



NEW JERSEY STATE BAR ASSOCIATION

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February 28, 2024

Hon. Glenn A. Grant
Administrative Director of the Courts
Hughes Justice Complex / P.O. Box 037
Trenton, NJ 08625-0037

RE: Proposed Uniform Interrogatories and Document Production
Requests in Post-Divorce Judgment Actions Alleging Cohabitation

Dear Judge Grant:

The New Jersey State Bar Association (NJSBA) submits the attached proposed uniform interrogatories and document production requests for consideration by the Judiciary for use in post-divorce matters where cohabitation is alleged in support of a request for an alimony modification. The NJSBA requests that the proposal be referred to the Court's Family Practice Committee for its consideration.

In its recent decision in *Cardali v. Cardali*, 255 N.J. 85 (2023), the Supreme Court considered what showing is necessary to enable a post-divorce litigant to obtain discovery in connection with an allegation of cohabitation which, if true, would affect the litigant's obligation to pay alimony. The Court concluded, "If the movant's certification addresses some of the relevant factors and is supported by competent evidence, and if that evidence would warrant a finding of cohabitation if unrebutted, the trial court should find that the movant has presented prima facie evidence of cohabitation and should grant limited discovery tailored to the issues contested in the motion, subject to any protective order necessary to safeguard confidential information."

In its decision, the Court also noted, “Our current Family Part court rules do not address post-judgment discovery in connection with a motion to terminate or suspend alimony based on cohabitation. We therefore request that the Family Practice Committee propose amendments to the court rules governing such discovery and uniform interrogatories to streamline the discovery process in such cases.” The NJSBA submits the attached proposal for consideration by the Family Practice Committee in response to the Supreme Court’s request.

The proposed discovery requests track the statutory factors contained in N.J.S.A. 2A:34-23(n) and are designed to elicit the information necessary to determine if any of the statutory factors are present to support the allegation of cohabitation.

The relevant statutory factors to be considered are:

- (1) Intertwined finances such as joint bank accounts and other joint holdings or liabilities;
- (2) Sharing or joint responsibility for living expenses;
- (3) Recognition of the relationship in the couple's social and family circle;
- (4) Living together, the frequency of contact, the duration of the relationship, and other indicia of a mutually supportive intimate personal relationship;
- (5) Sharing household chores;
- (6) Whether the recipient of alimony has received an enforceable promise of support from another person within the meaning of subsection h. of R.S.25:1-5; and
- (7) All other relevant evidence.

The NJSBA believes the proposed discovery requests, fashioned after the uniform interrogatories utilized in civil matters, will help to organize and streamline the process. The proposal was developed and vetted by attorneys representing both alimony payees and payors. While the requests may seem lengthy at first glance, they are actually less onerous than the type of discovery requests typically served in Family Part matters.

The NJSBA thanks the Judiciary for considering this proposal, and hopes that it is helpful in the Family Practice Committee's efforts to respond to the Court's request in *Cardali*.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim McGoughran". The signature is fluid and cursive, with the first name "Tim" and last name "McGoughran" clearly distinguishable.

Timothy F. McGoughran, Esq.
President

cc: William H. Mergner Jr., Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director

**Uniform Interrogatories and
Requests for Production of Documents
Proposed by the New Jersey State Bar Association
In Response to *Cardali v. Cardali*
Feb. 28, 2024**

Form A. Uniform Interrogatories to be Answered by a Party Opposing a Review of Alimony in Cohabitation Cases Arising Under *N.J.S.A. 2A:34-23(n)*: Superior Court

All questions must be answered unless the court otherwise orders or unless a claim of privilege or protective order is made in accordance with R. _____. (To be created). Information provided in response to these interrogatories shall not be used for any improper purpose. Use of such information shall be in accordance with the Rules of Court, including but not limited to R. 1:38, and the Rules of Professional Conduct.

Consistent with the decision of *Cardali v. Cardali*, 255 N.J. 8 (2023), the requirement that a party answer these interrogatories presumes that the court has determined that a prima facie case of cohabitation has been established. The court shall conduct a discovery conference for the purpose of entering an order permitting limited discovery. The limited discovery order shall require the filing of updated case information statements pursuant to R. 5:5-4(a)(4), answers to uniform interrogatories, responses to uniform notices to produce, and any other limited discovery the court determines, for good cause shown, should be ordered.

The general time limit for which discovery may be sought shall be a period of two years, unless the court determines that another time period is warranted for good cause shown.

