § 13.01. Introduction to Financial Discovery
 - § 13.02. Obtaining Basic Information
 - § 13.03. Barriers to Obtaining Information
 - § 13.04. Analysis of Data
 - § 13.05. Discovery of Business Interests
 - § 13.06. Using Financial Statements
 - § 13.07. Federal Tax Returns
 - § 13.08. Stockbroker Statements
 - § 13.09. Bank Records
 - § 13.10. Sample Discovery Forms
- *A Practical Guide to Discovery and Depositions in Connecticut*, 2d ed., Sara R. Simeonidis, editor, Massachusetts Continuing Legal Education, Inc., 2021.

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- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, by Renee C. Bauer, Esq., Addicus Books, 2014.

Chapter 5. The Discovery Process

§ 5.1. What is discovery?

§ 5.2. What types of discovery might be done by my **lawyer or my spouse's lawyer**?

§ 5.3. How long does the discovery process take?

§ 5.4. My lawyer insists that we conduct discovery, but **I don't** want to spend the time and money on it. Is it really necessary?

§ 5.5. I just received from my spouse's attorney interrogatories and requests that I produce documents. My lawyer wants me to respond within two weeks. **I'll never make the deadline. What can I do?**

§ 5.6. I don't have access to my documents and my spouse is being uncooperative in providing my lawyer with information. Can my lawyer request information directly from an employer or financial institution?

§ 5.7. My spouse's lawyer intends to subpoena my medical records. **Aren't these private?**

§ 5.8. I own my business. Will I have to disclose my business records?

§ 5.9. It has been two months since my lawyer sent **interrogatories to my spouse's attorney and we still don't have his answers. I answered** mine on time. Is there anything that can be done to speed up the process?

§ 5.10. What is a deposition?

§ 5.11. What is the purpose of a deposition?

§ 5.12. Can what I say in my deposition be used against me when we go to court?

§ 5.13. Will the judge read the depositions?

§ 5.14. How should I prepare for my deposition?

§ 5.15. What will I be asked? Can I refuse to answer questions?

§ 5.16. What if I give incorrect information in my deposition?

§ 5.17. What if I don't know or can't remember the answer to a question?

§ 5.18. What else do I need to know about having my deposition taken?

§ 5.19. Are depositions always necessary? Does every witness have to be deposed?

§ 5.20. Will I get a copy of the depositions in my case?

Table 1: Mandatory Disclosure and Production

| Mandatory Disclosure and Production Conn. Practice Book § 25-32 (2023) [Emphasis added.] | |
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| (a) | Unless otherwise ordered by the judicial authority for good cause shown, upon request by a party involved in an action for dissolution of marriage or civil union, legal separation, annulment or support, or a postjudgment motion for modification of alimony or support, opposing parties shall exchange the following documents within sixty days of such request: |
| (1) | all federal and state income tax returns filed within the last three years, including personal returns and returns filed on behalf of any partnership or closely-held corporation of which a party is a partner or shareholder; |
| (2) | IRS forms W-2, 1099 and K-1 within the last three years including those for the past year if the income tax returns for that year have not been prepared; |
| (3) | copies of all pay stubs or other evidence of income for the current year and the last pay stub from the past year; |
| (4) | statements for all accounts maintained with any financial institution, including banks, brokers and financial managers, for the past 24 months; |
| (5) | the most recent statement showing any interest in any Keogh, IRA, profit sharing plan, deferred compensation plan, pension plan, or retirement account; |
| (6) | the most recent statement regarding any insurance on the life of any party; |
| (7) | a summary furnished by the employer of the party's medical insurance policy, coverage, cost of coverage, spousal benefits, and COBRA costs following dissolution; |
| (8) | any written appraisal concerning any asset owned by either party |
| (b) | Such duty to disclose shall continue during the pendency of the action should a party appear. This section shall not preclude discovery under any other provisions of these rules. |

See Also: Conn. Practice Book [§ 25a-19](#) (2023). Standard Disclosure and Production (Family Support Magistrate Matters).

