

Consequences of Failing to Comply with Disclosure Requirements during Divorce

There is a natural tendency between parties undergoing a divorce not to be forthcoming with one another in disclosing all their assets, debts, income and expenses. In an effort to get a bigger share of the pie, a party to a divorce proceedings sometimes will have to urge not to disclose that secret bank account or that secret property that was purchased without the other spouse's knowledge. As a result, parties sometimes refuse to comply with the requirement to exchange preliminary and final declarations of disclosures. There is a statutory duty in family law to exchange prescribed "preliminary" and "final" declarations, along with a current income and expense statement, in all dissolution, legal separation and nullity actions. Family Code Section 2103 provides that "In order to provide full and accurate disclosure of all assets and liabilities in which one or both parties may have an interest, each party to a proceeding for dissolution of the marriage or legal separation of the parties shall serve on the other party a preliminary declaration of disclosure under Section 2104 and a final declaration of disclosure under Section 2105, unless service of the final declaration of is waived."

The declarations of disclosure are not a mere formality. The parties are bound to provide full and accurate disclosures, consistent with their continuing fiduciary obligations as to all activities affecting each other's property and support rights. The deadline for service of each party's final declaration is either (1) "before or at the time the parties enter into an agreement for the resolution of property or support issues" (other than pendente lite support), or (2) if the case goes to trial, "no later than 45 days before the first assigned trial date." Missing this deadline will not prevent the case from going to trial but will prevent entry of judgment.

What happens when one party fully complies with the disclosure requirement while the other does not? Family Code Section 2107 lays out the remedies a complying party may have. The complying party may either 1) file a



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motion to compel further response and/or 2) file a motion for an order preventing the noncomplying party from presenting evidence on issues that should have been covered in the declaration of disclosure at trial. 3) The complying party may also seek monetary sanctions against the non complying party. Such monetary sanctions award against a party who fails to comply with any provision of Fam.C. § 2100 et seq. The sanctions must be assessed in an amount "sufficient to deter repetition of the conduct or comparable conduct," and must include reasonable attorney fees, costs incurred or both ... unless the court finds that the noncomplying party "acted with substantial justification or that other circumstances make the imposition of the sanction unjust." 4) If a court enters a judgment when the parties have failed to comply with all disclosure requirements, the court shall set aside the judgment. The failure to comply with the disclosure requirements does not constitute harmless error. 4) Upon the motion to set aside judgment, the court may order the parties to provide the preliminary and final declarations of disclosure that were exchanged between them.

What happens if both parties complied with the disclosure requirements but left out material items in the disclosure? A party who finds out after a divorce judgment has been entered may file a motion to adjudicate omitted asset or debt under family code section 2556. In those cases, generally the Court would distribute the omitted item among the parties as if it was added to the prior judgment rather than setting aside the original judgment.

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Pacquiao and the Art of War

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sion of the goddess. Devoutly Catholic, he makes no bones about where he draws his spiritual strength and purpose and shows it for all the world to see. He doesn't go through the motions of his spirituality just for show.

So does his mother Dionisia who chose to pray the rosary in the privacy of her hotel room. The fruit doesn't really fall far from the tree. Pacquiao meditates in the silence, makes the sign of the cross between bouts, wears his rosary before and during the fight, kisses the crucifix of the rosary which his handler is instructed to hold, kneels at his corner, and just before engaging his opponent, tunes out, for just a few seconds, the raucous crowd while apparently tuning in to a much higher frequency. The more telling aspect is the post-fight when he looks heavenward after each victory, goes to mass and never fails to ascribe his victories to God and the Filipino people.

It is this aspect of the man that resonates with most Filipinos who are no stranger to adversity. In a small way, we see a bit of ourselves in him and vicariously live through him. Through his knockout punches, we also mentally TKO all things we struggle with and glory in his victories. Those who were born and lived in the battered island nation understand this well-spring of deep spirituality completely and without question.

He ascribes his string of successes and of his being to God. The politically correct pundits and sports analysts on the national level, who must cater to the biggest demographic chunks, are loath to dwell on this aspect of the man. I imagine a few squirm in their seats whenever Pacquiao does all that. After all, boxing is rarely for the humble or the deeply spiritual. Boxing is filled with self-absorbed, self-promoting blowhards that form part of the entertainment, right along Floyd Mayweather Sr.'s bluster and braggadocio. All that taunting is just part of the script and the hype of HBO's 24/7 to ring up public interest and profits.

Pacquiao probably views his bouts as spiritual battles. He is living up to his name. Emmanuel means "God with us." Or that Pacquiao, spelled "Pakyaw" in the vernacular means wholesale. He trains relentlessly, wholeheartedly physically but his spiritual muscles get a workout as well. It is hard to stay focused and on target with all the distractions that buzz about him like bees to honey. This may just be the part where Pacquiao, the pupil, shows Roach, his mentor, about how to tap vast amounts of spiritual reserves. To the victor goes

the spoils of war. Manny has become an Armani suit-wearing money machine with millions of dollars still to be made even during this brutal recession. Ironically, the tougher the times, the higher the need for distraction. The next mega-fight might may involve a \$50 million prize purse, the biggest so far, with gruelling negotiations probably underway. Team Pacquiao has the upper hand and in the driver's seat. They will call the shots this fall.

No one should begrudge Manny Pacquiao his fame and fortune. We hope though that these do not corrode and change his core being overly much. The possibility he will throw his hat in the political arena is a little unsettling. We do hope he stays away from yet another blood sport—politics—where nearly everyone who dips his toes in its polluted waters gets tainted somehow. His failed initial political bid should be a warning bell. Show business might be more fun, right along Mom Dionisia's alley. But in the natural progression of things and oftentimes, by osmosis from the company he keeps, the attraction of achieving political power may just be the next level. Sigh.

But what drives him aside from the obvious motivations? It is said that the Roman Emperor Constantine during the crucial Battle of Milvian Bridge in 1312 looked up to the sun before the battle and saw a cross of light with the Greek words that meant, "By this sign, conquer." Constantine commanded his troops to adorn their shields with the Chi-Ro Christian symbol and from thereon, became victorious in every battle. Christian sources record that Constantine, heavily influenced by his deeply religious mother, St. Helena, adopted Christianity which became the dominant religion in the Roman Empire and much of the world up to today, ending 300 years of religious persecution by previous Roman emperors from Christ's death.

Okay, I know. I know. Boxing to Christianity — it may be too much of a stretch to draw a parallel or build a smooth segue. But it's fascinating to look back in the last two thousand years of recorded history and pick out discernible patterns in every battle fought in war and every other arena of human endeavor that has a dimension seemingly far above our minds to comprehend. After all, there's a cycle and a continuity to the human story in the larger sense that can be read in the micro-universe of the boxing arena.

Where does all that jaw-dropping power, speed, timing, accuracy and laser-like focus few could withstand come from? And from such a deceptively looking compact package many of his opponents underestimated to their detriment ... Such things only happen in the movies. But more than that, how does one account for humility, decency and generosity of spirit in the face of victory except in Rocky movies? Pacquiao's story might be that of a gladiator character set in a 15th century morality play, tenacious in battle yet humble and magnanimous in victory. No wonder many find themselves rooting for him.

Though a sequel is rarely better than the original, this is one story definitely worth following.

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