In addition to these uniform interrogatories, each party may propound ten supplemental questions, without subparts, without leave of court. Any additional interrogatories shall be permitted only by the court in its discretion on motion.

General

1. Set forth your full name, date of birth, present address and any other address where you have resided in the last two years, and the amount of time you have lived at your current address.

2. State the names, email addresses, and physical addresses of all persons known to you to possess knowledge of any relevant facts relating to this case. As to each person listed in response to this interrogatory, state in detail the knowledge possessed by said person and include in said statement all relevant dates and location.
3. State the names and addresses of any and all proposed expert witnesses and/or private investigators you have retained in connection with this litigation. Set forth in detail the qualifications of each expert named and attach a copy of each expert's current resume. Also attach true copies of all written reports provided to you by any such proposed witnesses.
4. Describe your current employment and compensation for each of the past two years, including but not limited to, salary, bonus, commissions, perquisites, equity awards, stock options and any other top hat executive compensation benefits.
5. Describe your relationship with the alleged cohabitant in detail, setting forth the date you met, the circumstances around your meeting, and the basis for opposing a review of alimony based upon cohabitation.
6. State when you and the alleged cohabitant began a dating relationship, as well as whether your relationship with the alleged cohabitant is continuing as of the date on which you are answering these interrogatories. State whether your relationship with the alleged cohabitant is exclusive as of the date on which you are answering these interrogatories.

Intertwined Finances

7. Identify all payments made by you to the alleged cohabitant or on behalf of the alleged cohabitant, or by the alleged cohabitant to you or on your behalf, for any purpose whatsoever for the time period two years ago to the present. For each such payment, please provide the following:

- a. Date of said payment;
 - b. Amount of said payment;
 - c. Purpose of/Reason for said payment;
 - d. Source of funds for said payment; and
 - e. Attach any and all documents substantiating each and every payment set forth in response to this Interrogatory.
8. Identify any shared or jointly held interest in real estate between you and the alleged cohabitant for the time period two years ago to the present, including but not limited to, a joint or shared interest in a Deed, leasehold, operating agreement, or any such interest for which either you or the alleged cohabitant is a co-signor or guarantor, and attach all such documents and identify the source of acquiring such interest.
9. Describe any loans between you and the alleged cohabitant for the time period two years ago to the present, including the date, amount, purpose or reason, source of funding for said loan, the repayment schedule, the interest rate, and status of said loan, and attach any documents substantiating each and every loan, including repayment of that loan(s).
10. Describe any business interests and/or joint ventures in which you and the alleged cohabitant have an interest or had an interest for the time period two years ago to the present, including the date of formation, allocation of ownership, capital contributed by each of you, whether the venture has been sold, and attach any formation and/or sale documents relative to the business interest and/or joint venture.
11. For the time period two years ago to the present, identify any and all credit and debit cards upon which you are authorized to charge, including but not limited to store credit cards, and set forth any and all persons that are also authorized to charge on the account(s), as well as all persons contributing to the payment of said cards.

12. For the time period two years ago to the present, have you and the alleged cohabitant shared access or title to any financial accounts, including but not limited to, checking accounts, savings accounts, investment accounts, brokerage accounts, retirement accounts, life insurance policies, cryptocurrency, Venmo, Zelle, or any other platform to maintain funds. If so, set forth the dates of such shared access or title, the source of funding to create each and every account, and attach statements for the time period access or title was shared.

13. For the time period two years ago to the present, have you been designated as the beneficiary payable on death or at any other time on any accounts in which the alleged cohabitant has an interest? For the same time period, have you designated the alleged cohabitant as the beneficiary payable on death or at any other time on any accounts in which you have an interest? If so, set forth the details regarding each such account and attach statements for the time period the beneficiary designation was in effect.

14. For the time period two years ago to the present, have you and the alleged cohabitant shared access or responsibility, including as a guarantor, for any indebtedness, including but not limited to credit cards (including store credit cards), mortgages, lines of credit, student loans, promissory notes, personal loans, financing agreements, automobile loans. If so, set forth the dates of such shared access or title, the source of funding to pay each and every liability and attach statements for the time period access or responsibility was shared.

15. For the time period two years ago to the present, identify whether the alleged cohabitant has ever had the use of signatory powers or withdrawal powers on any account owned by you, as well as whether you have ever had the use of signatory powers or withdrawal powers on any account owned by the alleged cohabitant. If so, identify the account(s) and duration of such signatory powers or withdrawal powers.