Table 2: Protective and Related Orders – Discovery in Family Matters

| Protective and Related Orders – Discovery in Family Matters "Connecticut's rules of practice provide that depositions, after transcription, are to be sealed and not to be delivered to court until the time of trial. Practice Book § 13-30(e). A deposition is not an 'open' proceeding . <i>Lupone v. Lupone</i> , Superior Court, judicial district of New Haven, Docket No. 446200 (July 3, 2001) (<i>Pittman, J.</i>) citing <i>Seattle Times Co. v. Rhinehart</i> , supra, 467 U.S. 20. Similarly, neither interrogatories and answers to interrogatories; Practice Book §§ 13-6 and 13-7; nor requests for or notices of requests for production and responses are filed with the court. Practice Book §§ 13-9 and 13-10." <i>Welch v. Welch</i> , 48 Conn. Sup. 19, 23, 828 A.2d 707 (2003). | |
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| Conn. Practice Book § 13-5 (2023). Protective Order | Upon motion by a party from whom discovery is sought, and for good cause shown, the judicial authority may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the judicial authority; (6) that a deposition after being sealed be opened only by order of the judicial authority; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the judicial authority; (9) specified terms and conditions relating to the discovery of electronically stored information including the allocation of expense of the discovery of electronically stored information, taking into account the amount in controversy, the resources of the parties, the importance of the issues, and the importance of the requested discovery in resolving the issues. |
| Conn. Practice Book § 25-59A(c) (2023). Sealing Files or Limiting Disclosure of Documents in Family Matters | Upon written motion of any party, or upon its own motion, the judicial authority may order that files, affidavits, documents, or other materials on file or lodged with the court or in connection with a court proceeding be sealed or their disclosure limited only if the judicial authority concludes that such order is necessary to preserve an interest which is determined to override the public's interest in viewing such materials. The judicial authority shall first consider reasonable alternatives to any such order and any such order shall be no broader than necessary to protect such overriding interest. An agreement of the parties to seal or limit the disclosure of documents on file with the court or filed in connection with a court proceeding shall not constitute a sufficient basis for the issuance of such an order. |
| Amendments to the Practice Book (Court Rules) are published in the Connecticut Law Journal and posted online . | |

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| <p>Conn. Gen. Stat. § 46b-11 (2023)</p> <p>Closed Hearings and Records.</p> | <p>Any case which is a family relations matter may be heard in chambers or, if a jury case, in a courtroom from which the public and press have been excluded, if the judge hearing the case determines that the welfare of any children involved or the nature of the case so requires. <i>The records and other papers in any family relations matter may be ordered by the court to be kept confidential and not to be open to inspection except upon order of the court or judge thereof for cause shown.</i> (Emphasis added.)</p> |
| <p>Conn. Gen. Stat. § 46b-49 (2023)</p> <p>Private Hearing.</p> | <p>When it considers it necessary in the interests of justice and the persons involved, the court shall, upon the motion of either party or of counsel for any minor children, direct the hearing of any matter under this chapter and sections 17b-743, 17b-744, 45a-257, 46b-1, 46b-6, 47-14g, 51-348a and 52-362 to be private. The court may exclude all persons except the officers of the court, a court reporter, the parties, their witnesses and their counsel.</p> |
| <p>You can visit your local law library or search the most recent statutes and public acts on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.</p> | |

Table 3: Dissipation of Assets

| Dissipation of Assets – Court Cases | |
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| <p>Anketell v. Kulldorff, 207 Conn. App. 807, 833, 263 A.3d 972 (2021).</p> | <p>"We begin our analysis by addressing the defendant's contention that, '[a]lthough the court did not use the word "dissipation," it is clear that is what the court intended.' 'Generally, dissipation is intended to address the situation in which one spouse conceals, conveys or wastes marital assets in anticipation of a divorce. . . . Most courts have concluded that some type of improper conduct is required before a finding of dissipation can be made. Thus, courts have traditionally recognized dissipation in the following paradigmatic contexts: gambling, support of a paramour, or the transfer of an asset to a third party for little or no consideration. Well-defined contours of the doctrine are somewhat elusive, however, particularly in more factually ambiguous situations.' (Internal quotation marks omitted.) <i>Powell-Ferri v. Ferri</i>, 326 Conn. 457, 469-70, 165 A.3d 1124 (2017)." p. 833</p> |
| <p>Fronsaglia v. Fronsaglia, 202 Conn. App. 769, 246 A.3d 1083 (2021).</p> | <p>"Unlike the defendant in <i>Greco</i>, the defendant in the present case misappropriated and dissipated a marital asset of \$550,000 for his own benefit in violation of the automatic orders, as none of the money was found to have paid off any of the family's obligations, including the liens levied on the family home for debts owed as a result of the defendant's poor business decisions. . . . Consequently, we conclude that the court did not abuse its discretion as the distribution was not grossly disproportionate where the court found that the defendant misappropriated and dissipated \$550,000 of marital assets in violation of the automatic orders, and the court merely reattributed those assets to the defendant, as the law permits. See <i>O'Brien v. O'Brien</i>, supra, 326 Conn. 102-104; <i>Shaulson v. Shaulson</i>, 125 Conn. App. 734, 736, 739-42, 9 A.3d 782 (2010), cert. denied, 300 Conn. 912, 13 A.3d 1102 (2011)." p. 780</p> |
| <p>Foisie v. Foisie, 335 Conn. 525, 239 A.3d 1198 (2020).</p> | <p>"The Appellate Court, relying on <i>Sunbury</i>, came to a similar conclusion in <i>LaBorne v. LaBorne</i>, 189 Conn. App. 353, 207 A.3d 58 (2019), in which it held that, when a trial court grants a motion to open a dissolution judgment on the basis of fraud for the limited purpose of reconsidering the financial award, in reconsidering the financial award, "the appropriate date of valuation of the parties' marital assets, for purposes of the distribution of those assets, was the date of its original decree" (Internal quotation marks omitted.) <i>Id.</i>, 362." p. 540</p> |

