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2016 Edition

Discovery (Financial) in Family Matters

A Guide to Resources in the Law Library

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- [Post-Judgment Proceedings in Connecticut Family Matters](#)

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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](#) (2016).
- **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](#) (2016).
- **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](#) (2016).
- **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](#) (2016).
- **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 postjudgment motion for modification of alimony or support, opposing parties shall exchange the following documents within thirty days of such request . . ." Conn. Practice Book [§ 25-32\(a\)](#) (2016).
 - **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\(a\)](#) (2016).
 - **Purpose of discovery in general:** "The various instruments of discovery now serve (1) as a device . . . to narrow and clarify the basic issues between the parties, and (2) as a device for ascertaining the facts, or information as to the existence or whereabouts of facts, relative to those issues. Thus civil trials . . . no longer need be carried on in the dark. The way is now clear, consistent with recognized privileges, for the parties to obtain the fullest possible knowledge of the issues and facts before trial." [Hickman v. Taylor](#), 329 U.S. 495, 501, 67 S.Ct. 385, 388-389, 91 L.Ed. 451 (1947).
 - **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:

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

- Conn. Practice Book (2016)
 - [Chapter 13](#). Discovery and Depositions
 - § 13-1. Definitions
 - § 13-2. Scope of Discovery; In General
 - [Chapter 25](#). Procedure in Family Matters
 - § 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 Matter; 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. Depositions; In General — 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.

- [Zoll v. Zoll](#), 112 Conn. App. 290, 299, 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).”**
- [Ramin v. Ramin](#), 281 Conn. 324, 348, 915 A. 2d. 790 (2007). **“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.”**
- [Weinstein v. Weinstein](#), 275 Conn. 671, 698, 882 A.2d 53 (2005). **“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.**"

- [Weinstein v. Weinstein](#), 275 Conn. 671, 687, 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)."

FORMS:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- [Library of Connecticut Family Law Forms, 2d](#), Schoonmaker, George & Blomberg, P.C. (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
 - 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

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 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 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).

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
- § 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 Arnold H. Rutkin, Gen. Editor, [Family Law and Practice](#) (2016).

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](#) (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

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 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 and Out of State Deposition
Order Appointing Commissioner to Take Deposition

- [Library of Connecticut Civil Discovery Forms](#), Connecticut Law Tribune (2011).
- [A Practical Guide to Divorce in Connecticut](#), by Barry F. Armata, et. al. (2013).
 - 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. (2014).
 - Sample Discovery Request – Request for Mandatory Disclosure and Production, pp. 17-18
 - Sample Motion to Compel, pp. 65-66

CHECKLISTS:

- [Lexis Nexis Practice Guide: Connecticut Family Law](#), by Louise Truax, et. al. (2016).
 - Chapter 4. Pretrial Pleadings and Discovery
 - Part IV: Seeking Discovery
 - § 4.21. Checklist: Seeking Discovery
- 2 Arnold H. Rutkin, Gen. Editor, [Family Law and Practice](#) (2016).
 - Chapter 13. Financial discovery
 - § 13.02[2]. Requests for Production - Checklists
- [Family Law Checklists](#), by Richard E. Crouch (2013).
 - 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 & TREATISES:

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- 7 Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
 - 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
 - § 21:18 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
- [Civil Discovery Practice in Connecticut](#) (1995).
 - Chapter 1. The Practical Applications of Connecticut Discovery Rules
 - Chapter 2. Limitations on Discovery
- 1 [Family Law Practice In Connecticut](#) (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

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- § 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 Arnold H. Rutkin, Gen. Editor, [Family Law and Practice](#) (2016).
 - 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](#), by Susan Kim, et al. (2013).
- [A Practical Guide to Divorce in Connecticut](#), by Barry F. Armata, et. al. (2013).
 - 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
 - § 8.8. Litigation Misconduct
- 2 [Stephenson's Connecticut Civil Procedure](#), 3d, by Renee Bevacqua Bollier, et al. (2002).
 - Chapter 20. Family Law Procedures
 - § 254 — Discovery
- [Lexis Nexis Practice Guide: Connecticut Family Law](#), by Louise Truax, et. al. (2016).
 - Chapter 4. Pretrial Pleadings and Discovery
 - 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. Taking the Depositions of Experts

You can click on the links provided to see which law libraries own the title you are interested in, or visit our [catalog](#) directly to search for more treatises.

- § 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

- [Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect](#), by Renee C. Bauer, Esq. (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 (2016) [Emphasis added.]	
(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 thirty 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](#) (2016). 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	
<p>“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).</p>	
<p>Conn. Practice Book § 13-5 (2016). Protective Order</p>	<p>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.</p>
<p>Conn. Practice Book § 25-59A(c) (2016). Sealing Files or Limiting Disclosure of Documents in Family Matters</p>	<p>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.</p>

<p>Conn. Gen. Stat. § 46b-11 (2015)</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 (2015)</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>

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.

Section 2: Postjudgment Discovery — Motion to Open Based on Fraud

A Guide to Resources in the Law Library

SCOPE: Bibliographic resources related to opening a judgment in family matters for the limited purpose of discovery.

DEFINITIONS:

- **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.**” (Emphasis added.) Conn. Practice Book [§ 13-2](#) (2016).
- **Discovery in Family Matters:** “. . . 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](#) (2016).

