

September 8, 2008

Dear [Opposing Counsel]:

I am writing to you to remind you that your client ____ must provide to my client c/o this office the following: "all material facts and information regarding the existence, characterization and valuation of all assets in which the community has or may have an interest and debts for which the community is or may be liable." (FC 721)

As a result of this request, I will look forward to receiving, for example, all statements received or receivable for your client's profit sharing and 401(k) plans and IRAs, his other pension and retirement plans (whether or not qualified), deferred compensation plans, stock option programs. **Thus, if a monthly statement is available for a pension plan, your client must either download and send each newly available statement to this office immediately after same becomes available, or must provide this office with your client's personal pin number and access instructions.** You may be assured that this office will keep the pin number confidential.

This request is made with confidence that your client is, without the necessity to utilize formal discovery, obliged to provide same under his/her continuing fiduciary duty to disclose all material facts and information on actual and potential community assets under the Family Code including Sections 721, 1100, 2102, 2105 and other Code Sections cited therein as well as other family code sections requiring disclosure.

The recent case of *In re Marriage of Feldman* (2007) 153 CA4 1470 imposed substantial monetary sanctions (in addition to fees) upon a client for violating his spouse's rights to such information, even when the case was in its preliminary stages.

Please also have your client sign the attached pension authorization and return it to us. However, the fact that we may use the authorization to attempt to obtain information from your client does not in any way diminish your client's responsibility to provide this information.

I look forward to hearing from you soon and at frequent intervals.

Sincerely yours,

Note: For help in removing all lame excuses from the uninformed opposing counsel, consider taking the ACFLS Program on CD and DVD: "A Systematic Method of Enforcing Fiduciary Duties." The accompanying materials authored by Steve Wagner and Dawn Gray, which include some dynamite form letters to be sent to opposing counsel, which were taken from the multi-volume Matthew Bender & Co., Inc. "Complex Issues in California Family Law".

Their message: why struggle with formal discovery when the fiduciary duty statutes have more teeth and fewer impediments to enforcement.

DiFranza's Version of "The Feldman Letter"