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| <p>LaBorne v. LaBorne, 189 Conn. App. 353, 207 A.3d 58 (2019).</p> | <p>"The court, however, suggested that exceptional intervening circumstances justified the decision at the retrial not to follow the prescribed course of valuing the marital asset as of the time of dissolution and then distributing that asset...The wilful [sic] dissipation of assets by the defendant in the context of the present case does not constitute such a circumstance. The court erred, then, in concluding that the dissipation of assets constituted an 'exceptional intervening circumstance,' and in not entering an order distributing the value of the asset as of the date of the original judgment of dissolution." p. 364-365</p> |
| <p>Powell-Ferri v. Ferri, 326 Conn. 457, 165 A.3d 1124 (2017).</p> | <p>"Powell-Ferri has failed to convince us that Ferri's failure to bring an action against the trustees was equivalent to a dissipation of marital property in violation of Practice Book § 25-5 (b) (1). Powell-Ferri claims that several cases, both from this court and other jurisdictions establish that Ferri's failure to pursue recovery of the 1983 trust assets is equivalent to dissipation of marital assets. Specifically, Powell-Ferri claims that <i>Finan v. Finan</i>, 287 Conn. 491, 949 A.2d 468 (2008), and <i>Gershman v. Gershman</i>, supra, 286 Conn. 341, establish that Ferri's decision not to bring an action against the trustees constitutes the 'sort of dissipation' that the automatic orders are intended to prevent." p. 470</p> |
| <p>O'Brien v. O'Brien, 326 Conn. 81, 161 A.3d 1236 (2017).</p> | <p>"We agree with the defendant that the trial court properly exercised its discretion in considering the plaintiff's violations of the automatic orders in its division of the marital assets, and, therefore, we reverse the judgment of the Appellate Court." p. 86</p> <p>"Applying plenary review to this question of law; see, e.g., <i>Maturo v. Maturo</i>, 296 Conn. 80, 88, 995 A.2d 1 (2010); we conclude in part I A of this opinion that a trial court possesses inherent authority to make a party whole for harm caused by a violation of a court order, even when the trial court does not find the offending party in contempt." p. 96</p> |
| <p>Ferri v. Powell-Ferri, 317 Conn. 223, 116 A.3d 297 (2015).</p> | <p>"A review of our statutory scheme and rules of practice further demonstrates that a party to a dissolution action that believes the other party improperly removed assets from the estate has adequate remedies available to it. First, the party that believes marital assets were fraudulently removed during the pendency of the appeal may ask that the court take such action into account when fashioning financial orders." p. 234</p> <p>"Also, under Practice Book § 25-5(c)(2), the party that believes marital assets were fraudulently removed during the pendency of the appeal may file a motion for contempt of court for violation of the automatic order." p. 234</p> |

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| | <p>"...we conclude that this court should not recognize any cause of action that would require a party to a dissolution proceeding to take affirmative steps to recover marital assets from a third party without a finding of dissipation." p. 238</p> |
| <p>Shaulson v. Shaulson, 125 Conn. App. 734, 9 A.3d 782 (2010).</p> | <p>"The defendant invites this court to conclude, as a matter of law, that expenditures for the purpose of furnishing a new home, especially a home at which the parties' children spend a significant amount of time, cannot amount to the dissipation of assets. We decline, however, to make such a determination. We conclude that such an expenditure may or may not constitute dissipation, depending upon the circumstances of the case." p. 740</p> |
| <p>Gersham v. Gersham, 286 Conn. 341, 943 A.2d 1091 (2008).</p> | <p>Generally, dissipation is intended to address the situation in which one spouse conceals, conveys or wastes marital assets in anticipation of a divorce. See 2 B. Turner, Equitable Distribution of Property (3d Ed. 2005) § 6:102, p. 539." p. 346</p> <p>"Most courts have concluded that some type of improper conduct is required before a finding of dissipation can be made. Thus, courts have traditionally recognized dissipation in the following paradigmatic contexts: gambling, support of a paramour, or the transfer of an asset to a third party for little or no consideration." p. 346</p> <p>"We conclude that, at a minimum, dissipation in the marital dissolution context requires financial misconduct involving marital assets, such as intentional waste or a selfish financial impropriety, coupled with a purpose unrelated to the marriage." p. 350</p> |
| <p>Finan v. Finan, 287 Conn. 491, 949 A.2d 468 (2008).</p> | <p>"Under the common usage of the terms, 'dissipation' is the financial antithesis of 'preservation.' More specifically, a party that dissipates assets detracts from the preservation of those assets. Accordingly, Connecticut trial courts have the statutory authority, under § 46b-81, to consider a spouse's dissipation of marital assets when determining the nature and value of property to be assigned to each respective spouse." p. 500</p> <p>"...We conclude that, in order for a transaction to constitute dissipation of marital assets for purposes of equitable distribution under § 46b-81, it must occur either: (1) in contemplation of divorce or separation; or (2) while the marriage is in serious jeopardy or is undergoing an irretrievable breakdown. Trial courts are not precluded from considering pre-separation dissipation, therefore, so long as the transactions constituting dissipation occur within the foregoing temporal framework." p. 507</p> |

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