Sharing/Joint Responsibility for Living Expenses

16. For the time period two years ago to the present, describe the activities you and the individual alleged to be your cohabitant engage in together, as well as any memberships to any organizations, facilities, or clubs that you have in common, whether said memberships are held jointly or individually, including how often these activities occur and the manner in which expenses for these activities are handled or shared.

17. For the time period two years ago to the present, describe how often you dine together with the alleged cohabitant (e.g. daily, weekly, monthly, etc.), where the dining occurs (e.g., at a residence or at a restaurant), how the expenses for these meals are paid (i.e. who bears the cost, any pattern or arrangement governing payment, and details of any shared expense arrangements), and, for meals at a residence, who is responsible for meal preparation, as well as a description of any variations in this responsibility.

18. For the time period two years ago to the present, describe all entertainment and activities in which you and the alleged cohabitant participated in together that cost in excess of \$50, and identify how the expense was paid.

19. For the time period two years ago to the present, has anyone other than you contributed to your expenses, and if so, detail the amount, frequency, and source of contributions.

20. For the time period two years ago to the present, identify any and all services, contracts, insurances, or registrations (voter, tax, automobile or otherwise) upon which the alleged cohabitant has listed your address, or upon which you have listed the alleged cohabitant's address.

21. Describe in detail all streaming services (e.g., Netflix, Hulu, YouTube, Disney Plus, Apple TV, etc.) to which you are subscribed or to which you have access presently or to which you have had access for the time period two years ago to the present, and identify all persons granted access to same (whether that person shared the account with you, or whether you shared the account with that person), as well as the person responsible for the payment of the expenses associated with said service.

22. Do you maintain accounts with EZ Pass, Uber, Lyft, or any other transportation entity? If so, identify all other people authorized to use such accounts with you in the last two years, and the person responsible for paying these expenses associated with these transportation entities.

23. For the time period two years ago to the present, has anyone other than you contributed to your shelter expenses, including, but not limited to utilities, property taxes, rent or mortgage payments, and costs associated with repair/maintenance or lawn care of your residence. If so, set forth the person making such contributions, the date, amount and funding source of such contributions.

24. State whether you are the beneficiary of any life insurance policy, annuity, retirement plan obtained and/or maintained by the alleged cohabitant over the past two years, and if so, provide the name and number of the policy, the type of policy, the date in which you were added as beneficiary, the date the policy was obtained, and the death benefit and the source of payment for the premiums.

25. State whether the alleged cohabitant is the beneficiary of any life insurance policy, annuity, retirement plan obtained and/or maintained by you over the past two years, and if so, provide the name and number of the policy, the type of policy, the date in which you were added as beneficiary, the date the policy was obtained, and the death benefit, and the source of payment for the premiums.

26. For the time period two years ago to the present, set forth whether the alleged cohabitant has at any time been named or identified in any legal document prepared on your behalf, including but not limited to, a Last Will and Testament, advanced health directive, or Power of Attorney, including prior drafts.

27. For the time period two years ago to the present, set forth whether you have at any time been named or identified in any legal document prepared on behalf of the alleged cohabitant, including but not limited to, a Last Will and Testament, advanced health directive, or Power of Attorney, including prior drafts.

Recognition of the relationship within social and family circles

28. Identify each and every occasion in your life where you have either proposed marriage or been the recipient of a marriage proposal, including the other party involved and the approximate date or time period of each proposal, irrespective of whether the proposal was accepted.

29. For the time period two years ago to the present, provide detailed information about your presence and interactions on social media platforms in relation to the alleged cohabitant including the following:

- a. List all social media platforms where you and/or the alleged cohabitant have a presence. Include your respective usernames, tags, or IDs for each platform;
- b. On each platform listed in subpart a, indicate whether you and the alleged cohabitant follow each other, are connected as “friends,” and/or subscribe to each other’s posts;
- c. For each platform listed in subpart a, identify any family members or friends of the alleged cohabitant that you follow or who follow you, are connected to you as “friends,” and/or whose posts to which you subscribe. Provide their usernames, tags, or IDs.