SEE ALSO:

- Post-Judgment Proceedings in Connecticut Family Matters (Research Guide)
 - [Section 1: Request for New Trial](#)
 - [Section 2: Motion to Open Or Set Aside Judgment](#)

<http://www.jud.ct.gov/lawlib/Notebooks/Pathfinders/PostJudgment.pdf>

COURT RULES:

- Conn. Practice Book (2016).
 - [Chapter 13.](#) Discovery and Depositions
 - [§ 13-1.](#) Definitions
 - [§ 13-2.](#) Scope of discovery; In general
 - [§ 13-15.](#) Continuing Duty to Disclose
 - [Chapter 25.](#) Superior Court —Procedure in Family Matters
 - [§ 25-31.](#) Discovery and Depositions

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

COURT CASES:

- [Reville v. Reville](#), 312 Conn 428, 442, fn 11, 93 A3d 1076 (2014). “We recently altered the standard for a party to obtain a new trial on the basis of fraud to require that party to show only a ‘reasonable probability’ that the result of a new trial will be different, rather than a ‘substantial likelihood,’ as our previous case law had held. See [Duart v. Dept. of Correction](#), 303 Conn. 479, 491, 34 A.3d 343 (2012). A reasonable probability means ‘a probability sufficient to undermine confidence in the outcome,’ or that the nondisclosed information ‘could reasonably be taken to put the whole case in such a different light as to undermine confidence in the [judgment].’ (Internal quotation marks

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.

omitted.) *Id.*, 492.”

- [Spilke v. Spilke](#), 116 Conn. App. 590, 600, 976 A. 2d 69 (2009). “We conclude that, because the plaintiff was unable to meet the minimal evidentiary threshold of establishing her allegations of fraud beyond a mere suspicion, the court’s ruling was proper.”
- [Port v. Port](#), Superior Court, Judicial District of Fairfield at Bridgeport, No. FA04-4002839-S (Jun. 2, 2006). “To prevail in an *Oneglia* hearing, the movant must substantiate his claim of fraud on the part of the defendant, beyond a mere suspicion. [Oneglia v. Oneglia](#), 14 Conn.App. 26, 540 A.2d 713 (1988). If the moving party prevails the judgment is opened for the limited purpose of discovery. A second hearing is then conducted to determine whether there was fraud, based on the clear and convincing evidence standard.”
- [Nolan v. Nolan](#), 76 Conn. App. 583, 821 A.2d 772 (2003). “The court conducted a postjudgment probable cause hearing to determine whether any discovery, beyond the testimony of the parties, should be allowed in the future to substantiate the plaintiff’s allegations of fraud. As a matter preliminary to such discovery, a plaintiff has the burden to substantiate allegations of fraud that are sufficient to open the judgment. [Oneglia v. Oneglia](#), 14 Conn. App. 267, 269, 540 A.2d 713 (1988).”
- [Mattson v. Mattson](#), 74 Conn. App. 242, 247-248, 811 A.2d 256 (2002). “We note, however, that we previously have rejected a claim identical to the defendant’s, i.e., that a party seeking to open a judgment of dissolution on the basis of allegations of fraud has a right to conduct discovery based only on its filing of a motion to open. [Oneglia v. Oneglia](#), 14 Conn. App. 267, 269, 540 A.2d 713 (1988). As we explained, ‘[t]his is clearly an incorrect premise; until the court acts on a motion to open, the earlier judgment is still intact and neither our rules of practice nor our statutes provide for such a thing as postjudgment discovery.’ *Id.* ‘If the [defendant] was able to substantiate [his] allegations of fraud beyond mere suspicion, then the court would open the judgment for the limited purpose of discovery, and would later issue an ultimate decision on the motion to open after discovery had been completed and another hearing held.’ *Id.*, 270. Because the defendant in this case was unable to meet that minimal evidentiary threshold, the court’s ruling was proper.”
- [Billington v. Billington](#), 220 Conn. 212, 218, 595 A2d 1377 (1991). “In [Varley v. Varley](#) . . . we imposed four limitations on the granting of relief from a marital judgment secured by fraud: “(1) There must have been no laches or unreasonable delay by the injured party after the fraud was discovered. (2) There must have been diligence in the original action, that is, diligence in trying to discover and expose the fraud. (3) There must be clear proof of the perjury or fraud. (4)

There must be a substantial likelihood that the result of the new trial will be different. . . . In this case, we are concerned only with the second of these limitations, namely, that the party seeking to open the judgment exercised diligence in the original action in order to discover and expose the fraud. *We are persuaded that the time has come to abandon that limitation.*" (Emphasis added.) (**See [Reville v. Reville](#) above.**)

- [Oneglia v. Oneglia](#), 14 Conn. App. 267, 271-272, 540 A.2d 713 (1988). "In family matters, the court exercises its equitable powers. The balancing of equities is a matter which falls within the discretion of the trial court. . . . For that reason, equitable remedies are not bound by formula but are molded to the needs of justice." (Citations omitted.)
- 8A Arnold H. Rutkin et al., [Connecticut Practice Series, Family Law And Practice with Forms](#) (3d ed. 2010).
 - Chapter 52 Postjudgment Motions
 - § 52:7 Motion to reopen or set aside judgment on the basis of fraud
 - § 52:8 -Standard of proof for fraud
 - § 52:9 -Discovery to pursue claim of fraud
 - § 52:10 -Fraud on the court distinguished
 - § 52:11 Lack of jurisdiction
 - § 52:12 Request for new trial
- [A Practical Guide to Divorce in Connecticut](#), by Barry F. Armata, et. al. (2013).
 - Chapter 4 Discovery
 - § 4.8 Litigation Misconduct

TEXTS & TREATISES:

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