



DUTY TO DISCLOSE

As a married person or a registered domestic partner, you're entitled to a high standard of care in sharing information pertaining to your property and finances. In California, this responsibility is linked to the Business and Professions Code. The technical term for the responsibilities the parties have to one another is "fiduciary duty."

California Family Code § 721 makes it crystal clear that spouses and domestic partners are bound by the same duty that is often mentioned in the news as applying to CEOs, business partners and board members of large companies. A very important right to consider when you're going through a separation and divorce is the requirement that spouses have a duty of the highest good faith and fair dealing with each other and that neither spouse can take unfair advantage of the other.

During the divorce process, there are exacting discovery devices that must be satisfied before you can legally finalize a divorce. Certain documents referred to as disclosures must be fully completed by each spouse and exchanged between them. These documents include detailed descriptions of any and all financial holdings and property. If a marital judgment to divide your property is submitted to the court without properly completed disclosures, the judgment will be rejected unless written verification has been sent to the court to show that the disclosure exchanges have been satisfied. If the disclosures do not contain all the

required information, this failure to disclose could result in a set-aside of any agreement the parties reached and submitted to the court.

A spouse or registered domestic partner has a right to ask the other party about financial arrangements and dealings and to expect full written disclosure by appropriately set deadlines. This request can be sent out in a written demand whether or not any formal pleadings have been filed with the court.

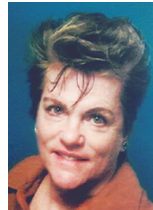
You have a right to know not only what's been happening with business dealings, assets and debts that you believe are your community property but any business activities and financial activities that the other spouse might claim is either separate property they had before they were married or property they acquired at some point after separation. All of this information is discoverable, and you have a right to have the information provided to you in a reasonable period of time.

If you think your spouse or partner may be concealing important financial information from you, promptly retaining an experienced family law attorney creates a higher probability that your financial interests will be protected.



About Arlene:

Engaged for decades in the Northern California legal community, Arlene D. Kock is a past member of the Alameda County Bar Association (ACBA) Board of Directors. She served on their Attorney Referral Panel for many years and was the past chair of their Ethics and Civility Committee. In her capacity on that committee, Arlene was instrumental in assisting the team in preparing and creating the ACBA statement of professionalism and civility, a policy that is expected to be adhered to today by the court and litigants. She is currently a member of the ACBA and the Contra Costa County Bar Association.



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