30. If you have children under the age of 18, identify all persons who have transported your children to or from school in the last two years, and all persons authorized to retrieve the children or listed as an emergency contact.
31. Have you introduced the alleged cohabitant to any member of your family and/or to any of your friends? If so, list each person to whom you introduced the alleged cohabitant and when the introduction occurred. Provide information as to any other individuals that were present during the introduction(s).
32. Have you and the alleged cohabitant attended any celebrations together in the past two years, including, but not limited to graduations, birthdays, weddings, religious celebrations, or the like? If your answer is in the affirmative, please set forth each event that you have attended with the alleged cohabitant, the location of the event, and the approximate number of attendees.
33. For the period two years ago to the present, state any and all public pronouncements of your relationship with the alleged cohabitant to any members of your family, his/her family, friends, social circles, community, religious congregation, and whether same was recorded or documented in any fashion. Provide a copy of said recordings including, but not limited to, social media posts, emails, invitations, holiday celebrations, sacraments or religious events.
34. Describe any and all medical appointments that you and the alleged cohabitant attended together in the last two years. Include the nature and date of each appointment, and specify whether at any time during this period, the alleged cohabitant has ever been listed as your emergency contact for medical purposes.

35. Please describe any and all medical appointments within the last two years where the alleged cohabitant accompanied your child(ren), or where you accompanied the alleged cohabitant's child(ren). For each appointment, include details such as the date, nature of the medical visit, the name of the health care provider or facility, and the reason for your or the cohabitant's presence at the other's child(ren)'s appointment.
36. For the past two years, please set forth each and every vacation, including the location of said vacation, that you and the alleged cohabitant have taken together (or in which you have vacationed in the same geographic area even if you stayed in different residences/hotels), as well as the details regarding the payment for each such vacation (e.g., manner of payment, person responsible for payment, division of expenses).
37. Identify any and all parent-teacher conferences, back to school nights, child study team meetings, proms, graduations, school-related and/or extracurricular activities, and/or shows, recitals, ceremonies or sporting events relating to your children that the alleged cohabitant attended, participated, partook, traveled to, took your children to, or was otherwise present, as well as any such events relative to the alleged cohabitant's children in which you participated in the past two years, irrespective of whether both you and the alleged cohabitant were jointly present at said activities.
38. Set forth each and every holiday that you and the alleged cohabitant have spent together in the past two years, including, but not limited to, the location of said event, the individuals at said event and every holiday dinner that you have spent/dined together, even if other persons were also present.
39. Set forth each and every day where the alleged cohabitant was left alone with your children and/or pets to supervise, care for and/or otherwise oversee the care of your children and/or pets in the past two years.

40. Provide a list of each and every gift exchanged between you and the alleged cohabitant or any of their relatives in the past two years, detailing the nature of each gift, the date of exchange, and the relationship of the person involved in each gift exchange.

Living Together, Frequency of Contact, Duration of Relationship, Other Indicia of Mutually Supportive Relationship

41. Set forth each and every overnight, including the location of said overnight, that you and the alleged cohabitant have spent together in the past two years.

42. Identify the frequency with which you and the alleged cohabitant communicate with one another and all methods that are used for said communication.

43. For the time period two years to the present, have you used any security system(s), such as ADT, Ring, Blink, Nest, and/or Furbo? If so, please provide all details, including the names of all parties that had access to the security system(s).

44. Set forth the names of all persons having a key, key code, security information or any form of access to your residences, regardless of title designation holding, along with the date(s) access was granted.

45. Set forth any and all time periods when the alleged cohabitant occupied any of your residences while you were not physically present, noting whether any of the children (if applicable) were present or not, and, similarly, specify and any and all time periods when you were at any of the alleged cohabitant's residences without their presence, noting the presence or absence of any children (if applicable) during those times.

Sharing Household Chores

46. Describe in detail any repairs, maintenance, or chores and upkeep, as well as the frequency of such efforts, performed at your residences by the alleged cohabitant, or performed by you at the residence of the alleged cohabitant.
47. Describe in detail whether the alleged cohabitant has ever performed lawn maintenance or snow removal at your residences, or whether you have performed such services at the alleged cohabitant's residence.

Recipient Has Received a Promise of Support from Another Person

48. Identify any written or verbal promises for support you have either made to another person, or received from another person, and attach all such writings including but not limited to, electronic communications via e-mail, text, or other messenger applications.
49. If you contribute to anyone's support or welfare, set forth the following:
- a. Name and address of those whom you support;
 - b. Relationship to you;
 - c. Amount and frequency of support payments;
 - d. Whether voluntary or by Court Order; and
 - e. Any and all details regarding the contribution.
50. State the date and time these interrogatories were completed, as well as the names of any persons assisting in the completion of same.

Requests for the Production of Documents

In addition to the Uniform Interrogatories presented above, the following requests for the production of documents would be standard. Documents responsive to each request must be provided unless the court otherwise orders or unless a claim of privilege or protective order is made in accordance with R. _____. Documents provided in response to these requests shall not be used for any improper purpose. Use of the documents provided shall be in accordance with the Rules of Court, including but not limited to R. 1:38, and the Rules of Professional Conduct.

The general time limit for which documents shall be produced shall be a period of two years, unless the court determines that another time period is warranted for good cause shown.

In addition to these uniform requests, each party may propound five supplemental requests, without subparts, without leave of court. Any additional requests shall be permitted only by the court in its discretion on motion.

1. All State and Federal personal income tax returns for the last two calendar years, with all referenced and required attachments.
2. All State and Federal income tax returns for the last two calendar years for all corporations, LLC's, sole proprietorships and/or partnerships in which you have an interest, along with a copy of the certification of formation and evidence of the corporate officers and shareholders of each such entity therein.
3. A copy of your most recent Annualized Social Security Statement.
4. Copies of your last five pay stubs.
5. A copy of your final pay stub for the last two calendar years and your W-2 or K-1 where applicable.
6. A copy of any passports in your name, as well as a copy of the passports for any of your minor children.

7. A copy of your telephone and cell phone bills for the past two years.
8. A copy of any and all documents that refer to, relate to, or concern any membership rewards programs in which you participate, either individually or jointly, including but not limited to airline miles/airline flight benefit programs, travel rewards programs, credit card point programs, and the like for the last two years.
9. All records and documentation concerning any retirement and/or pension plans and any other retirement accounts, such as IRAs in which you participate or have participated in the last two years, including contributions made by you and/or your employer and/or your business, and specifically including all beneficiary designation forms filled out by you in the last two years.
10. Your checking and savings account records including, but not limited to, passbooks, checkbooks, bank statements, cancelled checks, certificates of deposit and withdrawal slips for all personal accounts, business accounts, or accounts where you have or had an interest in or a power to withdraw funds from for the past two years.
11. All life insurance policies or annuities where you are either insured, owner of or beneficiary of, together with all statements, and evidence of cash surrender values therefore and all loans against said policies for the past two years including beneficiary designations.
12. All records of stock, securities, bonds and other similar investments in your name or in which you had an interest, including the name of the stockbroker or transfer agent, for the past two years, including beneficiary designations.
13. Copies of all title certificates, registrations, and loan documentation concerning any automobiles, boats, airplanes, trucks or other vehicles or means of transportation in which you already hold title or in which you have had an interest over the past two years.
14. Copy of your voter registration documents for the last two years.

15. Copies of all deeds, mortgage/line of credit applications, mortgage/line of credit statements, closing statements, written offers to purchase and any and all other documentation pertaining to any real estate owned by you or in which you had an interest from the past two years through today.
16. Copies of any and all residential lease agreements to which you are a party, either as a landlord, tenant or co-signer as well as any applications to lease real estate, from the past two years.
17. Copies of all documentation pertaining to any medical, major medical, or other health insurance plans insuring you or members of your family, including emergency contact forms.
18. If there are minor children, copies of all emergency contact forms and authorized pick-up and drop-off forms for the children, for the past two years.
19. Copies of statements for all utility bills for any residence in which you have an interest, or at which you resided for the past two years.
20. Copies of all insurance policies insuring your residence and the contents thereof including any riders or supplements insuring your personal effects.
21. All documents relating to any trusts established by you, for your benefit, or in which you have any interest.
22. Copies of any financial statements prepared for any purpose within the last two years reflecting your financial circumstances.
23. A copy of your current executed Last Will and Testament, durable Power of Attorney, Health Care Directive, and/or Trust Documents, along with all prior drafts of these documents prepared in the last two years. Additionally, if the current executed copies have replaced

prior executed versions, include those previously executed versions as well.

24. Documentation evidencing any expenses paid for you or on your behalf by another person, or paid by you for another person, within the last two years including, but not limited to lodging, gasoline, meals, airfare, clothing and gifts.
25. Any and all documents that refer to, relate to, or concern debts for which you are either individually or jointly liable, including but not limited to home equity lines of credit, mortgages, personal loans, credit cards, and charge cards for the past two years.
26. Copies of statements for Venmo, Zelle, Apple Pay, Google Pay, or any other electronic wallet platform, for the past two years.
27. Copies of statements for any cryptocurrency that you have owned or in which you had a legal or beneficial interest for the past two years.
28. Copies of any invitations sent for a function, celebration or gathering you hosted in the past two years.